



Thinking beyond borders: Management of extended business travelers - Ireland



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Key message

An individual's liability for Irish income tax depends on whether the individual is resident in Ireland, ordinarily resident in Ireland and is domiciled in Ireland.

An individual's liability to Irish tax will also depend on the source of income derived by the individual.

Irish income tax is levied at progressive rates on an individual's taxable income for the year and is calculated by subtracting allowable deductions/reliefs from the total assessable income. In some instances, tax credits may be available to reduce an individual's overall income tax liability.

1 Key message

In the case of an extended business traveller, the number of days/workdays spent in Ireland will generally determine whether their employment income is taxable in the State, and consequently, whether the employer has any reporting obligations in Ireland,

Other factors, such as the existence of a Double Taxation Agreement "DTA" will also play an important part when assessing the Irish employment tax compliance requirements, and therefore, in most instances, each employee needs to be considered on a case-by-case basis.

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Income tax

2 Income Tax

2.1 Liability for income tax

An individual's liability to Irish income tax is dependent on whether the individual is resident, ordinarily resident, and/or domiciled in Ireland.

An individual will be considered Irish tax resident if the individual is present in Ireland:

- for 183 days or more in the tax year (the calendar year) or
- for 280 days or more in aggregate between the current and prior tax year.

A day is counted if an individual is present in Ireland for any part of that day. An individual must be present in Ireland for at least 30 days in any year to be considered resident in Ireland for that year.

An individual will be considered ordinarily resident in Ireland if the individual is Irish tax resident for 3 consecutive tax years. The individual is considered ordinarily resident in the fourth tax year. Similarly, an individual will be considered non-ordinarily resident in Ireland if the individual is non-Irish tax resident for 3 consecutive tax years. The individual is considered non-ordinarily resident in the fourth tax year.

Domicile is a complex legal concept, which generally denotes the place an individual considers to be their permanent homeland. An individual can only have one domicile and acquires a domicile of origin at birth. An individual who is resident and domiciled in Ireland, irrespective of whether or not the individual is ordinarily resident in Ireland, is liable to Irish income tax on their worldwide income.

An individual who is resident but not domiciled in Ireland will be liable to Irish income tax on the individual's Irish-sourced income, including income relating to an Irish employment or work duties performed in Ireland. The individual will also be taxable on any foreign income to the extent that the income is remitted to Ireland.

A non-resident, non-domiciled individual will be liable to Irish income tax on Irish-sourced income only, which may include income related to Irish employment duties.

2.2 Tax trigger points

The trigger point for Irish taxation/social security is very much dependent on the particular facts and circumstances.

In the case of employees visiting Ireland from a DTA country, the trigger point for Irish taxation could be as much as 183 days during the relevant period, however this is dependent on the specific facts/circumstances, and there could be compliance obligations where the employee has more than 30 Irish workdays.

In the case of an employee visiting Ireland from a non-DTA country, any more than 30 Irish workdays will trigger Irish tax reporting requirements.

In addition, other Irish sourced income and gains are generally taxable in Ireland, irrespective of an individual's presence in the State.

2.3 Types of taxable income

For extended business travelers who are considered non-domiciled in Ireland, the types of income that are generally taxed are employment income related to Irish employment duties, Irish-sourced income, and gains from Irish specified assets (such as Irish land and buildings).

2.4 Tax rates

There are two types of income tax in Ireland; Pay As You Earn (PAYE) and Universal Social Charge (USC). Taxable income is subject to PAYE in Ireland at progressive rates ranging from 20 to 40 percent, depending on the level of income earned by the individual.

Individuals' non-resident in Ireland or single are subject to tax at 20 percent on the first 42,000 Euros (EUR) of taxable income and are subject to tax at the rate of 40 percent on income above this level. The 20% standard rate band is increased for married individuals depending on the residency status of both, and whether they are both in receipt of income.

Universal Social Charge (USC) is payable at a rate of 0.5 percent on income up to EUR12,012, 2 percent on the next EUR13,748 of income, 4 percent on the next EUR44,284 of income and 8 percent on income thereafter. For individuals with income outside their employment income an additional USC charge of 3 percent applies to income over EUR100,000.

If the taxable income for USC purposes does not exceed EUR13,000 during the year the individual will be exempt from USC for the relevant year.

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Social Security

3 Social Security

3.1 Liability for social security

Social security is payable in Ireland at a rate of 4 percent (4.1% from October 2024). Employer social security is payable at a rate of 11.05 percent (11.15 percent from October 2024) on employment income however, such contributions are funded by the employer and not paid out of the employee's salary.

An individual who is employed in Ireland is liable for paying social security on employment income and on any non-employment income that is taxable in Ireland where the individual is within the self- assessment system.

If the individual is seconded to work in Ireland from a country/jurisdiction with which Ireland has concluded a totalization agreement or from another European Economic Area (EEA) country/jurisdiction and is in possession of a valid certificate of coverage or A1 certificate, the individual will not be liable for paying Irish social security contributions for up to the first 5 years of the individual's secondment to Ireland.

In the event no such agreement is in place and the individual is seconded from a jurisdiction with which there is no totalization agreement in place, a 52-week exemption application can be made to remove the obligation to operate Irish social security for the first 52 weeks of the secondment. If the duration of the secondment is beyond 52 weeks Irish social security will apply thereafter.

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Compliance obligations

4 Compliance obligations

4.1 Employee compliance obligations

Tax returns are due for filing by 31 October following the tax year-end, which is 31 December. Individuals may, by Revenue concession, use the extended deadline of mid-November if they file the tax return and pay any tax due online using the revenue online facility.

Tax returns must be filed by non-residents who derive any Irish-sourced income (unless the taxes are fully collected via the PAYE system and the individual would not otherwise be required to file a tax return).

From January 2024 onwards if you exercise, assign or release share options during the relevant year any income tax due will be deducted by the employer through payroll in the normal manner. Previously the employee was required to submit an RTSO1 Form and pay over the relevant tax and social security within 30 days of the exercise. The individual would also have a mandatory reporting obligation, which is no longer the case.

A resident individual who opens a foreign bank account will also be deemed a mandatory filer and required to report details of same account on their year-end tax return.

4.2 Employer reporting and withholding requirements

Withholdings from employment income are covered under the Pay-As-You-Earn (PAYE) system. If an individual is taxable on employment income, the employer has a PAYE withholding requirement.

Where an employee performs duties in Ireland on behalf of a non-resident employer, an obligation is imposed on the non-resident employer to operate PAYE withholdings on compensation paid to employees carrying out employment duties in Ireland.

Where an employee works for an entity based in Ireland (a relevant person), is employed by a non-resident employer, and PAYE is not applied by the employer, the relevant person will be held accountable for the PAYE withholdings due. Where the compensation covers the performance of duties both in Ireland and in the home country/jurisdiction, PAYE withholdings need only be applied to the compensation that relates to the duties carried out in Ireland.

If an individual spends less than 60 workdays in Ireland in a tax year and a number of other conditions are met, it is possible that the individual will be automatically exempt from PAYE withholdings on employment income.

Even where an employee exceeds 60 workdays in Ireland in a tax year, where they spend less than 183 days in Ireland in a relevant period, it is possible that the individual will be exempt from PAYE withholdings on employment income, subject to obtaining a PAYE clearance certificate from the Irish Revenue. The above rules operate on the assumption that the employee is coming to Ireland from a country/jurisdiction with which Ireland has a Double Taxation Agreement. A relevant period is determined by reference to the appropriate Double Taxation Agreement and will typically stipulate either a rolling 12-month period beginning or ending in the relevant tax year or a fiscal/calendar year. The Irish Revenue will typically seek evidence that foreign withholding tax is withheld in the home country/jurisdiction of the employee before granting the exemption from the obligation to operate Irish PAYE withholding.

A 30 day di-minimus threshold is available to individuals from non-Double Taxation Agreement Treaty countries/jurisdictions, with each tax year viewed in isolation

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Immigration

5 Immigration

5.1 Work permit/visa requirements

Individuals from certain countries/jurisdictions must apply for a visa before entering Ireland.

Broadly speaking, non-European Union (EU)/EEA individuals must apply for a work permit before commencing employment in Ireland.

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Other issues

6 Other issues

6.1 Double taxation treaties

In addition to Ireland's domestic arrangements that provide relief from international double taxation, Ireland has entered into double taxation treaties with 76 countries/jurisdictions and is presently in the process of negotiating a number of additional treaties.

The aim of the double taxation treaties is to prevent double taxation and allow cooperation between Ireland and overseas tax authorities in enforcing their respective tax laws.

6.2 Permanent establishment implications

There is the potential that a permanent establishment could be created as a result of extended business travel, but this will be dependent on a number of factors, including the types of services performed and the level of authority the employee has.

6.3 Indirect taxes

Value-added tax (VAT) is applicable on the supply of taxable goods or services above certain thresholds. VAT registration may be required in certain circumstances. The rate of VAT will depend on the type of goods/services supplied.

6.4 Transfer pricing

Ireland introduced a transfer pricing regime on 1 January 2011.

6.5 Local data privacy requirements

Ireland has data privacy laws.

With effect from 25 May 2018, The General Data Protection Regulation ("GDPR") came into force in Ireland.

6.6 Exchange control

Ireland does not restrict the flow of Irish or foreign currency into or out of the country/jurisdiction. Certain reporting obligations are imposed, however, to control tax evasion and money laundering.

Financial institutions are obliged to take certain special measures to prevent money laundering. One of these measures is the requirement that financial institutions establish the identity of customers and report any suspicion of money laundering directly to the police.

6.7 Non-deductible costs for assignees

There are provisions in place which allow a deduction against taxable income for contributions made by an individual to a pension scheme in another EU member state or country/jurisdiction with which Ireland has a double tax agreement, provided a number of conditions are met.

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