

Revenue Commissioners

Tax Briefing No 05

2014

PAYE: Employer's obligation to keep, maintain and produce a *Register of Employees*

1. Overview

This Tax Briefing outlines that -

- a. for the purposes of the PAYE system, an employer has a statutory obligation to keep and maintain a *Register of Employees*;
- b. on being requested to do so by a Revenue officer and within the time specified by that officer, an employer has a statutory obligation to produce that employer's *Register of Employees* (or a certified copy of it) or an extract from it to any Revenue officer;
- c. an employer who does not keep and maintain a *Register of Employees* is liable to a penalty of €4,000 (and where that employer is a company, the secretary of that company is liable to a separate penalty of €3,000);
- d. where an employer fails to comply with a requirement of an authorised officer – in the exercise of that officer's powers or duties under Section 903 Taxes Consolidation Act 1997 (*Power of inspection: PAYE*) - to produce any records which that officer requires for the purposes of his or her enquiry, that employer shall be liable to a penalty of €4,000.

Note: The obligation on an employer to keep and maintain, for PAYE purposes, a Register of Employees is separate and distinct from an employer's obligation to register with Revenue for the purposes of the PAYE system.

2. Revenue compliance work

Revenue officers carry out pre-arranged and unannounced visits to businesses to ensure that such businesses comply with their tax and duty obligations (including obligations on employers to register with Revenue for the purposes of the PAYE system and to keep and maintain, for PAYE purposes, a *Register of Employees*). Such visits may be random, may be part of a "sectoral review" of specific types of businesses or may stem from complaints to Revenue as regards an employer's failure to operate the PAYE system (or to operate the PAYE system correctly). Some such visits are carried out jointly with other State agencies (for example, with the Department of Social Protection and the National Employment Rights Authority).

In addition, as part of a Revenue investigation, audit or other compliance check relating to the tax year 2012 and subsequent tax years, an employer may be requested to produce that employer's *Register of Employees*.

3. Keeping and maintaining a *Register of Employees*

Regulation 8 of the *Income Tax (Employment) (Consolidated) Regulations 2001* (more commonly known as the PAYE Regulations) – as inserted by the *Income Tax (Employment) (Consolidated) Regulations 2012* - obliges an employer to keep and maintain, in paper or electronic format, a register of all employees and such register is to be known as the *Register of Employees*.

4. Register of Employees

A *Register of Employees* must include the following relevant details -

- a. the name, address and Personal Public Service Number (PPSN) of each employee;
- b. the date of commencement of employment of each employee; and
- c. where relevant, the date of cessation of employment of each employee.

In some instances, an employer may, for the purposes of payroll, human resources or fulfilling a non-tax related statutory obligation, hold a record or register of all employees (and former employees). Such a record or register will suffice as a *Register of Employees* for PAYE purposes provided that it includes the relevant details outlined above.

5. Place of retention of Register of Employees

An employer must keep and maintain the *Register of Employees* (or a copy of it) either at the normal place of employment of each employee or at the main place of business of the employer.

For employers who have a place of business in more than one location (or, indeed, several locations) and the payroll records, staff records, etc. are held in just one location (for example, a head office), that one location where the records are held may be accepted as that employer's main place of business for the purposes of being the place of retention of that employer's *Register of Employees*. However, it is to be noted that PAYE Regulation 8 provides that a Revenue officer may require an employer to produce, within the period specified by that officer, *an extract* from that employer's *Register of Employees*. In this regard, such *an extract* may, for example, relate to the employees of a branch of a business that a Revenue officer may visit.

6. Temporary, part-time, casual staff, etc.

Although an employee may be employed on a temporary, part-time or casual basis, the relevant details (see Paragraph 4 above) of such employee must be entered in the employer's *Register of Employees*.

7. Incomplete Register of Employees

An employer who keeps and maintains a register that does not include the relevant details (see Paragraph 4 above) of **all** employees shall be liable to the relevant penalty for not keeping and maintaining a *Register of Employees*.

8. Production of *Register of Employees*

On being required to do so by a Revenue officer, an employer has a statutory obligation to produce, within the period specified by that officer, that employer's *Register of Employees* [or, as appropriate, a certified copy (including electronic copy) of it] or an extract from it to any Revenue officer.

9. Records held by a tax or payroll agent / Records held in a payroll software package

Although an employer may -

- a. engage the services of a tax or payroll agent, and / or
- b. use a proprietary software payroll or human resources package,

the onus is on that employer to keep and maintain the *Register of Employees* (or a copy of it) at the normal place of employment of each employee or at that employer's main place of business.

10. Penalties


Penalty for failing to keep and maintain a Register of Employees

Where an employer is obliged, but fails, to keep and maintain a *Register of Employees* at the normal place of employment of each employee or at that employer's main place of business, Section 987 Taxes Consolidation Act 1997 provides that that employer shall be liable to a penalty of €4,000. In addition to the penalty of €4,000, where that employer is a company, the secretary of that company is liable to a penalty of €3,000.

Penalty for failing to produce a Register of Employees (or, as appropriate, to produce a certified copy of it)

Section 903 Taxes Consolidation Act 1997 (Powers of inspection for PAYE purposes) provides that an authorised Revenue officer may enter any premises where he or she has reason to believe that an employer is or has been carrying on any activity as an employer. That officer may require an employer to produce any records which that officer may reasonably require for the purposes of his or her enquiry. Where, in the exercise of an authorised Revenue officer's powers or duties under Section 903, an employer does not comply with a requirement of that officer, then that employer shall be liable to a penalty of €4,000.

11. Further Information

Full details are set out in the Tax and Duty Manual  ["PAYE \(Employers\) Compliance"](#) (PDF, 194KB) which can be found on the Revenue website at: About Us – Freedom of Information – Tax and Duty Manuals Section 16 – Compliance – Audit and Other Compliance Interventions – Code of Practice – PAYE (Employers) Compliance.