

GMS Flash Alert

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Ireland – New Policies on PAYE, Work-Days for Short-Term Business Visitors

The Irish Revenue has issued [eBrief No. 121/20](#) which further simplifies the employment tax compliance requirements in respect of Short-Term Business Visitors (“STBVS”) into Ireland.¹ With effect from 1 January 2020, for the purposes of determining whether an Irish PAYE obligation exists for STBVs into Ireland, the nature of the duties being performed by the employee are no longer a consideration.

In the same eBrief, Revenue has provided a long-awaited update in respect of the rules for STBVs coming into Ireland from countries with which Ireland does not have a Double Taxation Agreement “DTA”. From 1 January 2018, it had been necessary to consider whether an individual performed more than 30 work-days in the state across cumulative/multiple tax years; however under the new guidance, and with retrospective effect from 1 January 2020, each Irish tax year (i.e., calendar year) can now be considered in isolation. This aligns with the recent change for those coming from countries with which Ireland has a DTA.

WHY THIS MATTERS

Update in Respect of STBVs from DTA Countries

This change simplifies the reporting requirements in Ireland for inbound STBVs, and also aligns the domestic law position with that of the DTA – in the past there was conflict in some instances.

Update in Respect of STBVs from non-DTA Countries

As well as reducing the administration associated with tracking employees’ presence in Ireland over consecutive/multiple years, this change should reduce the risk that an STBV from a non-DTA country triggers an Irish PAYE obligation.

What's Changed?

The policy shift whereby Revenue will no longer consider the nature of the duties being performed by the employee represents a significant deviation from the eBrief issued in 2017 which introduced the “integral” concept into the Irish STBV guidance. (For related coverage, see the following issues of *GMS Flash Alert*: [2019-186](#) (19 December 2019) and [2017-029](#) (15 February 2017).) The “integral” concept was closely aligned to the OECD’s “economic employer” approach, meaning it was often necessary to consider an employee’s role in Ireland on a case-by-case basis when considering whether there was an obligation to apply Irish PAYE, or whether dispensation could be sought. The removal of the “integral” concept means that the legal employer is simply considered when applying the Employment Income article of the DTA and by extension, the position under Irish domestic law.

What Does This Mean?

From 1 January 2020, only the following conditions now need to be met when getting dispensation to release the obligation to operate Irish PAYE:

- Visitor from a country with which Ireland has a DTA;
- More than 60 Irish work-days but less than 183 days in the state in either the fiscal year (or a 12-month rolling period depending on the relevant DTA);
- Not Irish tax resident;
- Employed and paid by a foreign employer;
- The costs are not recharged to a permanent establishment in Ireland (nor an Irish branch/subsidiary).²

Note that the position is unchanged for those present in Ireland for 60 or fewer work-days in a tax year – “integral” was not in this scenario. Provided the DTA conditions are met, there is automatically no obligation to operate PAYE in such instances, i.e., obtaining clearance is not necessary.

FOOTNOTES:

1 For the eBrief, see: <https://www.revenue.ie/en/tax-professionals/ebrief/2020/no-1212020.aspx> .

2 Note that Revenue has confirmed that a management recharge (with a mark-up) is not considered to be a recharge of costs for these purposes (bottom of page 20 – <https://www.revenue.ie/en/tax-professionals/tdm/income-tax-capital-gains-tax-corporation-tax/part-42/42-04-65.pdf>).

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RELATED RESOURCE:

For a related article, see “[Short Term Business Visitors: Confirmation of Simplified PAYE Rules for Short Term Business Visitors to Ireland](#),” a publication of the KPMG International member firm in Ireland.

Contact us

For additional information or assistance, please contact your local GMS or People Services professional or one of the following professionals with the KPMG International member firm in Ireland:



Thalia O'Toole
Tel. +353 1 410 2745
thalia.otoole@kpmg.ie



Olive O'Donoghue
Tel. +353 1 700 4359
olive.odonoghue@kpmg.ie



Edward Stewart-Moore
Tel. +353 1 700 4093
edward.stewart.moore@kpmg.ie

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