Employment Taxes

Presented by Sarahjane O'Shea
Chartered Tax Adviser & Solicitor at
RDJ, Cork

Email : sarahjane.oshea@rdj.ie

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Presentation Agenda

Morning :

- Employment status for tax purposes

- PRSI & USC Update

- Benefits-in-kind

* Coffee Break*

Presentation Agenda

Mid- day :

- Travel & Subsistence Payments
- Enhanced Reporting Requirements (ERR)
- PAYE Settlement Agreements
- Maternity, Paternity, Redundancy
- Termination payments
- Tax treatment with reference to S192A
- Overview of Pay Transparency Directive
- Payroll Tax Compliance
- Electronic Filing and Reporting

Lunch

Presentation Agenda

Afternoon :

- Pensions Update for Employers – auto enrolment.
- Employment Tax – Revenue Interventions
- Revenue Audit
- Penalties for late/incorrect payroll tax filings
- Share Purchase and RSUs
- SARP - talent-attraction tax relief
- Employees requesting to work in other tax jurisdictions
- Staying updated

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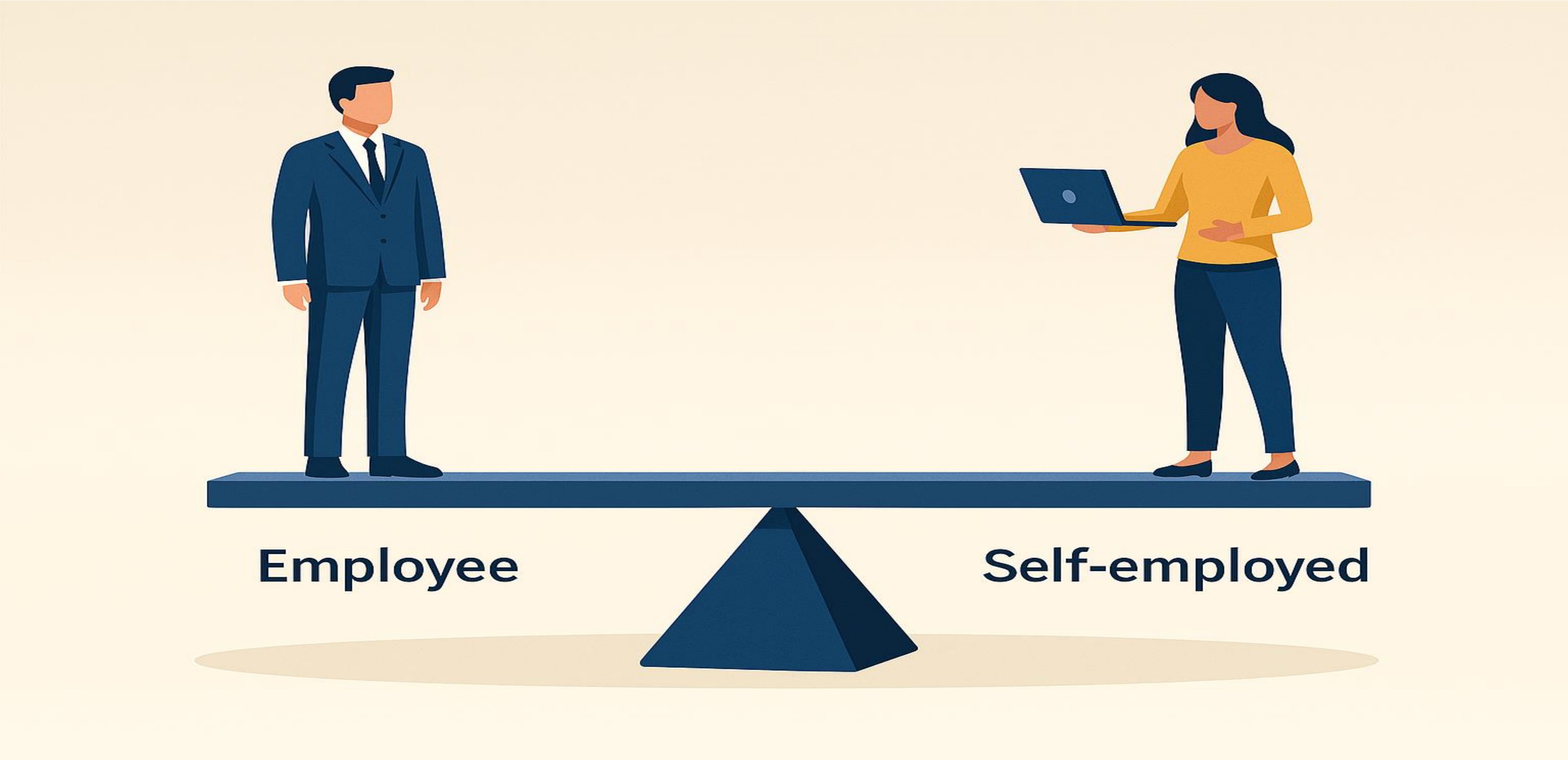
Employment Status for tax purposes



Employment Status for tax purposes

- There is no single clear definition of Employed Vs Self Employed

- Increasing area of focus with Revenue

- Code of Practice on Determining Employment Status (Revenue Guidance)

- The reality of the contract must be considered :

    - While a written contract might clearly state whether an individual is an employee or self-employed contractor, the full facts of the relationship between the parties must be taken into account in determining a worker's status.

- The Code was updated in 2024 to take account of the five-step framework to determining employment status set out in the Supreme Court case of The Revenue Commissioners v Karshan (Midlands) Ltd T/A Domino's Pizza.

Employed	**Self Employed**
Contract **OF** Service - Schedule E income	Contract **FOR** Service – Schedule D (Case I, II income)

Employment Status for tax purposes

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Why does the status of an employee or self-employed individual matter ?

1. The PRSI and USC payable to the Collector General (i.e. PAYE or self-assessment system)

2. Social welfare benefits

3. Other rights and entitlements (i.e. under employment legislation)
   - an employee has rights in respect of working time, holidays, maternity/paternal leave, protection from unfair dismissal, sick pay etc.

4. The deductibility of expenses incurred in the course of the individual's work.
   - There is more scope for a deduction for expenses incurred by a self-employed person. For this reason, many individuals try to classify their activities as contracts for services (self-employed) as opposed to employment contracts (employee).

5. Public liability insurance
   - Generally an employee is covered by their employer's public liability insurance whereas a self-employed person is expected to hold their own insurance.

The Five Question Framework

The court set out a five-question framework to guide any assessment of employment status, but this is not to be considered a legal test per se.

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Question 1 – Remuneration and contract type

"Does the contract involve the exchange of wage or other remuneration for work?"

The first question that must be asked is whether the relationship is one of labour in exchange for payment.

In furtherance of this question, the contract type must be identified and fall into one of the following categories:

- a contract for a regular wage for work with ongoing obligations to pay and work,
- a series of employment agreements governing the discharge of particular tasks,
- an agreement to complete one identified task,
- an ongoing agreement defined by an umbrella contract,
- any combination of the above, or
- is the agreement one for the exchange of labour for pay at all?

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Question 2 – Personal Services

"If so, is the agreement one pursuant to which the worker is agreeing to provide their own services, and not those of a third party, to the employer?"

If the contractual relationship for labour has been established, then the next factor to be considered is whether it is one in which the worker is agreeing to provide their own services, and not those of a third party.

The court found that personal service is a requirement and not merely a factor.

Although some degree of substitution is permissible, such as where the worker is unable to carry out work, it must be consistent with personal performance to be an employment relationship.

Any significant qualification placed on substitutes or discretion to refuse any proposed substitutes is more consistent with an employment relationship

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Question 3 – Control

"If so, does the employer exercise sufficient control over the putative employee to render the agreement one that is capable of being an employment agreement?"

This question relates to the party deciding the who, what, where, when, how, as follows:

- who determines the way in which the work is to be done,
- what work is required to be done,
- where the work is to be done,
- when the work is to be done and
- how the work is to be done

The question is whether the business imposes control over the worker such as working hours, location of work and methods of completing the work.

In most employment situations the employer has residual authority over how work is done. However, independent contractors usually retain autonomy in deciding the method, and this is often linked to completing the task in the most efficient manner, to the satisfaction of the other party, to maximise the return for the contractor.

Therefore, it is often difficult to look at control without looking at whether the contractor is carrying on business on their own account.

The first three questions are just preliminary questions.

If they are answered negatively there can be **no contract of employment**.

If they are answered positively then questions 4 and 5 below must be considered.

Question 4 – Working Arrangements

"If these three requirements are met the decision maker must then determine whether the terms of the contract between employer and worker interpreted in the light of the admissible factual matrix and having regard to the working arrangements between the parties as disclosed by the evidence, are consistent with a contract of employment, or with some other form of contract having regard, in particular, to whether the arrangements point to the putative employee working for themselves or for the putative employer."

This question requires the evaluation of the actual dealings between the parties and the working arrangements in practice, rather than the label placed on them.

Important here is the contractor's ability to make a profit from their own skills and the need for investment on the part of the contractor, particularly in terms of tools and equipment used to carry out the work.

Which party drafted the agreement and whether it was negotiated will be also important.

The tax affairs of the contractor are of relevance but only marginally.

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Question 5 – Legislation

“Finally, it should be determined whether there is anything in the particular legislative regime under consideration that requires the court to adjust or supplement any of the foregoing.”

This question relates to the specific piece of legislation in which the employment status is being determined, for example, any difference in the definition of employee, employer and contract of services under the relevant piece of legislation.

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Persuasive criteria as to whether an individual is

AN EMPLOYEE

While all of the factors may not apply, an individual would normally be an employee if they:

- Are under the control of another person who directs as to how, when and where the work is carried out.
- Supply labour only.
- Receive a fixed hourly/weekly/monthly wage.
- Cannot subcontract the work.
- Do not supply materials for the job.
- Do not provide equipment other than the small tools of the trade.
- Are not exposed to financial risk in carrying out the work.
- Do not assume any responsibility for investment and management in the business.
- Do not have the opportunity to profit from sound management in the scheduling of engagements, pricing (i.e. jobs) or in the performance of tasks arising from those engagements.
- Work set hours or a given number of hours per week or month.
- Work for one person or for one business.
- Receive expense payments to cover subsistence and/or travel expenses.
- Are entitled to extra pay or time off for overtime.

Persuasive criteria as to whether an individual is

SELF EMPLOYED

While all of the factors may not apply, an individual would normally be self-employed if they:

- Own their own business.
- Are exposed to financial risk
- Assume responsibility for investment and management in the enterprise.
- Have the opportunity to profit from sound management in the scheduling and performance of engagements and tasks.
- Have control over what is done, how it is done, when and where it is done and whether they do it personally.
- Are free to hire other people, on their terms, to do the work which has been agreed to be undertaken.
- Can provide the same services to more than one person or business at the same time.
- Provide the materials for the job.
- Provide equipment and machinery necessary for the job, other than the small tools of the trade or equipment, which in the overall context would not be an indicator of a person in business on their own account.
- Have a fixed place of business where materials, equipment etc can be stored.
- Cost and agree a price for the job.
- Provides their own insurance cover e.g., public liability cover etc.
- Control the hours of work in fulfilling the job obligations.

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PRSI and USC – Recent Updates

Personal Tax Rates 2026 :

Income Tax Bands – no changes

Key Tax credits – no changes

PRSI :

	Employer;	*11.25%*
		9.0% (if weekly income < €495)
	Employee;	*4.2% (Class A1)*
		**increasing to 4.35% in Oct 2026*

USC:

	€0 - €12,012	*@ 0.5%*
	€12,012 - €28,700	*@ 2.0%*
	€28,700 – €70,044	*@ 3.0%*
	€70,044 and above	*@ 8%*

**No USC applies to total earnings < €13,000 p.a.*

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Benefit In Kind (“BIK”)

Understanding Benefit In Kind ("BIK")

A "Benefit In Kind" is defined by the Revenue Commissioners as :

"any <u>non-cash benefit</u> of monetary value that an employer provides to its employee"

- These are benefits that <u>cannot</u> be converted into cash **but** have a **cash value**.

- They are usually something that an employee **has the use of** but **<u>does not own</u>**.

<u>Examples :</u>
Company car, Company van, Employer provided accommodation, Goods paid for by employer on behalf of an employee, Preferential loan interest rates.

Benefit In Kind Vs Perk

The difference between a BIK and a Perquisite (‘perk’) is the **method of calculating the taxable value** for the purpose of determining the employee’s tax liability.

‘BIK’

- *Something an employee has use of without having **ownership** of.*
- *The benefit is **not** capable of being turned into money.*

‘Perk’

- *The **ownership** of the item does not sit with the employer.*
- *Something that **is money** or can be turned into money easily.*

Examples;

(i) An employee leases an apartment / or a car and the monthly lease is paid for by the employer.

This is a Perk as the employee is liable to the lease.

(ii) An employer owns an apartment / or car and allows the employee to live/use the asset for private use and for free.

This is a BIK as the employer owns the apartment.

A 'Perk' is

- valued at the **market value on the date** which it is given to the employee.
- liable to Income Tax, PRSI and USC on the **expense amount** incurred by the employer
- Reduced by any amount made good by the employee.

Understanding Benefit In Kind ("BIK")

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- Benefits and Perks possess value (i.e considered taxable income for the employee)
- Employers are obligated to withhold relevant taxes through the PAYE system.
- Crucial that employers and employees understand the tax liabilities and implications associated with offering such benefits.
- Neglecting BIK can lead to tax consequences for both the employer and employee.

Benefit in Kind

- If an individual earns **less than €1,905** in a tax year, benefits are not taxable (**does not apply to company directors).*

- Special BIK rules apply to :

  Company Car, Company Van, Preferential Loans, Living Accommodation, Medical Insurance

- Some Employer Provided Benefits are not taxable :

  Travel Pass, Cycle to Work Scheme, Share Schemes, Canteen Facilities, Some Accommodation,

  Approved Pension Schemes, Work provided Computers and Phones, Small Benefit Exemption

How BIK is valued for tax purposes

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(A) General practice is to take the value of the BIK as being the **higher** of;

(1) the expense/cost incurred by the employer in providing the benefit to the employee,

or

(2) the value realisable by the employee for the benefit money/money's worth

LESS any amount repaid/reimbursed by the employee.

Taxation of BIK – How BIK is valued for tax purposes

- Where the **employer is the manufacturer of the goods** concerned, and the expense incurred in providing the employee with the BIK is normally lower than the amount that the goods would realise if sold on the open market.

  The **higher** of these two amounts is the value subject to tax.

- Where **durable goods** have been used or **depreciated** by the employer before being provided to the employee, it is the value of the goods at the time of their provision to the employee that should be charged to tax. (i.e depreciation is taken into account)

  This is the case even if that value is less than the cost of the goods to the employer.

Taxation of BIK – How BIK is valued for tax purposes

(B) Free Use of Assets - such as Furniture or Artwork (**other than** Accommodation, Employer provided Cars/Vans) :

- The employer **remains in possession** of the asset but makes it available for use by an employee.
- In these circumstances the value of the BIK for income tax purposes is the **annual value** of the use of the asset ……. which is **5% of the market value** of the asset when it was **first provided** by the employer to **any** employee.
- The taxable BIK in respect of the asset will apply for each tax year for which an employee has the use of it.
- Where there is use of an asset for **part of the year** only, the amount of the BIK should be time-apportioned accordingly.

Taxation of BIK – How BIK is valued for tax purposes

Example :

An employer furnishes an employee's apartment with new furniture, at no cost to the employee. The furnishings, which remain the property of the employer cost €10,000. Three years later the furnishings are provided to another employee, at which point they are valued at €7,000.

The annual value of the use of the furniture for the first employee is €500 (€10,000 x 5%).

The annual value for the second employee is the same, as the taxable BIK is calculated based on the value of the asset when it was **first provided** to **any** employee.

Taxation of BIK – How BIK is valued for tax purposes

(C) Transfer of Assets

Where an employer **gives an asset** (i.e a car or a house) to an employee **by way of a transfer**, the value of the taxable benefit for the year in which the benefit is provided must be calculated by reference to the higher of:

(1) the **expense incurred** by the employer in connection with the provision of the benefit

or

(2) the **value realisable** on sale

LESS any amount made good by the employee.

- Where the asset has been depreciated, it is the **market value of the asset at the date of transfer**, not the cost of acquisition to the employer which is the taxable benefit.

Common types of BIK

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Special BIK rules

1. Company Cars
2. Company Vans
3. Private Medical Insurance

Company Cars

Company Cars

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- Where a car is provided by an employer to an employee and it is available for their **private use – BIK !**

- Deemed to be available for 'private use' unless :

  (i) terms on which it is made available prohibit private use, and

  (ii) no such use is made of the vehicle in the tax year.

- Travel to and from work is generally regarded as private use.

- BIK applies to the provision of a **vehicle** and **the associated costs of running the vehicle** paid for on behalf of the employee. The employer bears all the running costs, including motor tax, insurance, servicing, and fuel, and these costs are factored into the overall BIK calculation framework, rather than being taxed separately as an additional benefit.

Company Cars

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- A **Car'** 'is ;

  "any mechanically propelled road vehicle designed, constructed or adapted for the carriage of the driver, or the driver and one or more persons."

- Subsequent adaptation of a vehicle does **not alter** the fact that the vehicle was **originally designed** and **constructed for the carriage of one or more persons**.

- As such, the vehicle would remain a car for tax purposes.

Company Cars

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- From **1 January 2023**, the employee will be liable to BIK on the '**Cash Equivalent**' of the private use of the vehicle.

- This is calculated by reference to ;

  (1) a percentage of the **Original Market Value ('OMV')** of the car,

  reduced by

  (2) The cars CO_2 **emissions** band and the annual **business mileage** travelled

- The **OMV** of a vehicle is ;

  - the price the vehicle may reasonably fetch if sold in the State
  - this will include any relevant VRT or other Irish taxes.

Company Cars

- **Temporary Reduction to Original Market Value** (Finance Act 2023 – 2025)

Year of assessment	All cars in categories A, B, C and D	All cars in category E	All vans (including electric vans)	Electric vehicles
2023	€10,000	0	€10,000	€45,000*
2024	€10,000	0	€10,000	€45,000*
2025	€10,000	0	€10,000	€45,000*

Company Cars

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- **Temporary Reduction to Original Market Value**
- **This has been extended in Budget 2026 for both Cars and Vans :**

Year of Assessment	All Cars category A,B,C,D	All Vans (Including Electric)
2026	€10,000	€10,000
2027	€5,000	€5,000
2028	€2,500	€2,500

Company Cars

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- **Budget 2026 introduced new A1 Category**
- **Cash Equivalent' :** ***OMV x (CO2 Category Vs Business Mileage)***

Vehicle Category	CO2 Emissions (CO2 g/km)
A1	0g/km
A	0g/km up to and including 59g/km
B	More than 59g/km up to and including 99g/km
C	More than 99g/km up to and including 139g/km
D	More than 139g/km up to and including 179g/km
E	More than 179g/km

Company Cars

- **Method for calculation of BIK 'Cash Equivalent' :** ***OMV x (CO_2 Category Vs Business Mileage)***

Lower Limit	Upper Limit	A1	A	B	C	D
Kilometres	Kilometres	%	%	%	%	%
-	26,000	15	22.5	26.25	30	33.75
26,001	39,000	12	18	21	24	27
39,001	48,000	9	13.5	15.75	18	20.25
48,001	-	6	9	10.5	12	13.5

➢ ***Categories A-D ->*** *Original Market Value - €10,000 x (% based on emissions vs business mileage)*

➢ ***Category E emissions cars*** *-> Original Market Value x (% based on emissions vs business mileage)*

Company Cars

Example 1 :

Tony has been provided with the use of a company car by his employer, TPP Ltd, for the full year on 1 January 2025. The OMV of the car is €28,000. All running costs are met by his employer. Per the manufacturer, the car produces 120g/km in CO_2 emissions. Business kilometres for 2025 are estimated at 32,000 kilometres.

- 120g/km CO_2 emissions puts the car in vehicle Category C.
- As Tony drives 32,000 kilometres in the year, the cash equivalent is equal to ;

  OMV €28,000 x 24% (mileage between 26,001 and 39,000)
- Temporary reduction to OMV will apply.

2025 BIK Calculation:

Cash Equivalent (€28,000 – €10,000) x 24% = €18,000 x 24% = €4,320

Amount subject to BIK €4,320 (*nominal value)

**if the car was category E, the €10,000 temporary reduction would not be applicable.*

Company Cars

Example 2 :

Fleur has the use of a car provided by her employer in 2025. The OMV of the car was €28,000. The estimated business kilometres in the year are 31,630 kilometres. Fleur made good to her employer €1,000 in respect of the cost of the car. The car produces 140g/km in CO_2 emissions.

- 140g/km in CO_2 emissions puts the car in vehicle category D.
- As Fleur drives 31,630 kilometres in the year, the cash equivalent is equal to;
  OMV of €28,000 x 27% (mileage between 26,001 km and 39,000 km).
- Taking account of the temporary reduction to OMV, the OMV may be reduced by €10,000.
- The cash equivalent of the use of the car is then reduced by the €1,000 made good by Fleur.

BIK calculation for 2025:

Cash Equivalent (€28,000 – €10,000) x 27% = €18,000 x 27% = €4,860

Less amount made good by Fleur (€1,000)

Amount subject to BIK €3,860 (*nominal value)

Company Cars

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<u>Vehicle available for less than a year :</u>

- The 'Cash Equivalent' is reduced proportionately: A x B / C

A = Actual business kilometers
B = Full Year (In days)
*C = Part of Year (in **days)** for which the car is available*

<u>Overseas duties</u>

- A vehicle provided to a director/employee **will not be regarded as available for private use** for the part of the year in which the individual is outside the state for the purpose of performing duties of employment, provided **ALL** of the following conditions are met :

(1) The aggregate number of days spent outside the State **for the purpose of performing the duties** of the office or employment is **at least 30 complete days** in the tax year (any holiday period abroad is excluded),

(2) The individual travels abroad **without** the vehicle, **and**

(3) The vehicle is **not available for use by the individual's family or household** during the director or employee's period of absence from the State.

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Electric Cars

An ‘electric vehicle’ is one that derives its motive power **exclusively from an electric motor**.

Hybrid vehicles are not electric vehicles.

The tax treatment applicable to employer provided electric vehicles varies depending on ;

(1) the **Date** the vehicle was first provided to the employee,

(2) the P**eriod** for which the vehicle is made available to the employee **for private use,** and

(3) the **OMV** of the vehicle.

As SEAI grants are paid after the registration of the vehicle, the OMV is <u>not</u> reduced by the value of the SEAI grant.

Company Cars

For an electric vehicle made available for an employee's private use during the years **2023 to 2027**, the Cash Equivalent will be calculated based on the actual OMV of the vehicle reduced by:

- **€35,000** in respect of vehicles made available in the **2023, 2024 and 2025** year(s) of assessment;
- **€20,000** in respect of vehicles made available in the **2026** year of assessment; and
- **€10,000** in respect of vehicles made available in the **2027** year of assessment.

Temporary Reduction of €10,000 is also available for 2023 – 2028.
If the reduction reduces the OMV to nil, a BIK charge will not arise.

Any portion of OMV remaining, after the reduction is applied, is chargeable to BIK at the prescribed rates.

Year of Assessment	Relief on Electric Vehicle	Temporary Reduction to OMV	Total Reduction
2023	€35,000	€10,000	€45,000
2024	€35,000	€10,000	€45,000
2025	€35,000	€10,000	€45,000
2026	€20,000	€10,000	€30,000

Company Cars

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Electric Charging Facilities :

Exempt from BIK where;

(a) The electric charging facilities are provided **on the employer's business premises**.

(b) The facility must be available to **all** employees and directors.

Home Charging Facilities :

Exempt from BIK where;

1. Employee must have **private use of an employer provided electric vehicle** which is liable to BIK,
2. Must be **installed in a qualifying residence** in the state,
3. The **employer must retain ownership** of the charging facility,
4. **Only one** charging facility can be provided to an employee.

*_**all**_ of the above must be met for a BIK exemption to apply.

Home Charging Facilities – Bills for the charging of the vehicle :

Where an employer is providing a vehicle to his or her employee and the employee is incurring home **electricity costs**, provided it can be shown that the employer is **only** reimbursing for the running costs of that employer provided vehicle, it would be reasonable for this reimbursement to be **paid free of tax**.

Sufficient documentation must be retained by the employee to verify amounts.

Company Vans

Company Vans

A ‘**Van**’ is a mechanically propelled vehicle which :

- is designed or constructed solely or mainly for the carriage of goods or other burden,
- has a roofed area or areas to the rear of the driver’s seat,
- has no side windows or seating fitted in that roofed area or areas, and
- has a gross vehicle weight not exceeding 3,500 kilograms.

- Where a crew cab or other similar type of vehicle meet **all** of the above conditions, it is regarded as a van rather than a car.
- If a van is **adapted** in such a way that it no longer meets the criteria (such as if rear seats are fitted), the vehicle no longer satisfies the criteria to be regarded as a Van for BIK purposes.
- Therefore, the vehicle should be treated as a Car, and the BIK should be calculated accordingly.

Company Vans

Example :

Cian works for a marketing company. His employer provided him with a car which he was required to use during his working day and was also entitled to use it for private use. Cian's employer decided to modify the car so that marketing materials could be transported more effectively. His employer removed the back seats from the car for storage and tinted the rear windows black for security purposes.

In this instance the vehicle will remain a 'car' for the purposes of BIK for the following reasons:

(1) the vehicle was originally designed and constructed for the carriage of one or more persons,

and

(2) the definition of 'van' for tax purposes requires that the vehicle must be designed or constructed solely or mainly for the carriage of goods or other burden and therefore does not include cars which are adapted into vans.

Company Vans

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From **1 January 2023**, the percentage used in the calculation of the **cash equivalent** of the use of a van increased **from 5% to 8%** of the OMV. (Applies regardless of the business mileage).

Limited Private Use of a Van

BIK will **not** arise in respect of the private use of a van provided to an employee where **all** of the following conditions are met:

(1) The van is supplied for the purposes of the **employee's work;**

(2) The employee is **required by their employer** to **bring the van home after work;**

(3) Apart from travel between the employee's home and their workplace, **other private use of the van by the employee is forbidden by the employer**, and there is in fact no other private use; **and**

(4) In the course of work, **the employee spends at least 80% of their time away from the premises of** the employer.

Company Vans

Example :

John is a maintenance technician working for a facilities management company. The company provides him with a van which he is required to take home each day due to early morning call outs. John spends over 80% of his working time away from his employer's premises. The company's policy prohibits private use of the van apart from travel between home and work, and John adheres to this policy.

In this case, no BIK arises as all the conditions for the limited private use of a van exemption are met.

Pooled Vehicles – Cars and Vans

A vehicle included in a car / van pool is treated as not available for the private use if, in the tax year, **all** of the following conditions are met:

(1) The vehicle is **available** to, and **actually used** by, **more than one** of the employees concerned,

(2) For **each employee**, the vehicle is made available to them by **reason of their employment**,

(3) The vehicle is **not ordinarily used by any one employee to the exclusion of the others**,

(4) For each employee concerned, any **private use** of the vehicle by him or her is **merely incidental** to his or her business use, and

(5) The vehicle is **not normally kept overnight** in any of the employees' homes.

Weight Exemption

No BIK will arise in respect of the private use of a **commercial vehicle** with a gross vehicle weight (i.e., gross laden weight) in excess of 3,500kg.

Chauffeur Driven Cars

In the case of chauffeur driven cars two separate charges arise:

(1) BIK in respect of the **provision** of the **car, and**

(2) BIK in respect of the expenses incurred by the employer for the **provision** of the **chauffeur.**

The total expense incurred by the employer in providing the chauffeur (e.g, chauffeur's salary) is chargeable as BIK, less any amount made good by the employee.

Fuel Cards

Business Use Only :

Where provided for business use only, **no BIK** will arise.

Business and Private Use :

Where provided for private use, the element private usage is **liable to relevant taxes**.

*Records of mileage and fuel expenses should be kept up to date.

Records to be Kept – Employer provided cars and vans

- Employers must put in place **a robust business process** whereby business mileage covered by employees is **recorded** and can be **verified**.

- Employers and employees are **required to keep a logbook**. The logbook must be **certified** by the employer as being **true and accurate**, to the best of his or her knowledge and belief.

- In the case of **vans**, Revenue will accept a **Tachometer/Tripmeter reading**, taken each Friday evening and again on Monday morning, to show that no private mileage was undertaken over the weekend.

- In a case where a person fails to give particulars of business / private mileage for the year, or the particulars delivered are not satisfactory, the **business kilometres may**, in the absence of sufficient evidence to the contrary, be determined by deducting 8,000 kms from the total number of kilometres travelled in the year.

Caution – the '8K RULE'

This deals with a scenario where there are no records produced or where the records are not satisfactory.

Revenue emphasize that the use of 8,000km for private mileage is intended for **exceptional circumstances** only and it should not be as a benchmark by an employer to have a more favourable BIK charge.

The onus is on the employers to ensure that sufficient records are kept.

Revenue are entitled to reject the employers calculation and recalculate the taxable value of the BIK if they deem necessary.

Caution – THE “LESSER THAN RULE”

Another important consideration is defining what is allowable as a **business journey.**

According to Revenue:

“Where an employee, in the performance of the duties, begins a business journey directly from home or returns directly to home, then the expenses of travel and subsistence that may be reimbursed without deduction of tax are the lesser of those incurred on the journey between:*

(i) Home to the temporary work location;

or

(ii) The normal place of work (the office/employers base) and the temporary location".

Medical Insurance

Private Medical Insurance

- An employer might pay medical insurance premiums on behalf of an employee - This is a **taxable benefit**

- If an individual **pays their own medical insurance**, the TRS (Tax Relief at Source) discount will be applied to the cost of the premium. (i.e individual cannot claim back any further TRS).

- Where an **employer pays** medical insurance premiums on behalf of an employee, the employer pays a reduced premium to the authorised insurer (i.e the insurer applies TRS to the gross amount).

- The employer will need to return, to Revenue, the value of the TRS (in corporation tax return).

- The value of the benefit to the employee, is the **gross value** of the insurance premium.

- An employer must add **this gross value**, as notional pay, to your employee's pay to deduct the relevant taxes (Income Tax, PRSI and USC).

Private Medical Insurance

Example 1 :

Kevin renews his medical insurance policy on 1 January 2023. The notice issued by the insurance provider shows both the gross and net premium due:

- **Gross premium: €2,500**
- **Amount on which TRS is calculated: €1,000 (i.e. maximum for an adult)**
- **TRS: €200 (€1,000 x 20%)**
- **Reduced (net) premium payable to authorised insurer is €2,300 (i.e. €2,500 - €200).**

A claim to Revenue is not required by Kevin as

(i) he has paid his medical insurance himself and
(ii) he has received tax relief directly via the TRS system.

Private Medical Insurance

Example 2:

Brian's employer renews his policy on 1 January 2023. The gross value of the policy is €2,500 and the net of tax relief amount is €2,300. Brian is charged to income tax, USC and PRSI under the PAYE system on the gross premium of €2,500.

Brian has not benefited from the TRS arising on the premium paid by his employer.

He is entitled to tax relief of €200 (€1,000 x 20%).

The TRS be claimed from Revenue by Brian (i.e. by filing an Income Tax Return).

Private Medical Insurance

Example 3:

Employer pays 75% of the premium of an employee with the employee paying 25%.

- Gross premium is €1,500.
- Net Premium €1,300 (€1,500 less TRS = (€1,000 x 20%)).
- Total payment to insurer is €975 by employer and €325 by employee (€1,300).
- TRS paid by company to Revenue = (€1,000 x 75% = €750 X standard rate 20%) = €150.
- Employer pays TRS €150 to Revenue.
- Employee is liable to income tax, USC and PRSI on €1,125 (€975 + €150), Gross Employer contribution.

Employee already received 25% of the TRS on the element of the premium that they paid (€1,000 x 25%) = €250 x standard rate 20%) = €50.

The employee makes a claim to Revenue in relation to the balance of tax relief due of €150, which the employer paid to Revenue.

Coffee Break

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Salary sacrifice schemes and their implications

Salary sacrifice schemes and their implications

- Taxes Consolidation Act 1997 provides that in the case of a **Revenue approved** salary sacrifice arrangement, the employee will not be liable to PAYE, USC or PRSI on the **portion of the salary they have sacrificed**.

- A salary sacrifice arrangement is where an employee **forgoes the right to receive any part of their remuneration** due under their terms or contract of employment, and **in return**, their **employer provides a benefit**.

- Salary sacrifice arrangements that **meet the following conditions** may be regarded as being effective:

  (i) there must be a **bona fide and enforceable alteration** to the terms and conditions of employment,

  (ii) the alteration **must not be retrospective** and must be **evidenced in writing**, and

  (iii)there must be **no entitlement to exchange the benefit for cash**.

Salary sacrifice schemes and their implications

<u>Revenue Approved Salary Sacrifice Arrangements</u>

Revenue approved salary sacrifice arrangements may only be entered into in exchange for the following benefits:

a) bus, rail or ferry **travel passes issued** by an approved transport provider,
b) exempt shares appropriated under **approved profit-sharing schemes**, and
c) **bicycles** and **safety equipment**

There are a number of specific conditions attaching to each of the above measures which must be met in order to avail of a tax exemption.

To qualify for the exemption, the remuneration sacrificed must be from the **<u>same year of assessment as the year in which the benefit is provided</u>**

Salary sacrifice schemes and their implications

Revenue Approved Salary Sacrifice Arrangements

Where the salary sacrifice arrangement is **not a Revenue approved scheme**, the employee will not be regarded as having sacrificed a portion of their salary.

In such cases, gross pay remains taxable in full under Schedule E.

Where an exempt employee benefit is provided to a spouse, civil partner or other connected person, rather than an employee, it will **not be treated as an exempt** employee benefit.

* Instead, the value of the benefit will be treated as salary which has been applied by the employee and will be taxed accordingly

Salary sacrifice schemes and their implications

(A) Travel passes issued by an approved transport provider

This will **not** be treated as taxable pay where the employer either:

(1) **Pays** for the pass **on behalf** of your employee,

or

(2) **Enters into a salary sacrifice arrangement** with your employee.

Salary sacrifice schemes and their implications

<u>(b) Approved profit-sharing schemes (‘APSS’)</u>

If an employer operates an APSS, they may allocate **’Tax Free’ shares to an employee**, provided certain conditions are met.

Your employer can allocate shares to you up to a <u>maximum</u> **annual limit of €12,700**.

The shares allocated must be **held in a trust** set up by your employer.

The shares must be held in the trust for a **specified period of retention** (generally two years).

If an employee leaves the shares in the trust for three years, they will be exempt from Income Tax.

Your employer may allow you to use your annual bonus to buy shares under an approved scheme.

Salary sacrifice schemes and their implications

<u>(b) Approved profit-sharing schemes ('APSS')</u>

The employee will be liable to <u>USC</u> and <u>PRSI</u> on the value of the **shares when they are appropriated to them**. Your employer will make the necessary deductions through payroll.

<u>Sale of Shares **BEFORE** the three years:</u>

- The employee may instruct the trustee to sell or transfer their shares after two years, but before three full years.
- If sold/transferred, **Income Tax will arise at the standard rate (20%) on the original market value** of the shares.
- The employee must pay this tax to the trustee <u>before</u> the transfer takes place. The trustee will remit this amount to Revenue on your behalf.
- This **will be set against the final tax liability** on the disposal or transfer of your shares.

Salary sacrifice schemes and their implications

(b) Approved profit-sharing schemes ('APSS')

No additional USC and PRSI will arise (paid at the time the shares were appropriated).

If the final liability is higher than the tax paid to the trustee, the individual must pay this additional amount to Revenue under the self-assessment system.

The individual must include details of the transaction in their tax return.

Salary sacrifice schemes and their implications

(b) Approved profit-sharing schemes ('APSS')

Sale of Shares **AFTER** the three years :

If the employee leaves the shares in the trust for **three years**, they will be exempt from Income Tax.

An Employee will however be liable to **Capital Gains Tax (CGT)** whenever they dispose of the shares.

The disposal must be reported to Revenue even if no tax is due.

An employer will not deduct any tax or report a disposal for an employee– CGT is a self assessment tax

When calculating the chargeable gain, the market value of the shares at the date of appropriation is the cost of acquisition.

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Provision of bicycles for directors and employees

The **Cycle to Work Scheme** allows a company to purchase new bikes and safety equipment for their employees.

Items purchased under the scheme are not a taxable BIK.

Items purchased under the scheme must:

- Be used for **qualifying journeys**
- Cost no more than **€1,500 per employee** for an electric bike or **€1,250** other bicycles (any excess is a BIK).
- From 1 January 2023 cargo bikes which cost no more than €3,000 are included in the cycle-to-work scheme be purchased by the employer

* ***The exemption does not apply where an employee or director is reimbursed***).

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<u>Provision of bicycles for directors and employees</u>

- An employee can only avail of the scheme **once every four years.**
- If an employer **spends less** than the relevant limit on an employee in a year, the difference **cannot be made up in the remaining three years**.
- The tax year in which the bicycle is provided counts as the first year.
- Can agree with employees to operate the scheme using a <u>salary sacrifice arrangement</u>. Payments can be spread over 12 months under this arrangement.
- If your employee leaves or retires they should pay any outstanding balance before the date of leaving or retirement.
- If you purchase **equipment abroad**, the invoices must be in euros. <u>Delivery charges are included as part of the cost.</u>

Provision of bicycles for directors and employees

- The employer is not required to monitor the use of the bike.
- List of qualifying equipment on Revenue website.
- VAT incurred on the bike or safety equipment cannot be reclaimed by the employer as the equipment is not used for the purpose of a taxable supply.

Travel and Subsistence payments

Travel and Subsistence Payments

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1. You can pay your employees' expenses when they travel on business journeys.

2. You can pay subsistence if employees are working away from their normal place of work.

3. You can repay your employees when they use their private cars, motorcycles or bicycles for business purposes.

“Normal place of work” is where your employee works on a day to day basis.

- This may not always be your (the employer’s) base.
- Your business may have additional bases elsewhere.
- In this case, the normal place of work may not be the same for all of your employees.

Travel and Subsistence Payments

“Business travel” is when your employee travels from one place of work to another place of work as part of their duties.

This includes:

- travel between Ireland and other countries
- travel to a place that is not their normal place of work.

For Business Travel, the distance in kilometres is calculated by the **lower** of either:

1. the distance between your employee's home and the temporary place of work, or
2. the distance between your employee's normal place of work and the temporary place of work.

Travel to and from work is your employee's own private travel. It is not a business journey.

Subsistence Expenses

You may repay your employee expenses for their subsistence costs while they are temporarily away from their normal place of work.

For absences within the State this payment can be made, tax free, by either:

- using the current schedule of Civil Service subsistence rates
- use other rates not higher than Civil Service rates
- repay the actual cost of the travel to your employee.

If you repay the actual costs of subsistence to your employee, the following conditions must apply:

- your employee incurred them wholly, exclusively and necessarily when carrying out the duties of their employment,
- the costs were repaid on the basis of vouched receipts.

If you pay subsistence expenses at rates higher than Civil Service rates, these must be approved by Revenue in advance.

Civil service motoring rates

Distance band	Engine capacity up to 1200cc	Engine capacity 1201cc - 1500cc	Engine capacity 1501cc and over
Up to 1,500 km (Band 1)	41.80 cent	43.40 cent	51.82 cent
1,501 - 5,500 km (Band 2)	72.64 cent	79.18 cent	90.63 cent
5,501 - 25,000 km (Band 3)	31.78 cent	31.79 cent	39.22 cent
25,001 km and over (Band 4)	20.56 cent	23.85 cent	25.87 cent

Civil service motoring rates – reduced rates

Reduced mileage rates apply for journeys associated with an official's job but <u>not solely related to the performance of those duties</u>.

Examples include necessary travel in relation to:

- attendance at confirmed promotion competitions
- attendance at approved courses of education or conferences.

Reduced Motor Travel Rates per kilometre

Engine Capacity up to 1200cc	Engine Capacity 1201cc to 1500cc	Engine Capacity 1501cc and over
21.23 cent	23.80 cent	25.96 cent

Overnight Allowances (Domestic)

Overnight allowance covers an overnight assignment of up to 24 hours plus any period up to five hours. This must be at least 100km from the employee's home and their normal place of work.

The rate category depends on the period of an assignment:

- normal rate is for up to 14 nights
- reduced rate covers the next 14 nights
- detention rate covers each of the next 28 nights.

For assignments over 56 nights, you must make an application to Revenue to confirm subsistence is still available.

Rate category	Rate
Normal rate	€205.53
Reduced rate	€184.98
Detention rate	€102.76

Daily Allowances (Domestic)

The assignment must be outside eight kilometres of the employee's home and normal place of work.

In the case of an absence of over 29 hours, you can claim a day and overnight allowance.

Period of assignment	Rate
Ten hours or more	€46.17
Between five and ten hours	€19.25

Site-based employees

Site-based employees do not have a fixed base and perform their work duties at different locations. These duties generally last for periods longer than one day.

You can pay your employees expenses of travel and subsistence, (known as 'country money' in the construction industry), not exceeding the approved rate.

In order to qualify for these expenses, the employee must be:

- working at a site 32km (20 miles) or more from your base

or

- working 32km or more from the General Post Office (GPO), if the employee is Dublin based.

Approved country money rates:

€36.34 per day for four days or less.

or

€181.68 per week for more than four days.

Site-based employees

You cannot pay your employee tax-free expenses of travel and subsistence if:

- Your employee does not have to pay to travel to and from the site (for example, if you provide the transport)

- You provide your employee with board and lodgings

or

- Your employee was recruited to work at one site only.

You must retain records relating to the payment of country money for six years.

Site-based employees

You may pay an '**eating on site**' allowance, tax free, to site-based employees in some sectors of the economy if:

- You do not provide facilities for making tea, coffee, or other refreshments
- Your employee does not receive any other form of tax-free subsistence payment
- Your employee works on the site for at least 1.5 hours before and 1.5 hours after their normal lunch break

and

- You pay a maximum allowance of €5 per day.

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Meal Allowances

Canteen Meals :

- An employer may provide free or subsidized meals in staff canteens for **all** employees.

- Meals must be **provided in the staff canteen**.

- This does **not include external** third party restaurants (etc).

* The **taxable value if not exempt** will be the costs of the canteen, divided by the number of staff who can use the facility.

Employer provided meals/entertainment

(I) Meal Vouchers :

- Meal vouchers provided to staff **are taxable.**
- The value of the benefit face value, less 19 cents.

(II) Client entertainment :

- Where an employee has to engage in client entertainment meals as **part of their duties,** these meals are not deemed BIK.

(III) Seasonal Parties :

- The cost of **seasonal parties** are not a BIK to the employee, provided the event is available to **all employees.**

Enhanced Reporting Requirements ("ERR")

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Revenue Guidelines

- Revenue have increased their focus on employment tax compliance.

✓ *Therefore internal payroll controls and checks are critical !!!*

- Revenue have published several BIK guidance **Tax and Duty Manuals** on their Revenue Website, as well as information on Revenue.ie in relation to BIK.

- **Real Time Reporting**

- From 1 January 2024, introduction of **Enhanced Reporting Requirements (ERR**).

- **PAYE Settlement Agreement** (PSA) facility.

Real Time Reporting

- From **1 January 2019**, employers are obliged to report their employees' pay and statutory deductions to Revenue, on or before the date they pay their staff. This is known as '**real-time reporting**'.

- **Real-time reporting** makes it easier for employers to deduct, and pay at the right time, the correct amounts of taxes.

- Provides **increased visibility and assurance for employees** as their payroll information is available to view, in real-time, in myAccount.

- Employers must use the most **up to date Revenue Payroll Notification** (RPN) to calculate the employee statutory deductions.

- Employers must **register as an employer** and deduct relevant taxes as appropriate under the PAYE system.

- Employers must report their payroll to Revenue **on or before** the date they pay their staff.

Real Time Reporting

Before running payroll, request the latest **RPN** for each employee.

- This ensures you are using the correct tax credits and cut-off points.
- The RPN tells you how much you need to deduct for the relevant taxes.

Enhanced Employer Reporting (EER)

- New system on **1 January 2024**, which requires employers to report details of **certain <u>benefits</u>** and payments made to staff in real time, which means on or before they are given to employees.

- This new system of Enhanced Employer Reporting (EER) places a very **significant admin burden** on businesses, particularly SME's.

- ERR is required for all **Travel and Subsistence, Remote Working Daily Allowances of €3.20 per day** and items that meet the **Small Benefit Exemption**.

- This has resulted in increased scrutiny of these items in the course of **Revenue PAYE interventions**.

- If an employer omits to report any small benefit or payment made to an employee, they face a **€4,000 penalty** even where there may be no risk of an underpayment of tax.

- Because these payments have to be reported **in real-time,** the penalty could apply even where an omission is discovered by an employer <u>and subsequently</u> reported to Revenue at the earliest opportunity.

What is within scope of EER?

- Payments directly **incurred by an employer** are not within the scope of EER (i.e expenses incurred by an employer on behalf of an employee on a company credit card).

- Therefore, the expenses **have to be incurred by the employee directly (i.e the employee must have to be reimbursed for the expense incurred).**

- If an employee has multiple Travel & Subsistence claims in a month but these are all paid at once, they can be reported at one time and not individually.

- Enhanced Reporting Requirements is a **separate reporting requirement from payroll**.

- If these are being reported through payroll it will be necessary to ensure the facility enables the splitting of the Enhanced Reporting Requirements items from payroll.

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PAYE Settlement Agreements ('PSA')

PAYE Settlement Agreements (PSA)

- A PSA is a practical way of enabling employers to settle the income tax, USC and PRSI on minor taxable benefits provided to employees (for example, items not covered by the small benefit exemption) without the requirement to account for these taxable benefits through the normal PAYE process.

i.e Irregular minor benefits such as staff entertainment, small gifts, prizes.

- The employee therefore enjoys the benefit without having to be concerned about a subsequent tax liability.
- **In advance of the 31 December deadline**, it is therefore vital that employers consider whether they have a requirement to submit a PSA application to account for taxes due on taxable employee benefits and expenses which have not been accounted for via the PAYE system during the year.

PAYE Settlement Agreements (PSA)

What benefits qualify?

The employer may avail of PSA to remit the taxes arising on benefits that meet all the following criteria:

- *The emolument must be a **non cash benefit** and **impracticable to allocate a value to individual employees**,*
- *The benefit must be **minor in nature** and **amount**, and*
- ***Irregular** with regard to the frequency the benefit is provided.*

If any of the above criteria are not met, the benefit must be taxed through the PAYE system as normal.

Some known examples include :

Taxis for non business purposes, staff lunches, staff entertainment

PAYE Settlement Agreements (PSA)

How Does the PSA process work ?

- In order to avail of a PSA, an application must be filed with Revenue by 31 December of the same year. E.g. for the 2025 tax year, the application must be filed with Revenue no later than 31 December 2025.
- The PSA, together with payment of the corresponding tax liability, must be submitted to Revenue no later than 23 January of the following year. E.g. for the 2025 tax year, the submission and payment must be made by 23 January 2026.
- In calculating the taxes due on these benefits, **the employer must treat the value of the benefit as an after-tax amount** received by the employee and then **re-gross this value based on the employee's marginal tax rate** for the year in question.
- Employer PRSI must also be calculated on the re-grossed amount.
- The total taxes due and PSA submission can be processed via the Revenue On-line System (ROS).

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PAYE Settlement Agreements (PSA)

How Does the PSA process work

- Historically, Revenue only required the PSA submission post-year end to provide details on an aggregate basis (as opposed to employee by employee), namely, (i) the aggregate amount of the qualifying emoluments, (ii) the total number of employees in receipt of these emoluments and (iii) the taxes due on a grossed-up basis.

- However, in recent years, there has been a noticeable increase in Revenue activity on **PSA submissions seeking more granular detail** on the benefits provided.

- We fully expect this approach to continue.

- There has been a significant increase in Revenue PAYE compliance checks over the last 18 months, with minor and irregular benefits being a feature of these reviews.

- The PSA process provides employers with the opportunity to carry out a full in year review of benefits that may not have been processed through payroll but may meet the qualifying criteria for inclusion on a PSA.

Maternity, Paternity Redundancy Tax Scenarios

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Maternity, Paternity Payments

Section 126 (2A) of the Taxes Consolidation Act (TCA) 1997, as amended, provides that the following benefits payable by the Department of Social Protection (DSP) are chargeable to income tax:

- Maternity Benefit
- Paternity Benefit

Maternity Benefit is a payment to an employed or self-employed person who is on maternity leave from work and who satisfies the relevant PRSI contribution conditions.

Paternity Benefit is a payment to an employed or self-employed person who is on paternity leave from work and who satisfies the relevant PRSI contribution conditions. It is paid in respect of births and adoptions which occur on or after 1 September 2016.

*** These benefits are exempt from PRSI and the Universal Social Charge ***

Method of Applying Tax

In PAYE cases :

- the employer will not be required to include the benefit as part of pay for PAYE purpose
- Instead Revenue will collect the tax due on this income by adjusting the tax credits and standard rate band in respect of recipients and issue a revised Revenue Payroll Notification (RPN) to the employer.
- The adjustment to the tax credits and standard rate bands will be the main method of taxing these benefits.

In the case of self-employed individuals :

- any maternity benefit, adoptive benefit and health and safety benefit received from 1 July 2013, or any paternity benefit received on or after 1 September 2016, or any parent’s benefit received on or after the 1 November 2019 should be returned as taxable social welfare income on their income tax return.

Redundancy Payments

Statutory redundancy

- If you have been made redundant, you may qualify for a lump sum payment under the Redundancy Payments Act 1967 (a minimum payment that you are entitled to receive)

- This payment is exempt from Income Tax and Universal Social Charge (USC).

Exemption for retraining on redundancy

If your employer pays the cost of retraining you as part of a redundancy package, this cost will be exempt from Income Tax provided that:

- you have more than two years continuous service with your employer
- the retraining is part of a redundancy package
- the retraining is designed to improve your skills or knowledge to help obtain employment or set up a business
- the retraining is completed within six months of the redundancy

  and
- the cost does not exceed €5,000.

Redundancy Payments

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- To receive statutory redundancy, you must have at least 2 years service continuous service completed.
- The payment calculation consists of two weeks pay per year of service, plus one bonus week, calculated on gross weekly pay, capped at €600 per week or €31,200 per year.
- As statutory redundancy payments are tax free, amounts should not be included in the relevant payroll submission
- If the redundancy payment has an element that is not statutory, then this element of the payment may be liable to tax.

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Termination Payments

Termination Payments

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- Taxation of termination lump sum payments that are chargeable to tax under section 123 Taxes Consolidation Act 1997 (TCA 1997).

- In general, all payments made by employers to employees and directors are regarded as "pay" for tax purposes and, in the absence of a specific relief or exemption, employers must operate PAYE on such payments.

- Lump sum payments on a redundancy or retirement are eligible for special tax treatment and may be partially or totally exempt from income tax, PRSI and USC.

- **Note: A lump sum paid under the terms of a contract of employment is taxable in full and does not qualify for exemption or relief**. (i.e taxable under normal rules of Schedule E S112 TCA 1997)

Termination Payments

Examples of payments which are chargeable to tax under section 123 include:

- A gratuity or ex-gratia payment given on or after retirement entirely at the discretion of the employer
- Compensation for loss of office
- Payments made on redundancy and termination of employment
- A payment to obtain release from a contingent liability under a contract of service
- A lump sum to commute a pension or pension rights.

Termination Payments – Ex Gratia Element

Under current Irish Tax legislation, there are three methods to calculating the tax free element of an Ex Gratia payment, as follows :

1. **Basic Exemption**
2. **Increased Basic Exemption**
3. **Standard Capital Superannuation Benefit (SCSB)**

Depending on which of these calculation methods is most beneficial to an individual, this will be the tax-free element.

Any amount of Ex Gratia payment exceeding this tax free amount, will be liable to tax at marginal tax rates (i.e. Income Tax & USC)

Termination Payments – Ex Gratia Element

1. Basic Exemption

This calculation allows a tax free amount of €10,160 plus €765 for each **full year** of service.

Example :

An individual who has 7 years service will have a basic exemption of €10,160 + (€765 x 7) = **€15,515**

Therefore an Ex-Gratia payment of €15,515 can be received by this individual tax free.

Basic Exemption ('BE')	= 10,160 + (765 * [Complete years])
	15,515

Termination Payments – Ex Gratia Element

2. Increased Basic Exemption

The calculation allows a tax-free amount of €10,160 plus €765 for each **full year** of service AND an **additional €10,000**

However, this additional €10,000 can only be availed of in full if :

1. You have **not** claimed this Increased Basic Exemption in the **previous 10 year period**,

AND

2. You are **not** entitled to a future pension lump sum from your employment.

** If you are enrolled in the company pension and thus would be entitled to a future lump sum from your employment on your retirement, then the present-day value ("PDV") of such a pension lump sum must be deducted from the additional €10,000 per the Increased Basic Exemption.*

Example 1 – NPV of Pension not exceeding €10,000

Basic Exemption ('BE')	= 10,160 + (765 * [Complete years])	
	15,515	
Increased Exemption ('IE')	BE + [€10,000 - TFPLS]	
IE	20,515	On the basis that increased exemption not previously claimed in prior 10 years
IE (if TFPLS waived) ^	25,515	

Increased Basic Exemption;

(i) If you have not claimed this Increased Basic Exemption in the previous 10 year period **and/or** not agreeing to waive the right to a future pension lump sum ;

€15,515 plus (€10,000 - €5,000) = €20,515 (**present day value of the pension is €5,000)*

(ii) If you have not claimed this Increased Basic Exemption in the previous 10 year period **and** you waive the right to a future pension lump sum

€15,515 plus €10,000 = €25,515

**The decision to waive such a right is a financial decision and should factor in both the immediate and future tax implications*

3. Standard Capital Superannuation Benefit (SCSB)

This option involves the application of a formula :

1. Take the average annual earnings over the previous 36 months (or the whole period of service, if less than 3 years)
2. Multiply this figure by the number of **completed** years' service
3. Divide by 15
4. Subtract the present-day value of any future pension lump sum entitlement

The formula typically benefits those who have higher earnings and longer periods of service.

Termination Payments – Ex Gratia Element

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Example – SCSB

Name:	
Date of Employment Start	06/06/2018
Date of Termination of Employment	31/10/2025
Weekly pay (for redundancy calc) (NB capped at 600 pw)	600.00
Present Day Value of Tax Free Pension Lump Sum (TFPLS)	15,000.00
Redundancy: (Yes/No)	Yes
Statutory Redundancy calculated at	9,492.00
Ex-Gratia Element (Enter amount excluding any Statutory Redundancy or contractual PILON):	13,461.54
Contractual PILON *(non-contractual PILON should be put in box above (Ex-gratia))*	
Garden Leave/Holiday Pay (taxable in normal course)	
Total Gross Package (Includes Redundancy, Ex-Gratia, Contractual PILON, Garden Leave/Holiday pay)	22,953.54
Prior tax free termination payments? If so enter relief used	
Has employee claimed the Increased Exemption in the last 10 years?	No
Actual Taxable Emoluments in the current year to date of cessation	41,666.00
Taxable Emoluments in 2024	50,000.00
Taxable Emoluments in 2023	48,000.00
Taxable Emoluments in 2022 (NB: if these are for full 12 months, select Apportionment Required below)	7,916.00

Is the figure for 2022 above a balancing figure to make actual 36 month figures, or is it for the full year requiring apportionment?	Actual 36m

Termination Payments – Ex Gratia Element

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Example – SCSB

Individual's Name:				0
Facts				
Statutory Redundancy				9,492
Ex-Gratia Termination Payment				13,462
Commencement				06/06/2018
Date of Cessation				31/10/2025
Number of complete years service				7
Present Day Value of Tax Free Pension Lump Sum (TFPLS)				15,000

• Assumes no career breaks.

Average emoluments over the last 12 months	Taxable Emoluments €	Current year	Months in year	*Basis of source:* Actual 36m
Taxable Emoluments in the current year to date of cessation, i.e. 10 mont	41,666	2025	10	41,666.00
Taxable Emoluments in 2024	50,000	2024	*12*	50,000.00
Taxable Emoluments in 2023	48,000	2023	*12*	48,000.00
Actual basis: Emoluments for last 2 months of 2022 (to make 36months)	7,916	2022	2	7,916.00
Total emoluments last 3 years			36	147,582.00
Average annual emoluments (over last 3 years):				49,194.00

Termination Payments – Ex Gratia Element

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Example – SCSB

SCSB ([A * B]/15) - TFPLS

Lifetime Cap		200,000
Less prior use		-
Remaining Cap		200,000

A - Average annual emoluments (over last 3 years):	49,194
B - Number of complete years service	7
SCSB	7,957
SCSB (if TFPLS waived) ^	22,957

Details of Gross Termination Package (before Tax)

	A		B		
	Ex Gratia + Redundancy		*Non-Ex-Gratia*		
Statutory Redundancy element	9,492.00				
Ex-Gratia	13,461.54				
Garden Leave/Holiday Pay			-		*Subject to normal payroll*
Contractual PILON			-		
Gross payment	**22,953.54**		-		22,953.54
Estimated Net of Tax Payment (see calculations and assumptions below)	**22,953.54**	*	-	**	22,953.54

** Assuming BE option chosen (i.e. #2) - See calculations and assumptions below*
*** See calculations and assumptions below*

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S192A
Exemption from Income Tax in respect of Certain Payments made under Employment Law

Employment Law

- Section 192A of the Taxes Consolidation Act 1997 (TCA 1997) provides for an exemption from income tax for certain payments made by employers to employees arising from claims under employment legislation.

- This section exempts from income tax compensatory awards or settlements made as a result of an infringement of an employee's statutory rights or entitlements (for example through discrimination, harassment or victimisation).

The exemption applies to :

A. payments arising out of claims made under a "relevant Act" following a formal hearing before a "relevant authority" (or through a mediation process – paragraph 3 below), on foot of a recommendation, decision or determination by that relevant authority, and

B. subject to certain conditions, payments made under an out of court settlement, in place of a formal hearing before a relevant authority, which has been agreed between an employee and his or her employer

Employment Law

A “**relevant Act**” means an enactment that contains provisions for

a) the protection of employees’ rights and entitlements, or

b) the obligations of employers towards employees.

A “**relevant authority**” means any of the following:

- an adjudication officer of the Workplace Relations Commission;
- the Workplace Relations Commission;
- the Labour Court;
- the District Court;
- the Circuit Court; or
- the High Court.

Employment Law

- The exemption afforded by section 192A applies to payments made on foot of a recommendation, decision or determination by a ‘relevant authority’.

- The exemption also extends to a settlement arrived at under a mediation process provided for in a relevant Act.

- The exemption can also apply to some ‘out of court’ settlements where :

1. The agreement is settlement of a claim is evidenced in writing
2. The original statement of claim by the employee is evidence in writing
3. The agreement is not between connected parties (s10 TCA97)
4. There were sufficient grounds for the claim
5. The claim is likely to have been subject of a recommendation/dedicion/derermination by the relevant authority
6. The payment does not exceed the max which could have been awarded under relevant legislation by the relevant authority.

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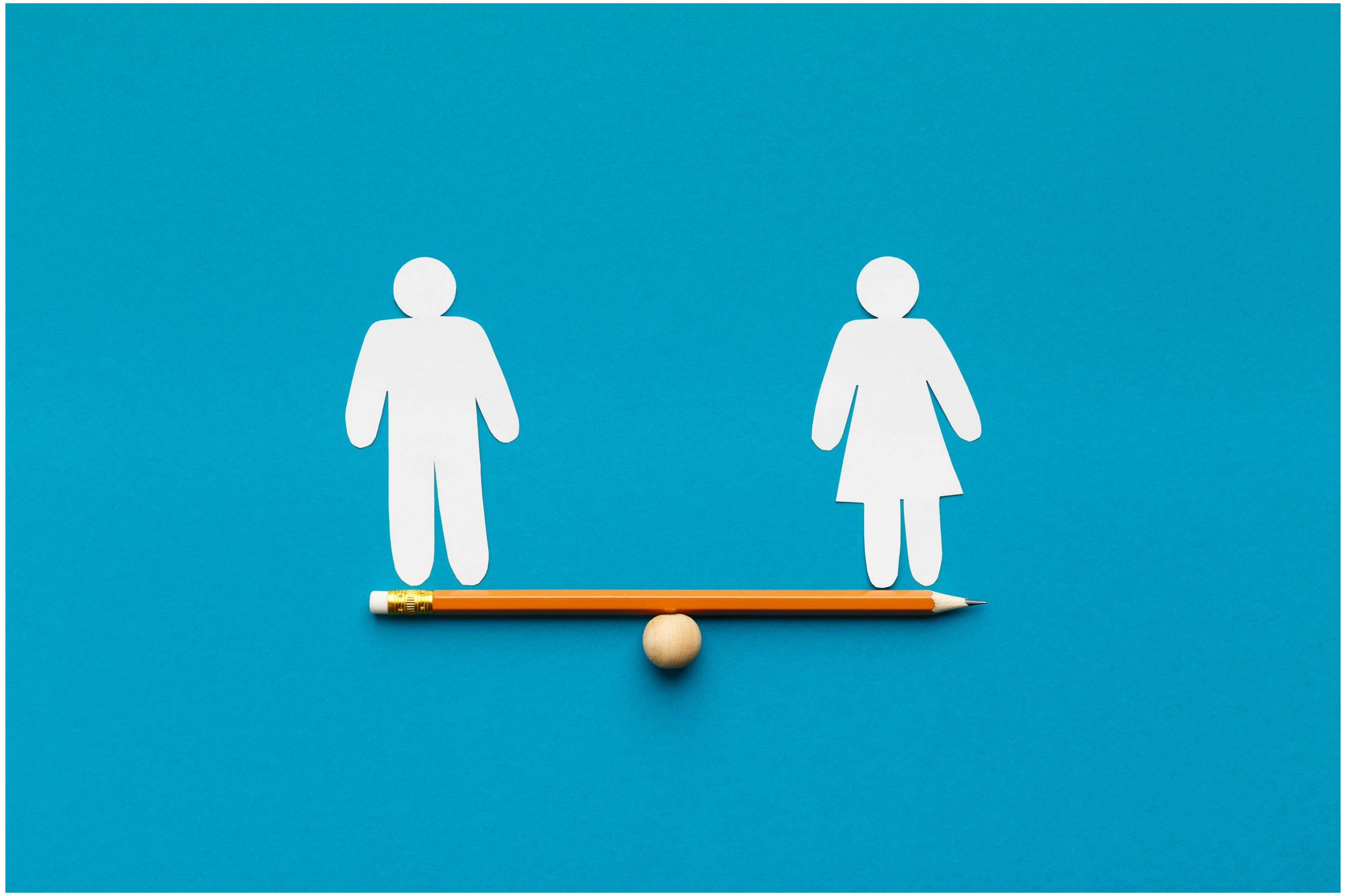
Overview of Pay Transparency Directive



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Overview of Pay Transparency Directive

What is the Pay Transparency Directive, and who does it impact?

Directive (EU) 2023/970 (the "**Pay Transparency Directive**") is intended to:

1. Increase pay transparency;
2. Promote and enforce the principle of equal pay between men and women; and
3. Permit easier access to justice for victims of pay discrimination.

The introduction of the Directive will impact upon both the recruitment process, and the entitlements of current employees to request certain information from their employers.

The Pay Transparency Directive was slated to be implemented by 7 June 2026, however Ireland did not meet this deadline.

Instead, Ireland is adopting a 'phased approach'. The EU Commission has confirmed that there is no 'stop the clock' on transposition, however, the Minister for Children, Disability and Equality has confirmed that employers will not be penalised for a failure to have all elements of the Directive completed as of June 2026.

The government is currently in the process of preparing a draft Pay Transparency Bill for transposition of the Directive, however this is yet to be made available. No indicative timeline has been provided for transposition, as of September 2026.

Overview of Pay Transparency Directive

Employers and their payroll administrations will be required to:

- inform prospective applicants of the starting salary pay or pay range within the job posting, or in advance of any interview, and will no longer be permitted to ask applicants about their current salary;
- ensure all employment contracts and policies are reviewed and updated to remove all pay secrecy clauses;
- where requested, provide employees with information on their individual pay levels and the average pay level broken down by gender for categories of employees carrying on the same work, or work of equal value within 2 months of any such request;
- Provide workers with information on what (gender neutral and objective) criteria are used to determine pay and pay progression (potential for Member States to elect to exempt employers with less than 50 employees);
- Publish information on the pay gap between male and female employees (staged implementation, applicable where employer has 100 employees or more); and
- Where a pay report reveals a gender pay gap of at least 5 percent which cannot be justified on the basis of objective, gender-neutral criteria, carry out a pay assessment in conjunction with employee representatives.

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Payroll Tax Compliance

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Avoiding common reporting errors

1. Misunderstanding PAYE modernization (Real Time Reporting)

Many Irish businesses still struggle to grasp the real time reporting requirements introduced by PAYE modernization in 2019.

This leads to **incorrect or late submissions** to Revenue, triggering fines and potential Revenue audits.

How to Avoid :

- Use Revenue approved payroll **software** that automatically handles real time submissions.
- Set up a strict **internal schedule to review** and submit data for every pay run, on or before pay day.
- **Double check figures** to avoid errors from the start – corrections can be complex and time consuming.

Avoiding common reporting errors

2. Incorrect Calculation of PRSI and USC

PRSI classes, USC thresholds and income bands change frequently.

Misclassifying employees or missing updated thresholds results in underpayment or overpayment, compromising your payroll compliance and attracting Revenue scrutiny.

How to Avoid :

- **Accurately classify each employee** under the correct PRSI category from day one.
- **Keep up with annual Budget** announcements that often adjust rates for PRSI and USC.
- Invest in an **automated payroll system** that auto updates rates to minimize manual errors.
- Frequent **training** for payroll staff and new staff.

Avoiding common reporting errors

3. Mishandling Benefits in Kind

Failure to calculate and report BIK correctly remains one of the most common payroll errors.

<u>How to Avoid :</u>

- **Identify** all BIK employees.
- Calculate their value using **Revenues specific formul**as and guidance.
- Include '**notional pay**' in payroll calculations so it's taxed correctly through PAYE.
- **Double check figures/ have controls in place** to avoid errors.

Avoiding common reporting errors

4. Poor Record Keeping and GDPR Compliance

Payroll data must be kept for **six years** under Revenue rules.

Mishandling sensitive employee information can lead to GDPR breaches.

Poor systems can lead to compliance risk – both financial and reputational.

How to Avoid :

- Maintain a **secure, centralised digital system** for all pay slips, records and payroll data.
- Implementing **strict across** controls so only authorized personnel handle sensitive data.
- **Regularly audit your data storage** and retention policy to align with GDPR and Revenue requirements.

Avoiding common reporting errors

5. Assuming a payslip is just a formality

Employees are **legally entitled** to a detailed payslip, under the Payment of Wages Act 1991.

Omissions or inaccuracies can spark disputes or even claims to the Workplace Relations Commission.

How to Avoid :

- Every payslip must clearly show Gross Pay , All deductions itemised and Net Pay

Transparency builds trust and reduces the risk of legal complications.

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Electronic Filing and Reporting

Specified returns and liabilities on ROS

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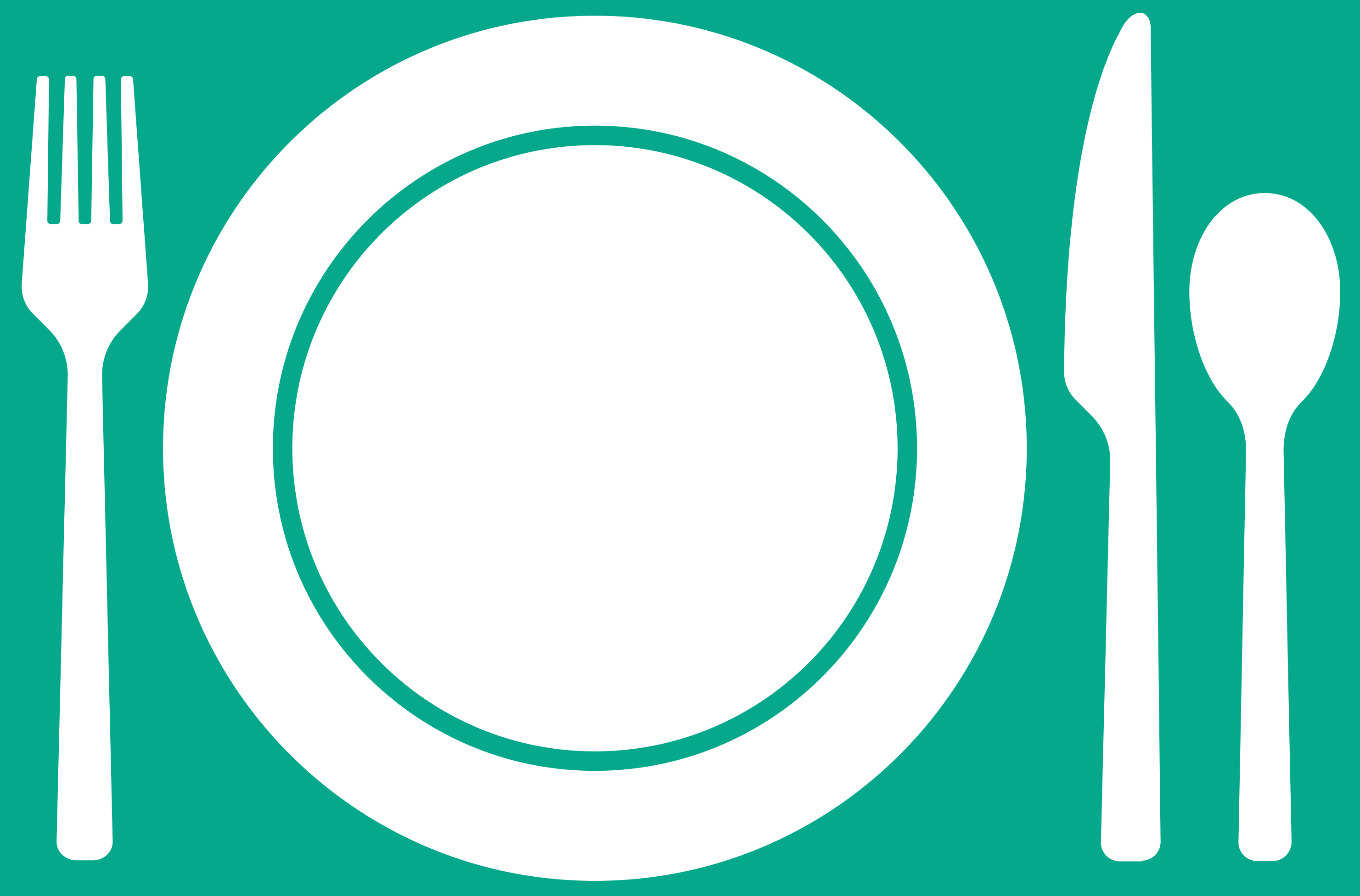
- Employer PAYE/ PRSI
- Enhanced Employer Reporting
- Corporation Tax – Preliminary tax and balance, R&D
- Capital Gains Tax
- VAT – Form VAT3, Return Trader Details, VAT MOSS, Quarterly returns
- Intrastat
- Dividend Withholding Tax

Lunch



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Pensions Update – Auto Enrolment

What is My Future Fund ?

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Why Does Ireland need Auto Enrolment ?

Personal Retirement Savings Accounts (PRSA) launched in 2002

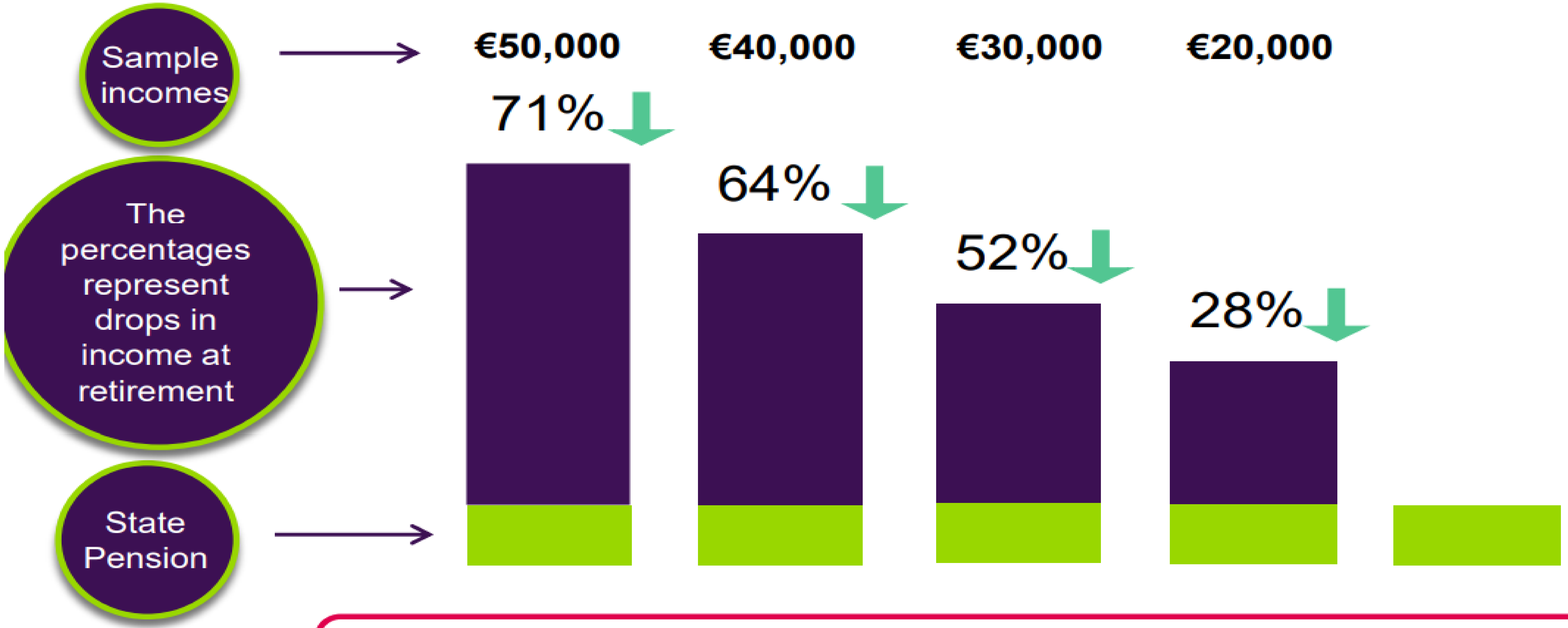
- Encouraged more people to take out private pensions.
- As these are voluntary, there has been a low rate of coverage.

Today there are approx. 800,000 people without a private pension

- Ireland has an aging population
- Too many are relying solely on state pension
- This will lead to retirement poverty for many …..

What is My Future Fund ?

The Gap in Income at Retirement (if Solely dependant on State Pension)



If retiring tomorrow with no Retirement Savings, your income will be €277.30 per week (personal rate State Pension (Contributory) in 2024.

What is My Future Fund ?

- On 1 January 2026, Auto-enrolment, a new retirement savings system for employees, was introduced.

- Applies to 'Eligible Employees'.

  - **This includes all employees between the ages 23 and 60 and earning more than €20,000 or more per year.**

- It will not apply to employees who are already in a pension scheme or who are already making contributions through payroll.

- Employees under 23 yrs or over 60 can opt-in if they wish.

What is My Future Fund ?

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- The system is called “My Future Fund”.
- Administered by the “**National Automatic Enrolment Retirement Savings Authority** (NAERSA)”.
- The Department of Social Protection has published Guidance and FAQs on its website.
- Employers required to comply since 1 January 2026.

What is My Future Fund ?

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- This is **in addition** to the contributory State pension :

  Therefore **all** employees will have at least two pension funds

  (1) their contributory State pension and

  (2) the auto-enrolment pension or a supplementary pension such as an occupational pension or personal pension

- An extra benefit to employees is that their employer <u>and the State</u> will contribute :

  (e.g) For every €3 that an employee contributes to My Future Fund, the employer will also put in €3 and the State will top up by €1.

Employer Obligations

- Employers are required to inform your employees when they have been enrolled.

- Self-employed - PRSI classes will be used to exclude you from auto-enrolment.

- There is no ‘One size meets all’ approach.

- Contributions to the NEARSA will be made via payroll.

Employer Obligations

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- Employers will match the member's contributions up to an eventual **maximum** of 6%

  - initially 1.5% of the members earnings up to a maximum of €80,000.
  - increasing @ 1.5% every three years to a maximum of 6% from year 10.

- Employer contributions will continue to be deductible for corporation tax purposes.

- Employers can offer schemes that exceed the 'My Future Fund' standards to retain more control and potentially offer better benefits.

Employer Obligations

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Notify the Employee → Calculate the Pension Contribution → Deduct Pension from Pay → Remit to NAERSA

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My Future Fund Vs Occupational Pension Schemes

Option 1: Occupational pension scheme	Option 2: My Future Fund
Tax relief at source (up to 40%)	No tax relief at source but State top up (equivalent to 25%)
€115,000 threshold	€80,000 threshold
Can facilitate AVCs	No AVCs
Can facilitate transfers	No transfers
Can make 'special employer contributions'	No 'special employer contributions'
Can facilitate early retirement	No early retirement other than on ill health
Unvested employer contributions potentially available to employer	Employer contributions never available to employer once remitted to AE system

Start Window – Who is eligible ?

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Employees who satisfy the conditions for enrolment

- Aged 23 – 60 years.
- Not in "exempt employment" – not currently participating in a pension arrangement.
- Gross pay in *all employments* (including "exempt employments") is not less than €20,000 per year.

Employees who do not satisfy the conditions but exercise the right to opt in

- Employee does not meet the above conditions.
- Employee is over 18 (and under the State pension age).
- Not in "exempt employment".
- The application to opt in must be made to NAERSA.

Start Window – Who is eligible ?

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Examples of employees in particular situations that <u>will be automatically enrolled</u>:

i. Employees that contributes to a private pension but not through payroll will be automatically enrolled.

ii. Employees whose eligible earnings dropped below €20,000 but are already enrolled, will stay enrolled.

iii. Employees who in the past have contributed to a pension but they aren’t now, will be automatically enrolled.

iv. Employees who have suspended the contribution or ‘opted out’, will be re-enrolled after two years.

v. Part-time employees and employees in probatory periods that satisfy the eligibility criteria above, will be automatically enrolled.

vi. Employees with multiple employments are eligible for auto-enrolment when one or more of their employments meet the above criteria.

Start Window – Who is eligible ?

Example of employees who will NOT be automatically enrolled:

i. Employees who don’t meet the criteria, i.e. those who have joined their employer occupational pension scheme.

ii. Employees who are auto-enrolled and start to contribute to a personal or occupational pension through payroll at a later date, will be considered auto-enrolment exempt for that employment.

iii. Self-employed and non-earning people (exempt due to PRSI class)

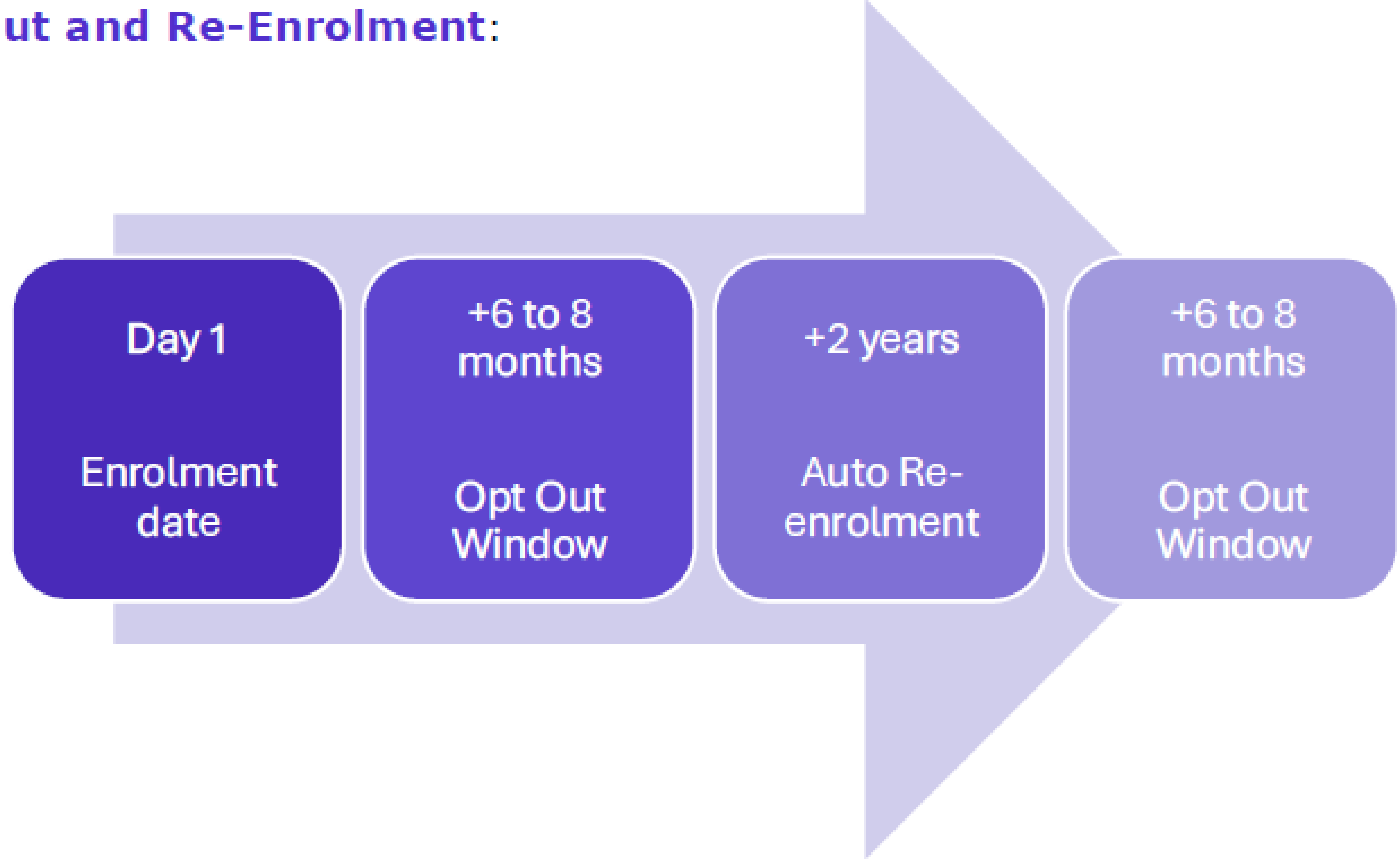
Start Window – Who is eligible ?

Eligible Earnings

- Contributions will be calculated on your **gross earnings** (i.e. anything included in the gross pay field of a payroll file will be assessable).
- An earnings ceiling of €80,000 will apply.
- It is important to note that Revenue payroll data will be used to identify eligible employees by using a lookback period of up to 13 weeks.
- If the lookback period indicates that you are over the €20,000 threshold on a pro-rata basis, you will be auto-enrolled.
- You will stay enrolled even if your earnings subsequently drop below €20,000.
- Contributions will not be back dated

Start Window – Opt Out

Right to Opt Out and Re-Enrolment:



Start Window – Opt Out

- Employees will be able to Opt-Out of the AE Scheme during the 'Opt-Out window' which is between 6 months and 8 months of the date they were automatically enrolled (or re-enrolled).

- In availing of the opt-out window, employees will **be refunded their own contributions** since enrolment **but** the employer or State contributions will remain for their benefit in the fund.

- The Opt-Out window will also apply after a change in contribution levels (i.e an increase by 1.5%) , however, the refund of the participant contributions will be limited to the contributions they made since the rate change.

- Employees will be able to suspend their contributions for up to two years from 6 months *after* enrolment, re-enrolment, or a period of previous suspension.

- The period of suspension can be terminated on any date before the end of the set two-year period by way of notification.

- Employer and State contributions also cease during any suspension period.

Penalties for Non Compliance

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- All employers with at least one employee who is subject to income tax in Ireland will need to comply with the legislation.

- **Fines** - Breach of legislation is a criminal offence with sanctions ranging from fines of €5,000 to €50,000 and potential imprisonment, depending on the offence committed.

- Employers are prohibited from hindering or penalising and employee for partaking or proposing to participate in My Future Fund (i.e suspension, lay off or dismissal or negative performance assessments)

- Backdated Contributions may be imposed on the employer.

- Audits by the Government

Penalties for Non Compliance

Breach Type	Penalty Range	Additional Consequences
Administrative failures	€5,000 fixed penalty	Compliance notice issued
Preventing enrolment	€5,000 - €50,000	Potential prosecution
Inducing opt-outs	€5,000 - €50,000	Criminal conviction possible
Non-payment of contributions	Amount owed + interest	Compensation to employees
Serious non-compliance	Up to €50,000	Imprisonment up to three years

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Rules and Calculations

Eligibility, Age Brackets, Earnings

Eligibility :

An employee not currently part of a pension plan

Age Bracket :

Aged between 23 years and 60 years

Earnings :

Earning €20,000 or more per year

Contribution Schedule

- The contribution rates for auto-enrolment will be phased in over the first 10 years of the operation of the scheme:
- Employer contributions will start at 1.5% of gross pay

i. *Year 4 they will increase to 3%*
ii. *Year 7 they will increase to 4.5%*
iii. *Year 10 they will increase to the maximum rate of 6%*

	Employee	Employer	State
Year 1 to 3	1.5%	1.5%	0.5%
Year 4 to 6	3%	3%	1%
Year 7 to 9	4.5%	4.5%	1.5%
Year 10+	6%	6%	2%

Contribution Schedule

- As the employer, you will match your employees' contributions.

- Instead of tax relief on employee contributions, the State will provide a top-up contribution at a rate of €1 for every €3 paid in by the employee (i.e 25%).

- As the employee and employer contributions are matched equally and then topped-up by the State, the total amount of contributions will amount to 14% of an employee's gross earnings from year 10 onwards.

- The contributions will be fixed at the set rate, and it will not be possible for you or your employees to pay more or less than this rate.
- Contributions will be calculated on the employee's gross earnings, so anything included in the gross pay field of a payroll file will be assessable.

- Contributions will not be levied on any gross pay over €80,000.

- Employer contributions will be eligible for tax relief for the employer and will not be subject to benefit-in-kind for the employee.

Contribution Schedule

Contributions:

AE+	Employee	Employer	State
Years 1 – 3	1.5%	1.5%	0.5%
Years 4 – 6	3%	3%	1%
Years 7 – 9	4.5%	4.5%	1.5%
Years 10+	6%	6%	2%

The obligation is on the employer to:

i. Calculate the employer and employee contributions

ii. Deduct the employee contribution from net pay; and

iii. Pay contributions to NAERSA.

CONTRIBUTIONS ARE CALCULATED BASED ON ***GROSS PAY*** SUBJECT TO MAX OF **€80,000** BUT DEDUCTED RFOM ***NET PAY.***

How are employees Auto – Enrolled ?

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- NAERSA will use Revenue payroll data to identify eligible employees.
- (i.e) An employee within the eligible age bracket has a record of earnings, NAERSA will examine to see if the employee has earned €20,000 or more in the previous 12 months.
- In determining if an employee has met the earnings threshold, a lookback period of up to 13 weeks will be used.
- If the lookback period indicates that an employee has earned the proportionate amount in that period, the employee will be enrolled.
- Auto-enrolment will be immediate for employees who have a clear earnings record of €20,000 or more.
- Enrolment may take some time (up to 13 weeks) if the employee has just started work in an employment for the first time or has a gap between their prior and current employment(s).

How are contributions collected ?

- Once an employee has been identified as eligible for auto-enrolment, NAERSA will send you an Automatic Enrolment Payroll Notification (AEPN) through payroll software.
- This will inform the employer of the contribution amounts the employer and the employee are required to pay as a percentage of gross earnings.
- The contributions will be visible on the employee's payslip.
- There are several options to pay the contribution amounts to NAERSA. The easiest way will be a variable direct debit, which can be set up through the auto-enrolment employer portal.

How are contributions collected ?

- Contributions must be paid at the same time as the employee is paid, and contribution information must be provided to NAERSA (i.e this is real time).
- If an employer does not use payroll software, they will be facilitated on the employer portal.
- If an employee is on unpaid leave (for example sick leave or maternity leave), contributions will not be deductible for the period of unpaid leave.

Tax Considerations

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- Employee contributions payable under the AE scheme will not be eligible for <u>income tax relief.</u>
- State top-up contribution (which will be provided instead of tax relief on employee contributions) will not be treated as income of the employee for tax purposes.
- A corporate tax deduction should be available for employer AE contributions paid for a contributing participant.
- Employer AE contributions will not be taxed as a benefit in kind on the employee.
- Income and gains derived from investments will be exempt while held in an AE provider scheme.

PRSI/USC Impact

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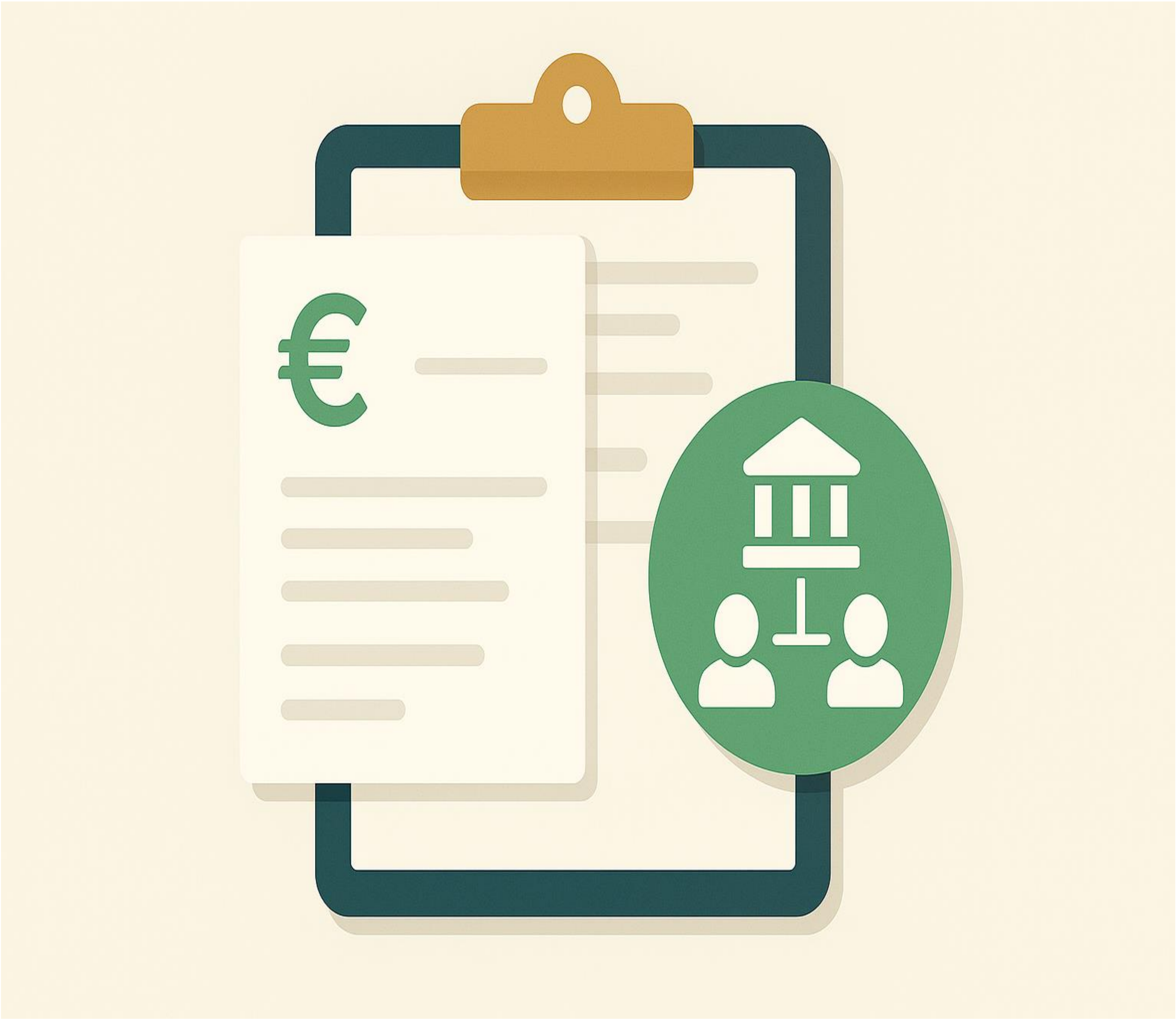
- Employee contributions will not qualify for any relief from income tax. Instead, the state top up contribution of 25% will not be treated as employee income for tax purposes.

- Employer contributions will not be treated as taxable income for employees, meaning no income tax, USC or PRSI will arise on this element of the contribution.

Employment Tax – Revenue Interventions



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Revenue Interventions – Employment Tax

- Following the PAYE modernisation in 2019 (PMOD), employers are required to return details of pay and tax in “real-time” as emoluments are paid.
- Revenue’s approach to compliance management is evolving to reflect this real time tax administration of the PAYE system.
- Revenue will seek to identify areas of risk in relation to employer’s behaviour as early as possible and where possible, interventions will focus on correcting behaviour and ensuring the correct operation of the PAYE system.
- This will ensure that employees/employers pay the right tax at the right time.

Revenue Interventions – Employment Tax

Level 1 Compliance Intervention

- aim to support voluntary compliance.
- Revenue may carry out Level 1 Compliance Interventions to support employers in ensuring that payroll taxes are being correctly operated.
- Employers have the opportunity to **self-review**, **self-correct** and/or make an **unprompted qualifying disclosure** as appropriate
- Some examples include:

  - Employer not using the correct RPN,

  - Employee paying Emergency Tax despite correct RPN being available,

  - Employee liable to Emergency Tax yet no income tax paid, or

  - PPS number included yet Employee not registered for PAYE.

Revenue Interventions – Employment Tax

Level 2 Risk Review or Audit

- Where a caseworker has identified a specific risk(s) in respect of an employer indicating a potential liability due to the incorrect operation of the PAYE system, in particular in relation to prior years, it may be more appropriate to initiate a Level 2 Compliance Intervention.
- If, following a Level 1 intervention, an employer does not take immediate steps to address failures to correctly operate the PAYE system, a Level 2 (or in egregious cases Level 3) intervention may be initiated.
- Risk Review generally entails a review of a single tax issue.
- Audit is a more in dept review of tax affairs.
- Level 2 will set out the taxes and periods under examination.
- Cannot avail of Self Correction or an Unprompted Qualifying Disclosure.

Revenue Interventions – Employment Tax

Level 3 Revenue Investigation

- Usually commences from the date of notification.
- There is no opportunity to make an Qualifying Disclosure but penalties may still be mitigated depending on the level of co operation.

Revenue Compliance Framework Levels

	Level 1	Level 2	Level 3
Objective	Support Compliance	Challenge Non-Compliance	Tackle High-Risk Cases/Practices
Corrective Options	Payment of liability self-correction Filing/ amendment of relevant returns	Payment of liability Filing/ amendment of relevant returns	Payment of liability Filing/ amendment of relevant returns
Disclosure Position	Unprompted Disclosure Available	Prompted Disclosure Available	No Qualifying Disclosure
Activity	Self-Reviews Profile Interviews Bulk issue non-filer reminders CCF Engagements	Risk Review Audit	Investigation

Revenue Interventions – Employment Tax

Key Employments Tax Risk Areas :

- Contractors – Employed vs Self Employed
- Staff Entertainment
- Small Benefits
- Travel and Subsistence

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Revenue Audit

Revenue Audit

- There is an expectation on Revenue's part that employers undertake a payroll self-review or "health-check" on a regular basis.

- Self Review Benefits :
  i) Allows employers to identify any shortfalls in their employment tax processes
  ii) Take remedial action early without having to submit an Unprompted Voluntary Disclosure to Revenue
  iii) Avoids a Revenue penalty

- **Dealing with amendments early will minimise any underpayments of tax, aswell as any interest on late payments.**

- Where an employer fails to :

  (a) send a return, statement, notification or certificate,
  (b) to remit income tax to Revenue,
  (c) to make a deduction or repayment in accordance with regulations made under section 986, TCA 1997 or
  (d) to keep and maintain a register of employees in accordance with section 988A,

  that 'person' shall be liable to a fixed penalty of €4,000.

Revenue Audit

Self Correction to Revenue

Taxpayers who participate in self-correction may not suffer a fixed penalty should a number of conditions be met :

(1) The taxpayer notifies Revenue through ROS or **in writing** within **the applicable timeframe**,

(2) Taxpayer **provides a computation of correct tax and statutory interest payable** , and

(3) **Payment in full** accompanies the submission.

Timeframe for self correction without penalty :

(i) Form 11 (self assessment) – 12 months from the filing date (usually mid Nov online)

(ii) Corporation Tax – 12 months from the filing date

(iii) PAYE, USC, PRSI – before 31 October of the year following the year the monthly PAYE return is due to be filed.

Revenue Audit

Qualifying Disclosure

A qualifying disclosure is information you give to Revenue if you:

(a) have not reported all of your income or gains(i.e omission of information)
or
(b) have made an error on your tax return.

This qualifying disclosure may be 'unprompted' or 'prompted'.

- An **unprompted qualifying disclosure** is a disclosure made at any time before a Revenue audit notification letter issues, or an investigation starts.

- A **prompted qualifying disclosure** is a disclosure made after you have received notice of a Revenue audit. The disclosure must be made between:
  (a) the date you were informed of the audit start date
  and
  (b) the date the audit starts.

Revenue Audit

To make a qualifying disclosure, you must:

- give **all relevant information** about the issues that have resulted in tax being due,
- **state the amount of tax and interest** due, and the periods for which they are due,
- send this to Revenue in **writing**, sign it, or have it signed on your behalf,
- include a **declaration** that as far as you know all information in the disclosure is correct and complete, **and**
- include a **payment** for any tax or duty, and interest due for late payment.

To be accepted by Revenue, a disclosure must be accompanied by a payment of the tax or duty, and the interest due.

It is possible to arrange for payment in instalments.

Revenue Interest and Penalties

Revenue Interest Rates for late payment of taxes

- Interest is charged on late payments, calculated on a **daily** basis from the date the payment was due.
- The standard interest rate for most taxes is 0.0219% (Income tax, corporation tax, CGT).
- PAYE/VAT/PRSI/USC can incur 0.0274% per day.
- Interest is chargeable on all unpaid amounts, including any penalty amounts.
- Interest is not deductible for tax purposes.
- Late filing surcharge is separate to the interest payment.

Penalties for non-compliance

- Revenue will review a disclosure to check if it is a qualifying disclosure (i.e made on time, correct calculation of taxes etc).

- In a case where a penalty arises, the amount of the penalty is generally calculated by Revenue, agreed with the taxpayer, and paid.

- The amount of the penalty will depend on whether:

  (i) your disclosure was unprompted or prompted,
  (ii) the additional tax due is above €6,000,
  (iii) your error was careless or deliberate,
  and
  (iv) you co-operated fully during the process.

- Penalties must be paid in full.

Penalties – Qualifying Disclosure

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Disclosures	Category of Behaviour	Penalty % Full cooperation not given by taxpayer	Penalty % Prompted Qualifying Disclosure and full cooperation	Penalty % Unprompted Qualifying Disclosure and full cooperation
All qualifying disclosures in this category	Careless behaviour without significant consequences	20%	10%	3%
First qualifying disclosure in these categories	Careless behaviour with significant consequences	40%	20%	5%
	Deliberate behaviour	100%	50%	10%
Second qualifying disclosure in these categories	Careless behaviour with significant consequences	40%	30%	20%
	Deliberate behaviour	100%	75%	55%
Third or subsequent qualifying disclosure in these categories	Careless behaviour with significant consequences	40%	40% (no reduction)	40% (no reduction)
	Deliberate behaviour	100%	100% (no reduction)	100% (no reduction

Penalties – Non Qualifying Disclosure

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Category of Behaviour	Penalty %	Penalty % - Full cooperation
Careless behaviour without significant consequences	20%	15%
Careless behaviour with significant consequences	40%	30%
Deliberate behaviour	100%	75%

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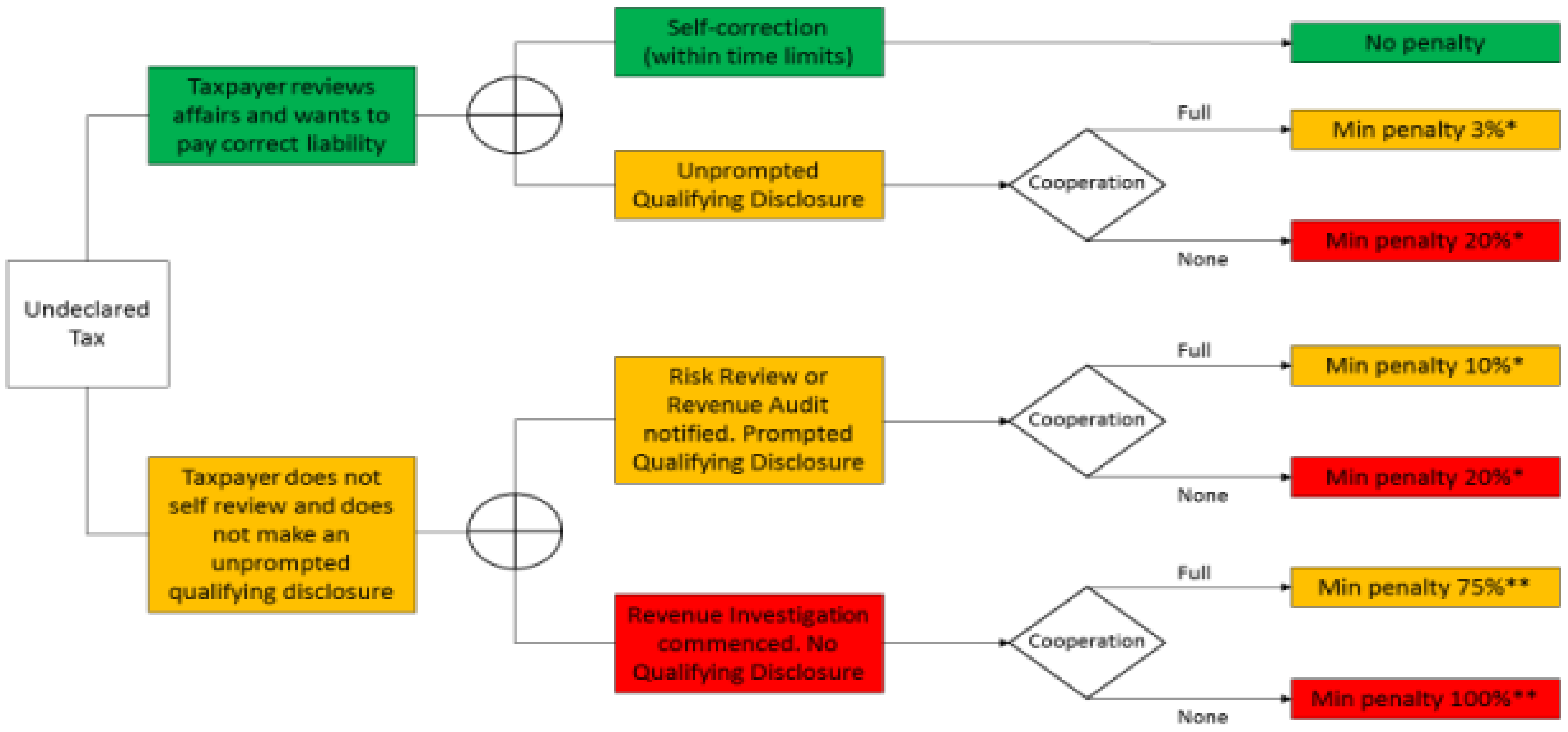
Summary - Taxpayer behaviour determines consequences



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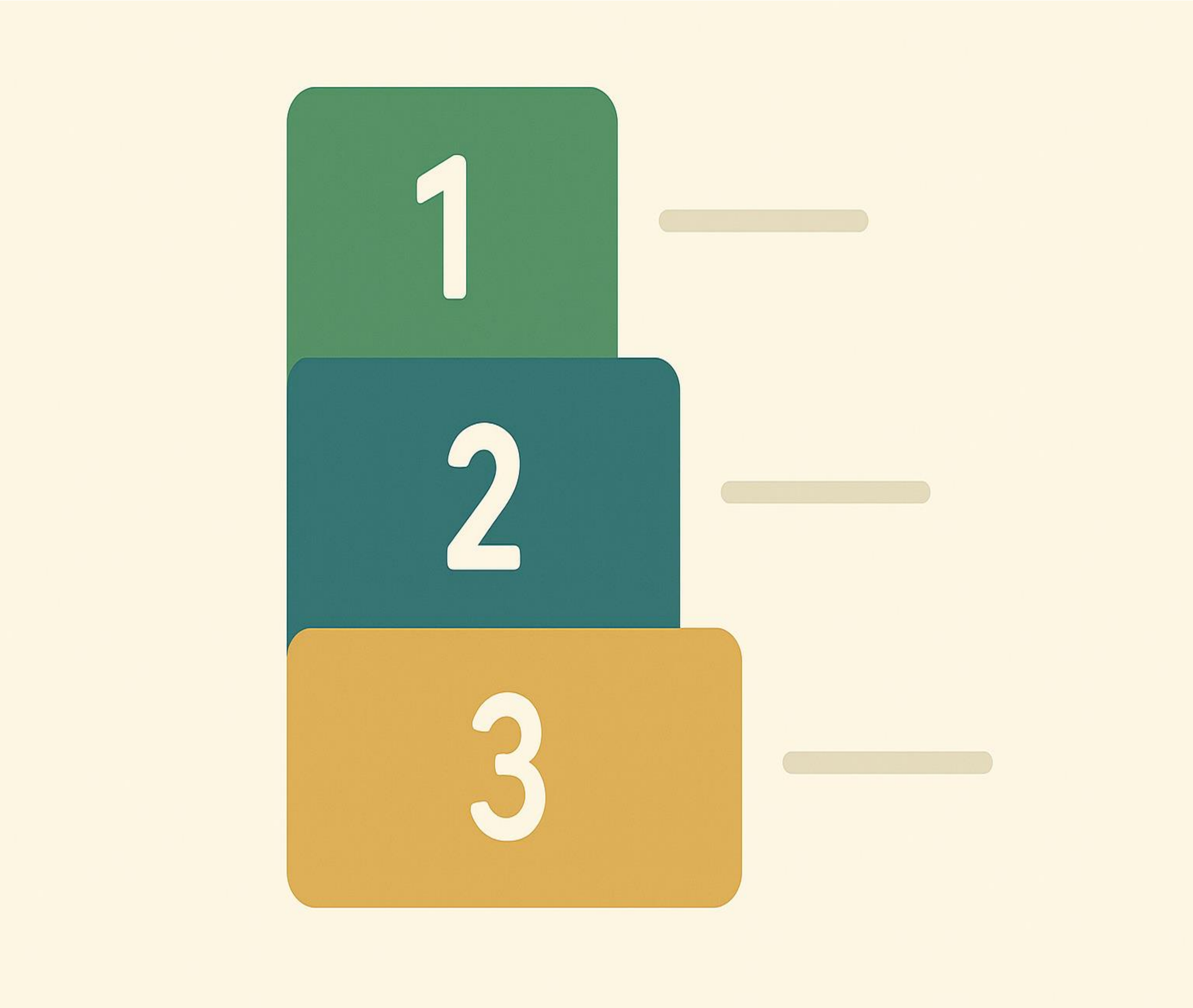
Share Purchase and RSUs



Employee Share Purchase Plans (ESPPS)

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- Many companies, particularly subsidiaries or branches of United States (US) corporations, operate an ESPP.

- An ESPP is a way for you to purchase shares in your company through payroll deductions, sometimes at a discounted price.

- The discount allowed is normally 15% of the market value of the shares on either the:

  (a) first day of the offer period
  or
  (b) last day of the offer period.

- The discount is applied to the market value on whichever day had the lower value.

- The offer period is normally six months.

Employee Share Purchase Plans (ESPPS)

Main Features :

- Once you have enrolled in the plan, your company collect your payroll contributions to purchase shares on a specific date.
- Generally, there will be a maximum percentage of salary that you can invest in the plan.
- The individual can decide how much net salary or wages you wish to contribute to the plan.
- The individual can contribute the same amount each month for the six-month period.
- Contributions are held on behalf of the employee by the company, usually in a non-interest-bearing account.
- At the end of the six months, the contributions can be used to purchase shares for you.

Employee Share Purchase Plans (ESPPS)

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Taxation of ESPPs

- The employee will be charged tax on the discount allowed by the company as a benefit derived from your employment.

- The amount chargeable is the difference between:

  (a) the market value of the shares when they are purchased on the employees behalf
  and
  (b) the amount the employee will pay for the shares.

- The employee will pay Income Tax, USC and PRSI on the amount of the discount.

- The employer will make the necessary deductions through payroll and pay the tax directly to the Collector-General.

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Restrictive Stock Units (RSUs)

- An RSU is a grant (or promise) to you by your employer. The grant is that, on completion of a 'vesting period', you will receive either:

  - shares in the company

  or

  - the cash equivalent of shares

- A vesting period is the period between the date of the grant (or promise) of the shares and the vesting date. The vesting date is the date on which the vesting condition is satisfied.

- Vesting periods are usually satisfied by:

  1. the passage of a stated period of time
  2. your individual performance
  3. the achievement of corporate goals.

Taxation of RSUs

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Share-settled RSUs

- You must pay Income Tax, USC and PRSI on the market value of these shares at the date of vesting.

- You will be charged tax on the vesting date or on the date the shares pass to you, if earlier.

- Your employer will make the necessary deductions through payroll and pay the tax directly to the Collector-General.

- RSUs are fully taxable if they vest at a time when you are Irish tax resident.

- The benefit cannot be apportioned by reference to any part of the vesting period during which you were resident elsewhere.

- If you are not tax resident at the time of vesting, then you will not be liable to Irish tax on the benefit.

Taxation of RSUs

Cash-settled RSUs

- You must pay Income Tax, USC and PRSI on the cash payment received by you.
- Your employer will make the necessary deductions through payroll and pay the tax directly to the Collector-General.

Capital Gains Tax (CGT)

- If you dispose of your shares, you may be liable to CGT.
- An individual must report this disposal to Revenue, even if no tax is due.
- Your employer will not deduct any tax or report the disposal for you.

SARP – Talent Attraction Tax relief

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Special Assignee Relief Programme (SARP)

- Provides Income Tax relief for certain people who are assigned to work in Ireland from abroad.
- You must be assigned by a relevant employer **to work in Ireland** for that employer (or an associated company of your relevant employer).
- SARP Relief applies to assignments during any of the tax years 2012 to 2030.

'Relevant employer'

- This is a company that is incorporated and tax resident in a country with which Ireland has either:

a Double Taxation Agreement

or

a Tax Information Exchange Agreement (TIEA).

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Special Assignee Relief Programme (SARP)

What are the conditions to qualify?

You can claim the SARP if you **meet all of** the following requirements:

1. You arrive in Ireland in any of the tax years 2012 to 2030, at the request of your employer, to perform duties in Ireland for that employer (or with an associated company of that employer).
2. Immediately before being assigned to work in Ireland, you worked outside Ireland for a minimum of six months for the employer who assigned you to work in Ireland.
3. You perform duties for a minimum of 12 consecutive months from the date you are first assigned.
4. You were not tax resident in Ireland for the five tax years immediately preceding the year you arrive in Ireland to take up employment.
5. You are tax resident in Ireland for all years for which you claim the relief.
6. You earn a minimum **basic salary of €125,000 per year**. This amount excludes all bonuses, commissions or other similar payments, benefits or share-based remuneration.
7. You hold a Personal Public Service Number (PPSN).

Your employer completes a certification of your entitlement to the SARP and submits this to Revenue **within 90 days from your arrival**. If you arrive on, or after, 1 January 2026, you may still qualify if the employer certification is made after 90 days. However, this is provided that certification is made by your employer within 180 days of your arrival. In such cases, the relief is not available for your first year of residence.

Special Assignee Relief Programme (SARP)

How do you calculate how much relief is due?

Where you qualify for the SARP, you can make a claim to have a proportion of your employment earnings disregarded from Income Tax.

(i) If you arrive in Ireland **after 1 January 2023**, the proportion is **30% of your income over €100,000**, up to a limit of €1,000,000.

(ii) If you arrived in Ireland **after 1 January 2026**, the proportion is **30% of your income over €125,000**, up to a limit of €1,000,000.

** Relief is not extended to the Universal Social Charge (USC), so you will have to pay USC on the full amount of your salary.

You can claim the relief for a maximum of five consecutive years, starting with the year you are first entitled to the relief.

* If you qualify for the relief, you are entitled to receive (tax free) certain travel expenses and costs associated with your child (or children's) education.

Special Assignee Relief Programme (SARP)

How is relief granted?

- You can be granted relief through your payroll or you can make a claim for relief at the end of the tax year.
- Your employer can seek approval to grant relief through payroll, when applying for SARP Relief.
- You must submit a return of income for each year the relief is claimed.

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Special Assignee Relief Programme (SARP)

Reporting Requirements

A relevant employee must deliver an annual return to Revenue before 23 February of the following year setting out the following details :

- Name and PPSN
- Nationality
- Country of relevant employment
- Job title
- Relevant income
- Employer’s registration number

* This is an online return since 1 January 2024.

Employees requesting to work in other tax jurisdictions <u>remotely</u> while under Irish employment contract

Tax Concerns

Income tax for the employee

- Working temporarily overseas may result in the employee being taxable in Ireland and the overseas country on the same income.

- If there is a double taxation treaty in place between Ireland and that country, double taxation may be avoided by confirming which country has final taxing rights over the income. In many cases this would be resolved by the employee having to submit a tax return in both countries.

Payroll tax position

- Where a treaty is in place this should ensure the employee is not doubly taxed, but it may not eliminate real-time payroll withholding obligations for employers. This can lead to the employer being required to register with the foreign tax authorities and to set up a shadow payroll in that jurisdiction to pay over the payroll taxes due.

- This can be an administration burden for the employer and can create cash flow issues for the employee as payroll withholding taxes may be due in both jurisdictions.

- The requirements will differ from country to country making it difficult for employers to keep on top of their obligations.

Tax Concerns

Social security

- In general, social security is payable in the State in which the employee works. There are, however, exceptions to this rule.

- Where an employee from Ireland is posted aboard for a temporary period, it may be possible to retain the employee on the Irish social security system for that period if Ireland has a social security agreement with the host country and the appropriate application is made with the Department of Social Protection.

- Where approved, PRSI contributions will be payable in Ireland and social security will not be payable in the other State.

- If there is no social security agreement between Ireland and the other country, the employee will be compulsorily retained on the Irish social security system for the first 52 weeks following the employee's departure. Social security may also be due in the host location on the same income.

- Overseas employer social security rates can be significantly higher than the current rate of 11.05% in Ireland. If social security becomes payable in an overseas country this can give rise to a significant additional cost to the employer.

Other Concerns

- Right to work in a country abroad
- What law applies to the employee
- Remote Working Policy
- Health and Safety
- Data and Privacy Security
- Workforce Planning

Given the complex tax, social security, immigration and employment law considerations, employers should seek bespoke professional advice before permitting employees to work remotely from abroad.

Staying updated

Staying updated

- Keep up to date with Budget announcements each year, and the Finance Bill
- Revenue Commissioners publications – eBriefs, Tax and Duty manuals, Revenue Payroll Notification manual
- Department of Social Protection updates and announcements
- Workplace Relations Commissions updates and announcements
- Engage a tax consultant to keep you up to date
- Attend tax and employment events/seminars
- Subscribe to newsletters for employment and law from a professional services firm

Thank you