

## [15.1.7] Employee (PAYE) Tax Credit

### Section 472, Taxes Consolidation Act, 1997

*Reviewed April 2014*

#### 1. Application of the employee (PAYE) tax credit

Section 472 Taxes Consolidation Act provides for a tax credit known as the “employee tax credit” or “PAYE tax credit” to an individual who has emoluments (except for “excluded” emoluments which are outlined in *paragraph 2* below) to which the PAYE system of tax deduction at source applies or is applied.

Where, for any year of assessment, a claimant proves that his or her total income for the year consists in whole or in part of such emoluments, he/she shall be entitled to a tax credit of €1,650 in 2011 (or a lesser amount where the full PAYE credit is not required to cover the income tax liability).

Irrespective of the number of sources of emoluments to which the PAYE system of tax deduction at source applies or is applied, an individual is entitled to only one PAYE tax credit. However, in the case of a husband/wife/civil partner on joint assessment, each is entitled to the PAYE credit against his/her respective emoluments (provided such emoluments are not “excluded” emoluments).

#### 2. Excluded emoluments

##### 2.1 Overview

The PAYE tax credit may not be offset against the income tax due on certain emoluments – this has the effect of denying the PAYE tax credit to some individuals. The PAYE tax credit is not available for offset against :

- (a) the tax due on emoluments paid directly or indirectly by a company or by anyone connected to the company, to a proprietary director of that company, or to the spouse/civil partner or child of such a director; and
- (b) the tax due on emoluments paid directly or indirectly by an individual (or by a partnership of which the individual is a partner) to the spouse/civil partner or child of the individual.

These exclusions, however, do not apply to children of proprietary directors and self-employed individuals in certain circumstances. See paragraph 2.2.

## 2.2 Exception re children of proprietary directors and self-employed individuals

The employee tax credit may be granted against the tax due on emoluments (and in respect of profits or gains from an office or employment held or exercised outside the State which are deemed to be emoluments) paid

- to the children of proprietary directors and
- to the children of self-employed individuals

where such emoluments are paid by a company (or a person connected with the company) of which either parent is a proprietary director, or an individual (or by a partnership in which the individual is a partner) where such individual is the parent of the child.

The credit is available to the child (other than a child who is himself or herself a proprietary director) if, for the year of assessment the following conditions are satisfied:

- (a) (i) the individual is a *\*specified employed contributor\**, or  
(ii) the employer, in relation to the emoluments paid to the child in the year of assessment, complies, in so far as they apply, with the requirements of the PAYE system;
- (b) the terms of the employment are such as to constitute a full-time employment and the individual actually engages in the employment on a full-time basis [i.e. the child must throughout the year devote substantially the whole of his/her time to the employment (students and others employed on a part-time or temporary basis do not qualify for the deduction)]; **and**
- (c) the emoluments from the employment in the year of assessment must not be less than €4,572.

## 2.3 **\*Specified Employed Contributor\***

A specified employed contributor means a person who is an employed contributor for the purposes of the Social Welfare Consolidation Act 2005 but does not include a person -

- (i) who is an employed contributor for those purposes by reason only of Section 12(1)(b) of that Act (i.e., an individual who is regarded as an employed contributor simply because all individuals who are in insurable employment for occupational injuries purposes are employed contributors); or

- (ii) to whom Article 81, 82 or 83 of the Social Welfare (Consolidated Contributions and Insurability) Regulations, 1996 (S.I. No. 312 of 1996), applies (i.e., civil servants, members of the Garda Síochána and the Defence Forces, and certain public servants who were appointed prior to 5 April 1995).

### **3. Social Protection Pensions**

#### **3.1 Irish social protection pensions**

An Irish social protection pension (previously social welfare pension) qualifies for the employee credit notwithstanding that the PAYE system of tax deduction was not applied to the pension.

#### **3.2 Social protection pensions from other EU Member States**

Irish residents receiving social protection pensions from other EU Member States may claim the employee credit, notwithstanding that a system similar to the PAYE system of tax deduction was not applied to the pensions.

#### **3.3 Social protection pensions from elsewhere**

Social protection or equivalent pensions from non-EU member states do not qualify for the employee tax credit unless the conditions in (a) to (c) of Paragraph 5 below apply.

### **4. Foreign Occupational Pensions**

Where a foreign pension chargeable to tax here satisfies all the conditions (a) to (c) in Paragraph 5 below, the PAYE tax credit may be granted against the tax due on such pension. It is expected that only a limited number of such cases will arise because most of Ireland's Double Taxation Agreements provide that a non-Governmental foreign pension paid to an Irish resident will be chargeable to tax in the country of residence of the recipient (in this case, Ireland) and not in the country which issued the pension.

### **5. Cross-frontier workers**

Under section 472(3) TCA, Irish residents can also claim the PAYE tax credit in respect of the tax due on profits or gains from an office or employment held or exercised outside the State if the profits or gains from that office or employment: -

- (a) are chargeable to tax in the country in which they arise and are subject to a tax deduction system similar in form to our PAYE system,
- (b) are chargeable to tax in full in this country by direct assessment under Schedule D, and

(c) would, if arising in the State and the office or employment were held or exercised in the State and the person making the payment were resident here, qualify for the tax credit.

**Note** –Section 15 of the Finance Act 2006 provides that so much of the income of a foreign office or employment of an individual as is attributable to the performance in the State of the duties of that office or employment is, with effect from 1 January 2006, chargeable to income tax under Schedule E (instead of Case III of Schedule D) and within the scope of the PAYE system.

Where within the scope of the PAYE system, the PAYE tax credit is due against the tax due on such emoluments.

#### **6. Staff of foreign embassies in Ireland**

Where the salary/wages of a foreign embassy employee working in the State (generally, non-diplomatic staff) is within the charge to tax in the State, by virtue of his/her employment being exercised here, such employee may be granted the PAYE tax credit against the tax due on such emoluments notwithstanding that the PAYE system of tax deduction was not applied to his/her salary/wages.