KPMG

GMS Flash Alert

2024-012 | January 16, 2024

Ireland – New Guidance: Change to Gross-Up Methodology and E-Filing for SARP

On 20 December 2023, Irish Revenue issued updated guidance in eBrief No.265/23[1] in relation to the Special Assignee Relief Programme (SARP). The guidance sets out the revised manner in which Irish tax gross-ups should be calculated for tax-equalised assignees.

The guidance also provides details of the new SARP e-filing facility which employers can access from 1 January 2024.

The changes are effective from 1 January 2024.

WHY THIS MATTERS

The revised methodology stipulated by Revenue in the eBrief reduces the level of SARP relief available from 1 January 2024, thereby increasing the costs associated with tax-equalised assignments to Ireland for impacted employees.

The ability to e-file the Form SARP1A and Annual Employer SARP Return may make compliance processes around SARP more convenient and more timely.

What Is SARP?

SARP relief exempts 30 percent of qualifying income, profits, and gains of an employment from Irish income tax. Only qualifying employment income between the relevant annual threshold and €1 million in a tax year is available for relief. The relevant annual threshold is either €75,000 or €100,000 depending upon the tax year of arrival to Ireland.

© 2024 KPMG, an Irish partnership and a member firm of the KPMG global organisation of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved. Printed in the U.S.A. NDPPS 530159

The relief, available for up to five consecutive tax years, can apply to an employee of a foreign company working in Ireland as well as a group employee who transfers his or her foreign employment to an associated Irish company. A number of conditions need to be met by both the employee and employer in order for SARP relief to apply.

SARP relief can be delivered through payroll by agreement with Revenue or by filing a personal tax return claim after the tax year end.

While SARP relief takes the form of a deduction from taxable employment income, in practice, this has the effect of reducing the marginal Irish income tax rate on qualifying employment income from 40 percent to 28 percent.

Please refer to our SARP flyer for further information.

What Is the Change from 2024?

Up to 31 December 2023, when calculating gross-up liabilities on relevant net earnings, SARP relief has generally been incorporated into the gross-up calculation. This had the effect of reducing the gross-up cost.

From 2024, the updated guidance now provides that SARP relief should not be included in the initial gross-up calculation. Instead, the gross-up calculation should first be performed, and SARP relief applied only to the re-grossed earnings. Under this revised methodology, while SARP is still beneficial, the benefits are diminished given the higher gross-up.

Using an example as provided for in the guidance of an assignee to Ireland with net annual employment income of €125,000, from 2024, the reportable gross annual income through shadow payroll would increase from about €184,000 (old method) to €203,500 (new method). This results in a corresponding increase in net Irish tax costs of about €7,000 p.a. for the employer.

KPMG INSIGHTS

The overall financial impact of this change for employers will be dependent on a number of variables, including the level of income, the number of tax-equalised assignees availing of SARP in Ireland, and the applicability of Irish social security (PRSI).

What Prompted This Change?

The change arises on foot of a recent Tax Appeal Case (TAC)[2] which considered SARP relief in the context of a tax-equalised assignee on secondment to Ireland in 2013. In that case, the Irish shadow payroll calculations did not incorporate SARP relief at the time of processing. The assignee subsequently filed a 2013 personal tax return, reporting recalculated gross earnings incorporating SARP relief, using the same net income base. The recalculation was to reflect the tax-equalisation agreement in place between the parties.

The refund was refused by Irish Revenue on the basis that the 2013 shadow payroll earnings reflected the actual gross income received in the tax year. The Appeal Commissioner concluded that a tax-equalisation agreement between an employer and an employee is a private contractual matter and has no legislative effect for the purposes of SARP relief.

© 2024 KPMG, an Irish partnership and a member firm of the KPMG global organisation of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved. Printed in the U.S.A. NDPPS 530159

KPMG INSIGHTS

This updated guidance does not distinguish between the position for shadow payroll purposes where a gross-up occurs in real-time or a recalculation of earnings on a tax return (which was the focus of the TAC case).

In addition, the approach outlined in the guidance results in an unsatisfactory outcome whereby the assignees' net pay for Irish tax purposes is higher than their actual net pay i.e., their gross income for Irish tax purposes, less Irish taxes, does not correspond to the employees actual net pay (i.e., the net pay that has been delivered via the home-country payroll). KPMG in Ireland intends to approach Irish Revenue to highlight this anomaly.

Furthermore, while the updated guidance explicitly refers to tax-equalised employees, we expect that Revenue intends this methodology to be applied in all instances where an employee qualifies for SARP, and grossing up of a net payment or benefit applies. Therefore, this change could also impact employees who are not tax equalised but are in receipt of net paid allowances/benefits.

While uncertainty exists, we recommend applying the revised methodology in such instances to these net allowances/benefits.

Prior-Year Shadow Payroll and Personal Tax Returns

For the avoidance of doubt, Irish Revenue has confirmed via the updated guidance[3] that there is no impact on any previously-filed Irish shadow-payroll numbers and PAYE returns where SARP relief was incorporated into shadow payroll, for all tax years ending 31 December 2023. This recognises the complex nature of the issue and previously-understood positions adopted by employers. Revenue will also not require a relevant employee to submit amended prior-year tax return(s) to report an adjusted taxable employment income figure.

KPMG INSIGHTS

It is currently unclear whether Revenue will allow the old methodology to be applied in the case of 2023 Irish tax returns which will be prepared in 2024, or whether the updated guidance needs to be followed. It is hoped that confirmation from Revenue will be forthcoming in this regard in due course.

New E-Filing Facility for SARP Forms

On 1 January 2024, the Form SARP1A and Annual Employer SARP Return can be prepared and submitted electronically through a new e-SARP facility on the Revenue's Online Services (ROS) website. The guidance provides information about the new portal.

The Form SARP1A is used by employers to certify that the employee meets the conditions to qualify for the relief. Certification must occur by the employer using this form within 90 days of the employee's arrival in Ireland. It is also used to claim SARP relief through the PAYE regime. Where the employer does not use the online facility, the guidance

© 2024 KPMG, an Irish partnership and a member firm of the KPMG global organisation of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved. Printed in the U.S.A. NDPPS 530159

provides that a request for a paper version of Form SARP1A be made to the National SARP Unit including the following details:

- Name of the relevant assignee;
- Address and PPSN (if known);
- The date (DD/MM/YYYY) relevant employee first arrived in the State to perform duties of employment in the State;
- Name and address of the company for whom the relevant employee performs duties of employment in the State.

2023 Annual Employer SARP Return Deadline

The Annual Employer SARP Return should be completed by 23 February following the relevant tax year. The deadline for the 2023 SARP return is 23 February 2024, and can now be filed through the new online facility.

The return must provide details of all employees eligible for SARP relief for the tax year, the total remuneration paid during the year, and the extent of SARP relief awarded through the Irish payroll (PAYE) regime. The employer must also include details of the additional number of employees recruited in Ireland due to the availability of SARP relief.

KPMG INSIGHTS

Next Steps

While KPMG in Ireland considers the guidance more fully, we recommend that employers adjust their 2024 payroll procedures to take account of the new guidance, pending further updates.

Employers may wish to consider the impact of these changes on their Irish payroll/shadow payroll processes, and some employers may want to evaluate the potential financial impact of this change.

Employers should also review the e-SARP portal to help ensure they and their agents have access to the new facility.

As the deadline for the 2023 Annual SARP Return is 23 February 2024, employers may also wish to collate all necessary information needed to complete the return over the next few weeks.

FOOTNOTES:

1 Revenue eBrief No. 265/23 (20 December 2023).

2 See Tax Appeals Commission, 143TACD2023 - Income Tax.

3 Irish Revenue, Tax and Duty Manual, Special Assignee Relief Programme (SARP), Part 34-00-10.

* * * *

© 2024 KPMG, an Irish partnership and a member firm of the KPMG global organisation of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved. Printed in the U.S.A. NDPPS 530159

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:

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

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

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

The information contained in this newsletter was submitted by the KPMG International member firm in Ireland.

© 2024 KPMG, an Irish partnership and a member firm of the KPMG global organisation of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved.

www.kpmg.com

kpmg.com/socialmedia

© 2024 KPMG LLP, a Delaware limited liability partnership and a member firm of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved.

The KPMG name and logo are registered trademarks or trademarks of KPMG International. The KPMG name and logo are trademarks used under license by the independent member firms of the KPMG global organization.

KPMG LLP is the U.S. firm of the KPMG global organization of independent professional services firms providing Audit, Tax and Advisory services. The KPMG global organization operates in 147 countries and territories and has more than 219,000 people working in member firms around the world.

Each KPMG firm is a legally distinct and separate entity and describes itself as such. KPMG International Limited is a private English company limited by guarantee. KPMG International Limited and its related entities do not provide services to clients.

GMS Flash Alert is a publication of the KPMG LLP Washington National Tax practice.