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KPMG

Brexit in the boardroom

Issues and implications for Irish Business

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Brexit and global mobility

This upheaval to the EU principles of the free movement of people brought about by Brexit will mean a period of uncertainty for both employers and employees whilst the 30-40 years of EU legislation is unravelled.

Brexit - Personal taxes and social security

The power to control domestic tax policy has remained to a large extent with the Member States of the European Union. However, one of the 4 pillars of the EU is the freedom of movement. In order to facilitate this, the EU had a common social security regulation for at least 30 years to enable workers crossing EEA (and Swiss) borders on a temporary basis to remain in their home country social security system for a period usually up to 5 years. It has a number of benefits, namely that workers and their families are covered under the local health system when they travel. In addition they do not accumulate a number of different pension entitlements in Member States which can become an administrative nightmare on retirement.

Social Security

Brexit will mean that UK nationals coming to work in Ireland or any other Member State will not be covered by the EU social security regulation. In theory any person seconded from the UK to Ireland will have to pay Irish social security (PRSI) from Day 1. At current rates this may benefit their employer as the Irish employer PRSI rate of 10.75% is lower than the UK employer national insurance rate of 13.8%.

Conversely, any Irish employer sending employees to work in the UK will have to pay UK social security at a higher rate so the costs will increase. However, for employees (especially higher earners) there will be an additional cost as the Irish employee PRSI rate is 4% as opposed to 2% in the UK for any earnings in excess of the threshold of £43,000.

It is unknown when, or if, the UK will be allowed to negotiate a social security agreement with any EU Member State post Brexit or they may seek to become a member of European Economic Area (EEA) similar to Norway and Iceland. To do this they would have to uphold the principle of free movement of people (within the EEA) which will become a political consideration.

Workers are not the only ones affected by Britain leaving the EU, even day trippers or holidaymakers are entitled to health insurance cover in the Member State they are travelling to if they hold a European Health Insurance Card (EHIC), formerly known as an E111. This has particular ramifications for those travelling across the border in Ireland and also for holidaymakers to the UK. Whilst the UK has a generally free health service for UK residents, will Irish nationals be able to benefit from it and similarly for UK nationals coming to Ireland where the heath service is not free, will all individuals need to take out holiday insurance to cover health care that they did not necessarily require previously?

State benefits

If you have worked in Ireland and in one or more EU Member States, your social insurance contributions from each State can be taken aggregated with Irish social insurance contributions to help you qualify for one of the Irish social welfare payments listed below. In the case of some payments (e.g. Jobseeker's Benefit, Illness Benefit and Maternity Benefit) your last social insurance contribution must be paid in Ireland in order to qualify.

Brexit creates uncertainty in respect of the treatment of past contributions made by Irish citizens to the UK national insurance system. If those who made contributions in the UK, intend to retire in Ireland and receive an Irish state pension, how will those UK contributions be treated in determining eligibility for a State pension in Ireland?

Once Brexit occurs will Ireland automatically adopt the existing Bilateral Agreement with the UK (like it has with the US, Canada and others) to protect social security payments made in those countries? Ireland currently has a Bilateral Agreement with the UK currently in force to cover the Isle of Man and the Channel Islands which are not within the EU.

It is conceivable that this agreement will be used on an interim basis on Britain leaving the EU or used as the basis for adopting a new Bilateral Agreement between the UK (as a whole) and Ireland. One major difference with EU regulation is that a temporary worker can be seconded to another Member State and still remain within their home country social security system for up to 5 years but under the Bilateral Agreement above the time period is restricted to 3 years.

Taxation

Member States of the EU have always had control of their taxation policy and accordingly Brexit will not impact the personal taxation rules of globally mobile individuals. The interaction of taxation between the UK and Ireland is governed by a Double Tax Treaty which is independent of the EU. Accordingly, for anyone moving between Ireland and the UK the principles of taxation will not change.

Any person performing duties in Ireland will be taxable in Ireland, unless they can gain an exemption under a Double Tax Agreement, in general this means they work in Ireland for less than 183 days in a 12 month period, are employed by a non-Irish employer and their costs are not recharged to Ireland. It is worth noting that these rules for gaining an exemption in the context of Irish PAYE withholding requirements have been tightened recently by Irish Revenue.

Remittance basis of taxation

Both the UK and Ireland have adopted a remittance basis of taxation for non-domiciled individuals. In general, an individual who is not of Irish origin and does not consider Ireland his/her permanent home will in all likelihood be considered non-domiciled in Ireland. There is favourable tax treatment for these individuals in that their overseas investment income and gains are taxed on the remittance basis. This means that they are only taxed in Ireland on this income if they bring it into Ireland.

Whilst the UK has been an attractive location for globally mobile individuals, because of the remittance basis of taxation, Ireland has similar tax rules in place and may offer an attractive alternative to some non-domiciled individuals (both UK and non UK). Additionally, whilst the UK has sought to restrict the availability of the remittance basis of taxation, it will no longer be available for long term residents (15 out of the last 20 years) from 6 April 2017 there are no signs that Ireland will adopt a similar approach in the foreseeable future.

Sterling volatility

The Sterling to Euro exchange rate plummeted after the UK Euro referendum result was announced in June 2016 and the volatility has remained since. The consequences of this fall in Sterling value for expats in Ireland is that any employee who is paid in Sterling but living in Ireland has seen a significant reduction in their Euro spendable income. An expat paid in Sterling and sent to Ireland on 1 January 2016 would have an exchange rate of STG1: 1.35 Euro on that day. As of March 2017 that rate is fluctuating at about STG1: 1.15 Euro which is a drop of 15% in terms of gross income when converted to Euro. This will cause serious concern for expats living in Ireland and employers will need to review their contractual arrangements with affected employees and consider the need to compensate employees for the

exchange rate volatility or perhaps introduce a local Cost of Living Allowance. Conversely, the employee costs recharged to Ireland may be lower and employers social security costs may reduce which will mean a saving for some employers.

An age of uncertainty

All the aforementioned issues will mean significant changes to the rules on social security, payment of state pensions and benefits and the freedom to work and travel. Whilst it is conceivable that agreement will be reached between the Ireland and the UK in due course, we are one of 27 countries that will be on the list of countries seeking agreement and certainty for their nationals' interests.

There will be a period of transition and employers should review which employees will be affected by Brexit, both secondees and business travellers. Employers may need to review immigration requirements, look at their travel insurance arrangements, health cover for mobile employees and the cost of paying social security in the UK or Ireland. In addition, employees may require greater certainty from their employer that they will not be at a disadvantage by paying into the UK social security system in terms of their state pension and benefits aggregation.

KPMG's Global Mobility Services team can advise on the implications of Brexit for your employees and make sure that your company is flexible and agile to deal with the people issues that Brexit will bring.