PAYE Settlement Agreements

Part 42-04-73

This document should be read in conjunction with section 985B of the Taxes Consolidation Act 1997

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1 Overview

Section 985B Taxes Consolidation Act (TCA) 1997 sets out how employers may make an application to Revenue to pay the income tax, USC and PRSI arising on certain benefits provided to employees, which are both minor and irregular and for which the employer would otherwise have to deduct the tax from the earnings of the employees through the normal PAYE system. This is known as a PAYE Settlement Agreement (PSA).

Where the employer pays the tax on behalf of the employees under a PSA with Revenue, those benefits will not be included in the monthly payroll returns of the employer. The benefits will also not form part of the employees' total income and the employees will not be entitled to credit for, or repayment of, the tax accounted for under this agreement.

2 What can be included in a PSA?

Qualifying emoluments for the purposes of section 985B TCA 1997 means emoluments other than in the form of money which are:

- **minor** in value, and
- **irregular** in their frequency.

Where a benefit is provided to an employee that does not meet the above conditions, then income tax, USC and PRSI are chargeable on the benefit to that employee and the notional pay arising from such a benefit should be processed through payroll in line with the normal reporting procedures set out in Chapter 4 of Part 42 of the TCA 1997 and the associated regulations issued thereunder.

Where an employer wishes to enter into a PSA with Revenue, they must apply in writing to Revenue via My Enquiries by 31 December of the year of assessment. Upon receipt of the application for a PSA, Revenue will request the necessary details of: the benefits provided, the details in relation to the employees who received the benefits and the income tax, USC and PRSI payable on behalf of its employees, from the employer.

If the tax which is payable under the PSA for the year of assessment is not paid to Revenue within 23 days of the end of the year of assessment, then the PSA is null and void and the benefits provided must be processed through payroll by including them ed in the employer PAYE return for each period in which the benefits were provided to each recipient employee.

3 Calculation of the tax to be settled via the PSA

In order to calculate the income tax, USC and PRSI payable on the taxable benefits provided to the employees, the amount of the benefit provided must be increased to include the income tax[1] which would have been payable if the benefit had been processed via payroll. The increased benefit is often referred to as the 'grossed-up amount'. The methodology for calculating the grossed-up amount is outlined in Step 1 of Example 1 below.

Section 985B(4) and (5) TCA 1997 set out the methodology for calculating the grossed-up amount of the benefits provided to employees for the PSA computation.

The employer must:

1. Calculate the aggregate amount of the minor and irregular benefits provided in the tax year to be included in the PSA,
2. Identify the total number of employees who received these minor and irregular benefits during the tax year,
3. From the total number of the employees established in step 2, identify employees who are chargeable to income tax:
    a. Only at the standard rate for the tax year, and
    b. At both the standard rate and the higher rate for that tax year.

The benefit provided to the employee should be included when considering whether the employee is taxable at the standard rate of income tax or has moved to the higher rate of income tax.

Once the amount of the qualifying benefits, total number of recipient employees, the number of employees chargeable to income tax at the standard rate only, and the number of employees chargeable to income tax at both the standard rate and higher rate are identified, the grossed-up amount can be calculated.

[1] USC and PRSI are not included for the purposes of calculating the 'grossed-up amount' upon which the tax, USC and PRSI are calculated.

Example 1

ABC Ltd employs 125 people. During the 2024 tax year, ABC Ltd, provided minor and irregular benefits totalling €50,000 in value to all 125 employees equally. The employer has identified that 75 employees were chargeable to income tax at the standard rate only while 50 employees were chargeable to income tax at both the standard and higher rate of tax for 2024.

Minor and irregular non-cash benefits provided during 2024	**Benefits attributable to each employee**
€50,000	€50,000 / 125 employees = €400 each

Step 1 – Calculate the grossed-up amount of the benefits provided:

Employee Group	**Number of employees**	**Tax Rate**	**Taxable Benefit**
Employees at Standard rate tax	75	20%	(€400 / 80) x 100 = €500
Employees at Higher rate tax	50	40%	(€400 / 60) x 100 = €666.67
Employees at Standard rate tax	75		(€500 x 75) = €37,500
Employees at Higher rate tax	50		(€666.67 x 50) = €33,333.50
Total grossed-up benefits provided	125		€70,833.50

Step 2 – Calculate the income tax, USC and PRSI payable under the PSA. To note, section 13(10)a)(i) of the Social Welfare Consolidation Act (SWCA) 2005 and section 4(14) of the National Training Fund Act (NTFA) 2000 provide that the specified rate to be applied on a PSA is 14.95%[2] from 1 October 2024.

Employee Group	**Tax**	**Tax Rate**	**Taxable benefit**	**Tax Liability**
Employees at Standard rate tax	Income Tax	20%	€37,500	€7,500
Employees at Higher rate tax	Income Tax	40%	€33,333.50	€13,333.40
Total Income Tax				€20,833.40
Employees at Standard rate tax – (4% x 75 employees)	USC	4%	€37,500	€1,500
Employees at Higher rate tax – (8% x 50 employees)	USC	8%	€33,333.50	€2,666.68
Total USC				€4,166.68
Composite rate (14.95% x 125 employees)	PRSI	14.95%	€70,833.50	€10,589.61
Total Income tax, USC and PRSI payable under the PSA				**€35,589.69**

[2] Please refer to page 62 of the Social Welfare Consolidation Act 2005 available here for the specified PRSI rate and section 4(14) of the National Training Fund Act 2000 available here for the National Training Fund Levy to be included in the PRSI rate.

For illustrative purposes in the above example, we have assumed the following:

- that the benefits provided by the employer were enjoyed equally by all employees. If differing benefits are provided to employees, then the specific amounts of benefits attributable to each employee at the standard or higher rate of income tax should be used in the calculation of the grossed-up benefits for inclusion in the PSA.
- that the standard rate taxpayer employees are paying USC at 4%,
- that the higher rate taxpayer employees' income exceeds €70,044 so they are paying USC at 8%.

When calculating the USC arising on the qualifying benefits employers should ensure each employee's correct USC band is proportionally applied in the computation for the PSA.

3.1 Small Benefit Exemption

As noted in paragraph 1, a PSA facilitates an employer paying tax due on employee benefits that are minor and irregular. PSA arrangements do not apply to relevant incentives that are exempt from tax by virtue of section 112B TCA 1997 (small benefit exemption or SBE).

Where **all** of the conditions of section 112B TCA 1997 are met, a voucher or benefit is a qualifying incentive and is exempt from tax. A small benefit to which section 112B TCA 1997 applies, is a reportable benefit for the purposes of enhanced reporting requirements ('ERR') as provided for by section 897C TCA 1997.

When a qualifying incentive, as defined by section 112B TCA 1997, is exempt from tax, an employer cannot opt to tax that qualifying incentive in order to facilitate an employee availing of the SBE later in the year when further benefits are granted. Equally an employer cannot opt to bypass the SBE and include a qualifying incentive in a PSA at the end of the year.

The provisions of section 112B TCA 1997 and section 897C TCA 1997 do not impact the operation of PSA's. They are unrelated concepts, in that:

(1) The SBE provides for relevant incentives to be made **without the deduction of tax** and to be reported under ERR on or before the incentive is granted; and

(2) PSAs relate to **taxable payments** that are both minor and irregular.

Guidance on the small benefit exemption is available in Tax and Duty Manual (TDM) Part 05-01-01e - Chapter 5 - The Small Benefit Exemption (SBE), and guidance on ERR is available in TDM Part 38-03-33 - Returns by Employers in Relation to Reportable Benefits – Enhanced Reporting Requirements.

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