Tax Equalisation Arrangements

Part 02-04-01

This document should be read in conjunction with section 18, section 112 and Chapter 4 of Part 42 of the Taxes Consolidation Act 1997

Document last reviewed September 2026

Revenue
Cáin agus Custaim na hÉireann
Irish Tax and Customs

The information in this document is provided as a guide only and is not professional advice, including legal advice. It should not be assumed that the guidance is comprehensive or that it provides a definitive answer in every case.

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1 Introduction

The manual outlines Revenue's treatment, for Irish tax and PAYE purposes, of tax equalisation arrangements that apply to employees who are assigned from abroad to carry out duties of employment in the State under non-Irish contracts of employment.

The manual will provide an overview of common practices adopted by overseas employers with respect to tax equalised assignees who work in Ireland on assignment, and it will also highlight areas of risk that will be reviewed as part of compliance interventions into the operation of the PAYE system by overseas employers with respect to such assignees.

Where PAYE is referenced in the manual, it refers to income tax and USC liabilities collected through the PAYE system.

The contents of this manual replaces the information on tax equalisation arrangements contained in Tax and Duty [TDM] TDM Part 42-04-65 – Employee payroll deductions in relation to non-Irish employments exercised in the State. The information on tax equalisation arrangements in TDM 42-04-65 has been removed.

2 General overview of Irish PAYE withholding requirements arising from the exercise of a foreign employment in the State

Irrespective of the tax residence position of the assignee or the employer, income from a non-Irish employment attributable to the performance in the State of the duties of that employment is chargeable to income tax in the State and is within the scope of the PAYE system of deduction at source. A detailed summary of these requirements, including the circumstances where an exemption from PAYE withholding may be claimed, is outlined in TDM Part 42-04-65 – Employee payroll deductions in relation to non-Irish employments exercised in the State.

With respect to PRSI, a liability will not arise on the foreign employment income if the assignee holds a home country social security retention document (A1 or Certificate of Coverage) while working in the State or where the Department of Social Protection exempts the assignee from the liability to PRSI for the first 52 weeks of the assignment[1].

[1] Per Regulation 97 of S.I. No. 312/96 – Social Welfare (Consolidated Contributions and Insurability) Regulations, 1996

For the purposes of this manual, an inbound assignee is an employee that is sent from abroad to carry out duties in the State for his/her overseas employer. The manual deals with scenarios where the assignee remains on a home country employment contract while working in the State.

2.1 Overview of tax equalisation arrangements

In simple terms, a tax equalisation arrangement is an agreement between an employer and an assignee to the effect that the assignee pays no more and no less tax on assignment than they would have paid had they remained in their home country and had not undertaken an overseas assignment.

In the absence of such an arrangement, an employer may face difficulties in attracting employees to undertake an assignment to locations where personal tax rates exceed those in the employee's home country.

The terms of any such tax equalisation arrangement are a matter for an assignee and his or her employer. These terms will generally be outlined in the assignment policy of the employer and/or the assignment letter provided to an assignee, which governs the general terms of the overseas assignment.

Revenue recognises that the terms of a tax equalisation policy may differ from employer to employer, however, a standard policy will likely have the following features:

- the home country employer is responsible for the payment of all actual taxes arising on the employment income in the home and host countries on behalf of the assignee (and potentially other income, depending on the arrangement).

- the assignee's contribution to these liabilities is hypothetical tax (or "hypotax"), which is deducted from the assignee's salary through the home country payroll. The hypotax withholdings mirror the level of tax on employment income that they would have paid had they not undertaken the overseas assignment.

- at the end of the tax year, the level of hypotax deducted from the assignee during the year is compared to the level of actual home country taxes that would have been paid by the assignee on the tax equalised income. This exercise is completed by comparing the level of hypotax withheld against a stay-at-home tax calculation on the tax equalised income.

3 Practical aspects of a tax equalisation arrangement

In practice, tax equalisation generally works as follows:

I. The assignee remains on a home country employment contract and payroll, from which he/she is paid standard items such as base salary ("stay-at-home" amounts). He/she may also be provided with assignment-related allowances (Cost of Living Adjustment "COLA") or benefits (host housing) if this is the employer's policy.

II. The home country tax authority provides permission to the employer to pay the assignee without deduction of home country payroll tax (this is the equivalent of a PAYE Exclusion Order) if a domestic tax charge no longer arises on this income in the home country, due to the fact that the assignee is not resident there while on overseas assignment.

III. Hypotax amounts are calculated and applied to the assignee's home country payments. These approximate the level of tax withholdings that would have been deducted from the employment income had he/she not undertaken an assignment. The hypotax withheld from the assignee's wages are used by the employer to fund the payment of the assignee's actual tax liability arising in the home or host jurisdiction.

IV. A host country payroll is operated (shadow payroll) to account for local payroll withholding taxes which are due to the host country tax authority if local tax rules require.

These local tax liabilities are typically calculated on a **re-grossed basis**, as the home employer is responsible for meeting the host country tax liabilities arising on employment income under tax equalisation.

V. Home and/or and host country income tax returns may be prepared at year-end, as required. This may result in the following:

- if further tax liabilities arise in the home and host country on the tax equalised employment income, the employer is responsible for paying these amounts.

- if a tax refund issues from the tax authorities in either the home or host country on the tax equalised employment income, then this refund is due to the employer.

VI. An end-of-year hypotax reconciliation (generally known as a tax equalisation calculation) is prepared to compare the level of hypotaxes withheld from the assignee on tax equalised employment income against the level of the final hypothetical tax liability arising on the income. This may result in the following:

- If the employer withheld an excess of hypotaxes from the assignee's wages, then a refund of the excess amount is due to the assignee.

- If there is an under-withholding of hypotaxes, then the assignee must fund the balance to the employer.

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4 Personal income/gains

Personal income or gains are, in general terms, the income or capital gains of an assignee which are not connected with the employment. Typical items can include interest, dividends, capital gains and losses, rental income and losses, self-employment income and losses, spouse's income and losses, pension or annuities, income and losses from entities such as partnerships or trusts and gift or inheritance income or gains.

Some employers may tax-equalise the personal income or gains of an inbound assignee, however, this is a matter to be decided between the employer and the assignee and will generally be outlined in the assignment policy of the employer and/or the assignment letter provided to an assignee.

For example, from an Irish tax perspective, an inbound assignee who is resident but not domiciled in the State for tax purposes is chargeable to tax on overseas rental income only to the extent that the income is remitted to the State (the remittance basis of tax). The taxable rental income should be included in the assignee's Irish income tax return and the resulting income tax and USC liability (and preliminary tax amount, if due) should be paid in accordance with the relevant tax pay-and-file deadline for the year.

In such cases:

- If this overseas rental income is tax equalised, then the Irish tax liability (income tax and USC) will be paid by the employer. The amount of the tax liability which is paid by the employer is an emolument for Schedule E purposes to the extent that this amount is not funded by the employee. This amount should be re-grossed for Irish PAYE purposes at the time the employer makes the payment.
- If this overseas rental income is not tax equalised, then these Irish tax liabilities will be paid by the employee.

5 Shadow Payroll process

Irrespective of the tax residence position of the assignee or the employer, income from a non-Irish employment which is attributable to the performance in the State of the duties of that employment is chargeable to income tax in the State and, in the absence of an exemption, is within the scope of the PAYE system of deduction at source. The requirements (and exemptions) are outlined in detail in TDM Part 42-04-65 – Employee payroll deductions in relation to non-Irish employments exercised in the State.

In practice, a "shadow payroll" is operated to account for the PAYE liability arising on behalf of an inbound assignee to Ireland, who works here under a non-Irish employment contract. It is referred to as a "shadow" payroll because the assignee's net pay delivery remains in the home country (i.e., the net pay amount for Irish shadow payroll purposes is zero).

On or before the making of a payment of emoluments to an employee, employers must make a payroll submission to Revenue setting out the pay and tax deduction details of each employee. In order to identify inbound assignees for PAYE purposes, employers are required to set a shadow payroll marker to "true" either on ROS or through the payroll software which they use.

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The monthly shadow payroll involves the following processes:

Step 1

- The assignee's home country employment income for the month is determined, typically by reference to items included in the home country payslip.

Step 2

- The assignee's Irish workdays for the month are also determined, as the Irish PAYE liability is only due on foreign employment income attributable to the performance of duties in the State.

  If the actual Irish workday total is unknown, employers should provide a best estimate of the number of days an employee works in Ireland. If there are more (or less) workdays than originally estimated, the pay level (i.e., income attributable to the performance of duties within the State) should be amended in the following payroll submission. Employers are required to ensure that payroll submissions under shadow payroll arrangements are accurate and reviewed for accuracy on an ongoing basis.

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Step 3

- The net home country payroll amount of the assignee, pro-rated by reference to Irish workdays in the month is calculated and then re-grossed for Irish PAYE purposes. The re-grossed income is the amount on which the monthly income tax and USC liabilities are computed.

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Step 4

- If the assignee is provided with local benefits (e.g. housing, company car, BIK), then the taxable value of these benefits should also be included in the shadow payroll and re-grossed for Irish PAYE purposes.

  The taxable amount of these benefits should be calculated in accordance with Irish domestic tax charging provisions in operation for the particular benefit. For further details, please see the TDM Part 05-01-01 – Manual on the taxation of benefits. As the benefit is provided locally to the assignee, Revenue's position is that the taxable amount, as calculated in accordance with Irish domestic rules, should not be apportioned in accordance with the assignee's total Irish workdays for the period in which the benefit is provided.

Step 5

- PAYE is applied to the full amount of taxable income for the month. On or before the making of a payment of emoluments to the assignee, employers must make a payroll submission to Revenue, setting out the pay and tax deduction details for the assignee.
- Where pay dates in foreign jurisdictions do not align with Irish pay dates, the payroll submission can be aligned with the Irish employer's next pay date for equivalent Irish employees. This would occur, for example, where the assignee is added to the payroll submissions of an Irish employer.

5.1 Example 1

On 1 January 2024, a US citizen comes to Ireland on a tax equalised assignment for two years with his family. He works in Ireland under his home country employment contract and as such, his employment income is taxable in Ireland in accordance with employment income attributable to his Irish workdays. He spends 80% of his total working time in Ireland while here on assignment. The assignee is not liable to PRSI as he holds a US Certificate of Coverage, confirming an exemption from PRSI while working here.

Details of his US compensation package and the locally provided housing benefit are outlined below.

Details	**Annual**	**Monthly**
	US $	**US $**
Base salary	200,000	16,667
US medical insurance	15,000	1,250
COLA (cost of living adjustment)	20,000	1,667
Total	**235,000**	**19,584**
Less:		
US Hypothetical taxes (Federal & State)	(70,500)	(5,875)
US 401K contribution	(25,000)	(2,083)
Net US compensation	**139,500**	**11,626**
	Euro €	**Euro €**
Converted to Euro ($1: €0.92)	128,340	10,696
Local benefits		
Irish housing cost paid by employer	36,000	3,000

As a tax equalisation arrangement is in place, the assignee has agreed with his employer that his tax liability on his employment income should be no more or no less than that he would have paid had he not undertaken an assignment to the State.

The US employer is required to operate PAYE by reference to the US employment income attributable to Irish workdays (80%) and it establishes an Irish shadow payroll to account for the PAYE liabilities arising on a monthly basis. The employer is obliged to operate PAYE on the income as it is paid in the home country, in accordance with the rules governing the operation of PAYE.

For 2024, the Irish shadow payroll is calculated in accordance with the following figures:

Details	**Annual**	**Monthly**
	Euro €	**Euro €**
Net US compensation	128,340	10,696
Apportioned by reference to Irish workdays (80%)	102,672	8,557
Local Irish housing costs	36,000	3,000
Total Income	**138,672**	**11,557**
Re-grossed income (assessable Schedule E income)	**229,518**	**19,126**
Income tax liability*	(75,982)	(6,331)
USC liability*	(14,864)	(1,238)
Net income	**138,672**	**11,557**

*Calculated in accordance with relevant income tax rates, bands and credits (married person with one income) and USC rates and thresholds in place for 2024

See Appendix I for detailed calculation.

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5.2 Example 2

Taking the above example, the assignee was granted a share option from his US employer prior to coming to Ireland on assignment. The share option is tax equalised.

Notwithstanding that he was granted the share option prior to arrival, he will be chargeable to tax to the extent that the income gain relates to a period of employment exercised in Ireland. More detailed guidance on these requirements is outlined in section 3.9 of Chapter 3 of Share Schemes Manual (Unapproved Share Options). Please see the facts below.

- The assignee exercises the share option on 1 July 2024.

- The pro-rated gain for Irish tax purposes is €100,000 (when converted to Euro) and the combined income tax and USC liability on the gain (combined rate of 48%) is €48,000.

- Under rules applying to the collection of tax on share option gains which are realised after 1 January 2024, the gain realised is a notional payment by the employer, who is responsible for remitting the income tax, USC and PRSI (if applicable) through the PAYE system.

  Note: Changes were introduced in Finance Act 2023 which resulted in moving the responsibility for the payment of tax in respect of options exercised on or after 1 January 2024 from the individual to his or her employer. Under rules applying to the payment of tax on share option exercise gains **prior to 1 January 2024**, an RTSO liability was due on the gain which was payable to the Collector General within 30 days of exercising the option (each payment of RTSO must also have been accompanied by a completed Form RTSO1).

- As the share option gain is tax equalised, the US employer is responsible for the payment of the income tax and USC liability (€48,000) on the assignee's behalf.

- US hypotax amounts of €25,000 were withheld from the assignee on the portion of the gain subject to Irish tax (€100,000). The employer uses this amount to fund a portion of the income tax and USC liability.

- The net share option gain of €75,000 is an emolument for Schedule E purposes and is therefore chargeable to income tax and USC at the assignee's marginal rates. On the basis that the employer is responsible for meeting the income tax and USC liability on this amount through tax equalisation, this amount should be re-grossed for PAYE purposes through the shadow payroll.

- For shadow payroll purposes, the re-grossed income is calculated as follows, given that a combined income tax and USC rate of 48% applies:

  €75,000 / (1 – 0.48) = €144,231

  This notional amount should be reported by the employer through the PAYE system. More detailed information on the PAYE withholding requirements arising on share option exercise gains is outlined in section 3.6 of Chapter 3 of Share Schemes Manual (Unapproved Share Options).

5.3 Example 3

Taking the above example, the assignee completes and submits his 2024 Irish tax return on 15 October 2025. The 2024 tax return is completed on the basis that the assignee was resident, but not domiciled for Irish tax purposes.

During 2024, he remits €5,000 of rental income from a property which he owns in the US and this income is chargeable to Irish income tax under Case III of Schedule D for the year. This income is reported in his 2024 Irish tax return, resulting in a final 2024 Irish tax liability of €2,400, which arises from the remittance (assume a combined income tax and USC liability of 48%). The liability is due to be paid on or before 31 October 2025.

If the assignee's rental income is tax equalised while working in Ireland, then the employer is required to fund the Irish tax liability arising on the payment. This has the following consequences for Irish PAYE purposes:

- The payment of the 2024 Irish liability (€2,400) by the employer is an emolument for Schedule E purposes, to the extent that the assignee does not fund a portion of the payment (e.g. through a hypotax contribution).

- As the US employer funds the full payment in this instance, the employer is required to re-gross this amount through the shadow payroll and account for the PAYE liability due on the re-grossed amount.

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6 Social Security – Pay Related Social Insurance (PRSI)

In accordance with various arrangements concerning social security matters (e.g. EU coordination rules), an assignee who works abroad on assignment may be compulsorily retained in their home country social security regime for a specific period of time.

Where an assignee claims exemption from PRSI, he/she must hold one of the following documents confirming insurability in their home country system only:

- An A1 document (issued under EU social security regulations)
- A Certificate of Coverage (issued under bilateral social security conventions)
- A 52 Week PRSI exemption (issued by the Department of Social Protection).

A PRSI liability will arise on the assignee's employment income if any of the above exemption documents have not been obtained.

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7 Year-end process

Due to tax complexities triggered by an assignment, it is normal practice for an employer to engage a tax agent to assist a tax equalised assignee in meeting their home and host country income tax return filing requirements which arise from an assignment.

With respect to a tax equalised assignee who has been included on an Irish shadow payroll, the final Irish tax liability for the year is determined through the preparation of an Irish income tax return (Form 11/12).

The Irish income tax return will be prepared in accordance with the information provided by the assignee to the nominated tax agent, or alternatively, it may be prepared and submitted by the assignee.

7.1 Final determination of Irish income tax liability on employment income

An assignee's non-Irish employment income is chargeable to Irish tax under Schedule E only to the extent that the income is attributable to the performance of the duties of employment in the State. This is calculated by reference to the assignee's total Irish workdays for a year.

A shadow payroll will likely have been operated in accordance with the employer's knowledge of the assignee's Irish workdays at the time the payroll was operated, which may differ to the final level of workdays actually spent by the assignee in the State. If this occurs, an adjustment will be required to the level of the assignee's final taxable employment income for the year.

In practice, this will lead to the following:

- If the shadow payroll Irish workday total is higher than that reported through the PAYE system, then there has been an under-reporting of the assignee's taxable employment income through the PAYE system. This should be rectified by the employer by making a PAYE self-correction of the relevant payroll returns for the particular periods.
- If the payroll workday total is lower than that reported through the PAYE system, then it is likely that the tax return preparer will seek to re-calculate the final level of employment income which is taxable in the State by including the lower level of employment income on the tax return. This approach is permissible, however, a supporting calculation of the re-calculated final taxable employment income figure may be sought by Revenue for verification purposes.

8 General risk areas

Employers who assign individuals to perform duties in the State should be aware of the Irish income tax and PAYE withholding obligations which arise from the assignment, and it should take all necessary steps to comply with these obligations.

During the course of a compliance intervention Revenue will focus on the following risk areas which apply to assignees, whether tax equalised or not, who perform duties of employment in the State under a foreign employment contract.

- Has the overseas employer complied with its Irish PAYE withholding requirements arising from the exercise of duties here? If an exemption from PAYE is being claimed, is this in accordance with the guidance outlined in Chapter 4 of TDM Part 42-04-65 – Employee payroll deductions in relation to non-Irish employments exercised in the State?

- How has the employer treated relocation costs/expenses for Irish PAYE purposes? If an exemption is being claimed for certain costs, is this in accordance with the guidance outlined in TDM Part 05-02-03 – Removal and Relocation Expenses?

- If a shadow payroll is in operation, is a breakdown of the Irish shadow payroll calculation available and how do the taxable items correspond with the home country payslips?

- Are details of the assignee's Irish workdays available and have these been accurately reflected in the Irish PAYE calculation? This would occur, for example, where the assignee's home country net pay is being apportioned in accordance with the Irish workdays.

- Have all local benefits (e.g. provision of housing, company car) been taxed correctly in the Irish PAYE calculation? For further details, please see the TDM Part 05-01-01 – Manual on the taxation of benefits.

- How does the Irish taxable income figures correspond with items included in the assignment letter? If the assignee is contractually entitled to certain benefits (e.g. provision of housing), have these benefits been provided and if so, how have they been treated for Irish PAYE purposes?

- For tax equalised assignments, if the Irish PAYE calculation has not been calculated on a re-grossed basis, then what is the reason for this? If the PAYE liability has not been calculated on a re-grossed basis, then how has the assignee funded this liability?

- Bonus payments: How does the treatment of any bonus amounts paid to inbound assignees correspond with the guidance in Chapter 8.1 of TDM Part 42-04-65 – Employee payroll deductions in relation to non-Irish employments exercised in the State?

- Share-based incentives: How does the treatment of share-based incentives correspond with the guidance outlined in the TDM Consolidated Share Schemes

- Has the assignee claimed expenses? If a tax exemption is being claimed, is this in accordance with the guidance outlined in TDM Part 05-01-06 Tax treatment of the reimbursement of expenses of travel and subsistence to office holders and employees?

- Has an exemption from social security been claimed? If so, does the assignee hold an A1/Certificate of Coverage/52 Week PRSI exemption and does this cover the relevant assignment period? For further information please see PRSI: Operational Guidelines: Scheme of Posted Workers.

- Have any benefits been provided to the family of the assignee (e.g. language courses, school fees)? How have these been treated for PAYE purposes? If an exemption is being claimed, what is the basis for claiming same?

Appendix I

Calculation of US net pay				
Home Compensation	**US $**	**US $**	**Ex. Rate**	**Euro €**
Base Salary	200,000			
US medical insurance	15,000			
COLA (cost of living adjustment)	20,000			
Total	**235,000**			
Less				
US Hypothetical taxes (Federal & State)	70,500			
US 401K contribution	25,000			
Net Pay	**139,500**			
Converted to Euro ($1 : €0.92)		139,500	0.92	128,340
Apportioned by reference to Irish workdays (80%) **(A)**				102,672
Local Irish housing costs **(B)**				36,000
Net compensation (A + B)				**138,672**

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2024 Irish income tax and USC computation			
			Euro €
Net compensation			138,672
Gross-up			90,846
Taxable income **(A)**			**229,518**
Income Tax			
	Euro €		
Married with one income	51,000	20%	10,200
	178,518	40%	71,407
	229,518		**81,607**
Less Credits			
	Personal	3,750	
	Employee PAYE	1,875	(5,625)
Tax Due			**75,982**
USC	12,012	0.5%	60
	13,748	2.0%	275
	44,284	4.0 %	1,771
	159,474	8.0%	12,758
USC Due	229,518		**14,864**
Total Income tax & USC Due (B)			**90,846**
Net compensation (A – B)			**138,672**