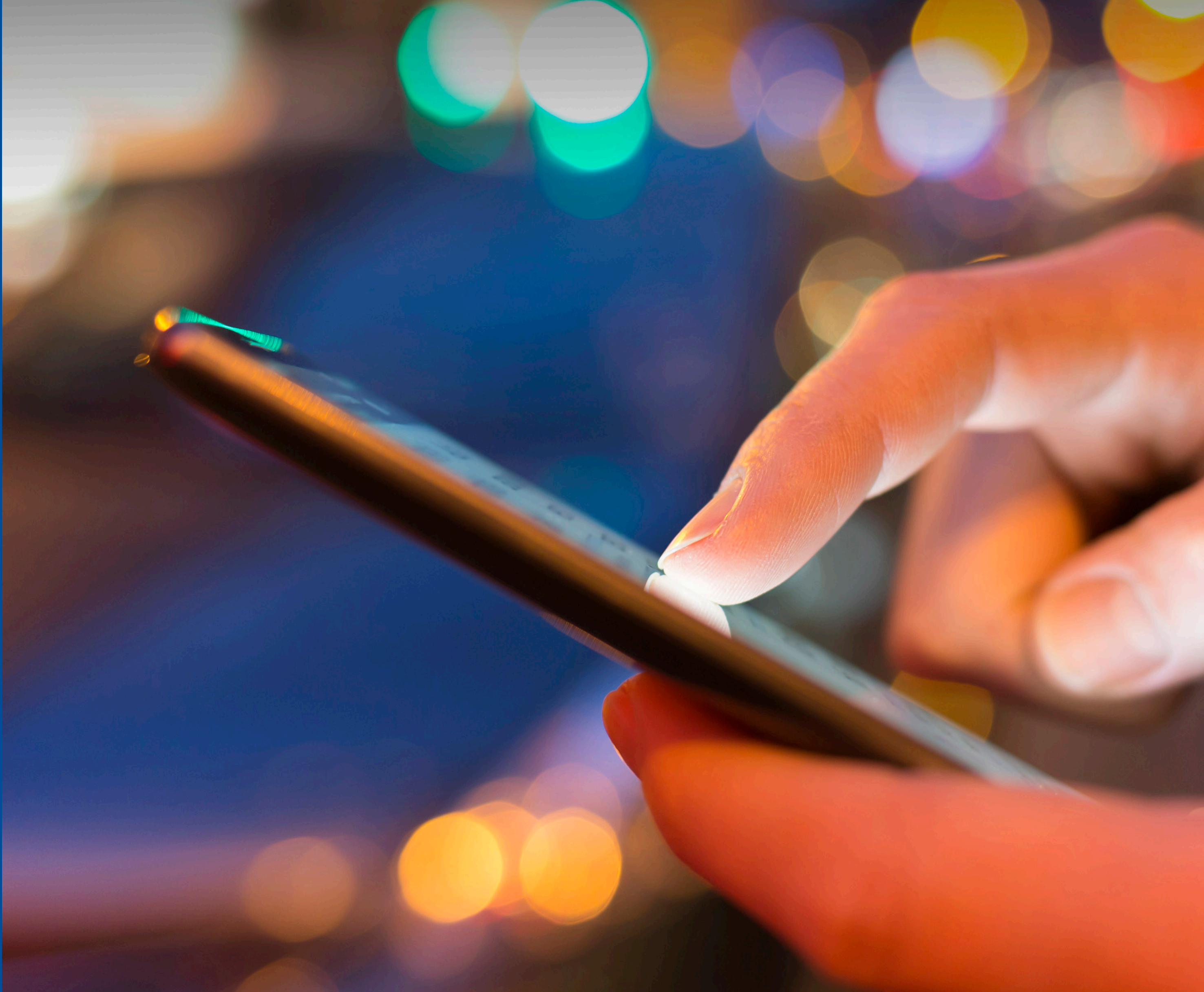
PAYE system modernisation

KPMG's response to Revenue consultation

12 December 2016



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12 December

Dear Sir/Madam

KPMG's response to Revenue's consultation regarding the modernisation of the Pay As You Earn (PAYE) system

KPMG welcomes the opportunity to respond to the Revenue's request for submissions regarding its public consultation on the modernisation of the PAYE system. Our response is set out in this document.

The planned modernisation of Ireland's PAYE system is one of the most significant developments in Irish tax administration, potentially affecting over 200,000 employers and over 2.5 million employees and pensioners. The successful implementation of this project undoubtedly affords an opportunity to enhance the efficiencies of administration of the current system. The modernisation effort will lead to additional implementation costs for employers. If efficiencies can be realised upon implementation and the related benefits understood and experienced by payroll service providers and employers, we foresee that the modernisation effort could benefit from a positive momentum and support for change from the business community.

As with any project of this size and complexity, there are areas where we consider a higher risk of implementation failure could adversely affect the potential benefits for business and thereby reduce the overall effectiveness of the modernisation effort. Our submission focuses on these areas and includes suggested approaches to reduce the risk of failure in these areas which could undermine the success of the project as a whole. We have also made suggestions where we consider that the new system could streamline existing processes and provide greater administrative ease for employers and Revenue alike.

We hope that you find our response useful as you continue to develop and roll out PAYE Modernisation.

If follow up is required, the points of contact for KPMG in relation to this submission are **Conor O'Brien** and **Billy Burke**.

Yours faithfully

Conor O'Brien,

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Executive Summary

This is KPMG's response to Revenue's public consultation dated 11 October 2016 on the modernisation of the PAYE system. We are responding in our capacity as tax practitioners, payroll service provider and as an advisor to corporate groups with a diverse range of remuneration policies as well as mobile employees.

Through our global network of employment tax specialists, KPMG has first-hand experience of the operation of real-time payroll information (RTI) in other countries. We have drawn on these insights and experience in framing our response to this consultation.

We have also taken soundings from clients of different sizes in Ireland which operate a variety of payroll systems and adopt a diverse range of employee remuneration policies. This feedback has assisted us in identifying areas of practical concern for employers.

In framing our recommendations, KPMG's response focuses on **three aspects of the consultation:**

1. The development of the new system - the roll out process

We believe our recommendations, if adopted, will deepen the engagement of different stakeholders in making the project a success, provide insights from different perspectives that provide a basis to better balance the costs that will be incurred by employers with the benefits that can arise from the move to a streamlined system that is best in class and provide a basis for a timely and successful roll out.

KPMG's recommendations address:

- ✓ Flexibility of timetable to implementation
- ✓ Establishment of a project review team involving multiple stakeholders
- ✓ Use of a pilot scheme
- ✓ Communication and a lead in period
- ✓ Advance training of Revenue support team as well as payroll service providers and tax practitioners
- ✓ Phased implementation

2. The development of the new system - recommended design features

KPMG considers that the new PAYE system should be designed so as to:

- Encourage and support timely input of internally generated and correct information by employers for the complete population of employees and
- Minimise the risk of delays in obtaining relevant information or the introduction of errors from sources external to the employer – whether Revenue or other government agencies.

KPMG's recommendations on the design features of the system address:

- ✓ Timing of data input by employers
- ✓ Leavers and joiners - getting a clear cut off
- ✓ Interaction with other systems
- ✓ Interaction with other government agencies
- ✓ Need for agent access
- ✓ Clear audit trail of information uploads and changes required
- ✓ Correction of payroll errors by employers
- ✓ Confidentiality and multiple payrolls

"Additional complexities arise where Irish PAYE requirements interact with international tax obligations for mobile employees"

3. Operation of the system

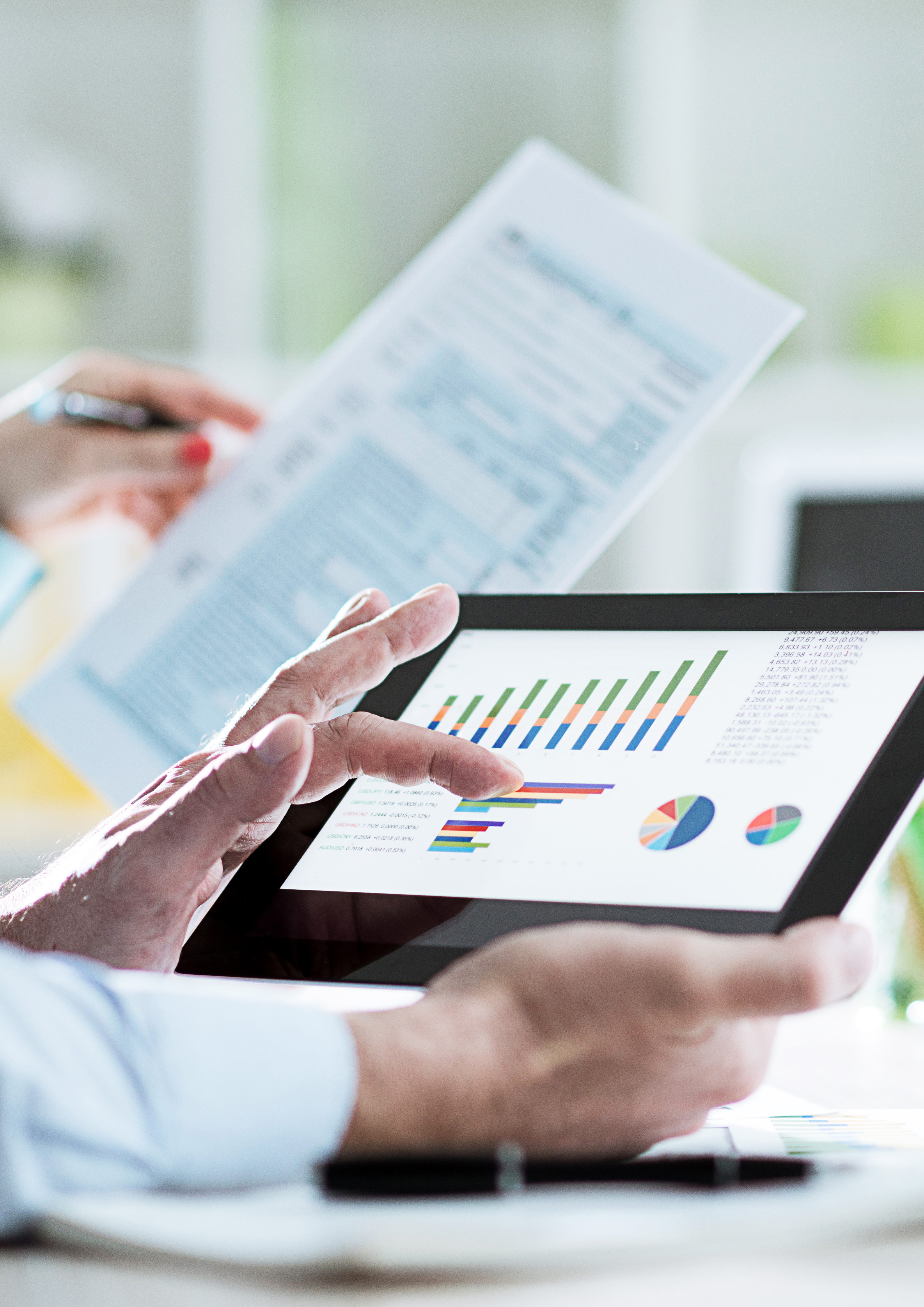
In the third and final part of this submission, KPMG has reviewed the range of pay structures and employee benefits that we find amongst our clients. We have tested these against our understanding of the operating framework of the new system and found that the types of pay and benefits delivered by Irish based employers appear to break down into three categories:

✓ (i) Cash based remuneration and benefits where the amount of the employer expenditure is the taxable amount. For these types of remuneration, we anticipate that **employers should be in a position to upload real-time information** into the new system on a timely basis

✓ (ii) Variable pay awards (dependent on cumulative results over a period), benefits where market benchmarks can result in fluctuating taxable benefits over the period and ad hoc payments where the final taxable amount varies depending on relief eligibility. For these types of remuneration, **we recommend that employers should be afforded greater time to collate the underlying data and upload it**

✓ (iii) Other benefits where the final taxable amount or relief available is dependent on the outturn for the taxable year as a whole. For these types of remuneration, we recommend **either a once off adjustment for the final period of the year or that consideration is given in tandem with the operational design of the new system to make a tax policy choice to redesign the taxable measure of the benefit/relief** to simplify the calculation of tax in a manner which is aligned with the new system

Finally, we have reviewed the unique mix of issues that can arise in the payroll arrangements of **employers with a population of mobile employees**. Additional complexities arise where the operation of Irish PAYE requirements interacts with international tax requirements such as a change in an individual's tax residence status, tax treaty reliefs and operation of payrolls where the individual is paid in non-euro currencies and at foreign paypoints. Applying the categories at (ii) and (iii) above, we have recommended approaches to address the unique challenges presented by the payroll practices relevant to these employee populations.



Background and context

KPMG is responding to this public consultation in our capacity as tax practitioners, payroll service provider and as an advisor to corporate groups which adopt a diverse range of remuneration policies as well as groups with populations of mobile employees.

As part of our engagement with clients as Ireland's largest tax practice, we advise on all aspects of PAYE ranging from local payroll services (provided by our client payroll team) through to the complexities that arise in employment taxes associated with cross border assignments of employees.

Through our global network of employment tax specialists, KPMG has first-hand experience of the operation of real-time payroll information (RTI) in other countries. We have drawn on these insights and experience in framing our responses to this consultation on the implementation of PAYE Modernisation in Ireland. In particular, we have taken soundings from our colleagues operating in the United Kingdom (UK) and used their feedback from their experience of the adoption of RTI in the UK. Some of the challenges still faced by business in operating the RTI regime in the UK are highlighted in a submission to HMRC by ICAEW[1] in April 2016. We have reviewed the issues raised in this submission based on the current Irish regime and our understanding of the design framework for the new Irish system and considered how these issues might be addressed in advance in both the roll out process and in design features that could be incorporated in the Irish system.

We have also taken soundings from clients of different sizes in Ireland which operate a variety of payroll systems and adopt a diverse range of employee remuneration policies. A number of these clients expressed an interest in feeding into this response.

Based on soundings taken from our clients, we have identified the following areas as representing the most common areas of interest and concern on the part of employers:

(a) The application and fit of the new system to;

- a. the pay of both employees and pensioners
- b. the full range of employee benefits e.g. healthcare, company cars and shares schemes, and
- c. globally mobile work forces, e.g. shadow payrolls, tax equalised assignees, etc.

(b) The fit with existing employer payroll systems (many systems combine in-house processes and external payroll providers) and the extent to which existing employer payroll processes will need to be changed to meet the requirements of the new system

(c) The interaction of the new system with procedures operated by government agencies other than Revenue e.g. the Department of Social Protection (DSP)

(d) Understanding the benefits to employers that can be delivered by the modernisation of the system. This is important in counterbalancing the costs of the changes which will be borne by employers.

[1] https://ion.icaew.com/taxfaculty/b/weblog/posts/paye-in-real-time-post-implementation-review . The main issue highlighted is "inaccurate processing by HMRC of employer-submitted RTI data, leading to HMRC's records containing incorrect figures for liabilities and payments which result in many man hours spent unproductively by HMRC, employers and employees, agents and PAYE bureaux in chasing apparent underpayments, resolving disputed charges and unexplained entries on HMRC's employer PAYE accounts, and correcting code numbers.

1. Development of the system - roll out process

There are a number of factors that we believe are critical in the successful roll out and implementation of a modernised PAYE system.

We believe our recommendations, if adopted, will deepen the engagement of different stakeholders in making the project a success, provide insights from different perspectives that provide a basis to better balance the costs that will be incurred by employers with the benefits that can arise from the move to a streamlined system that is best in class and provide a basis for a timely and successful roll out.

Flexibility of timetable to implementation ☑

The consultation suggests that the planned timetable is to implement the modernised system from 1 January 2019. Given the extent of change required to existing employer payroll systems to meet the outlined requirements of the new system and the time necessary to put in place new processes, test them and train users on their operation, we have concerns that this could prove a challenging timetable for adoption by even the most sophisticated of employers. This is simply because payroll requirements touch on all divisions in a business and are therefore likely to require the involvement of a much wider cohort of persons than, for example, changes to VAT administration or corporation tax administration.

The consultation paper highlights the potential benefits to individual PAYE taxpayers in being able to access and change PAYE related information in real-time. Given that this could affect 2.5 million employees and pensioners, this is a very welcome change of the system's capability BUT the very powerful potential impact that this extent of reach affords conversely poses the greatest threat to success from an employer's perspective. If a payroll system has errors or issues on implementation, the day-to-day impact is felt across the business. Time and effort spent in resolving errors in a system that affects the pay of each person in an organisation is extremely costly from a business perspective.

In the UK, HMRC launched their consultation on RTI in 2010 with rollout only beginning on a phased basis in 2013. Notwithstanding this length of pre-adoption consultation and the narrower scope of application of RTI in the UK (it does not extend to benefits), feedback from business organisations and tax practitioners in the UK suggests that ongoing problems encountered with RTI arise because:

a) it was introduced too early,
b) identified issues were not addressed,
c) issues were not identified, or
d) a combination of the above.

The above suggests that introducing the new Irish system from 1 January 2019 across the entire population of employers might not be achievable without significant risk of errors undermining the success of the project. We recommend that during the period of review and preparation for rollout, flexibility in timetable for rollout is retained and the possibility is kept open of:

- deferring implementation if testing on pilot taxpayers does not provide satisfactory results
- deferring implementation for smaller employers.

In our suggestions below, we have sought to identify issues which we consider, if addressed by Revenue, could deal with the deficiencies that have created the greatest day-to-day difficulties faced by business in the implementation of RTI in the UK.

If additional time is required to address these issues, we strongly recommend that time is taken so as to launch and implement the system with the degree of hoped for success.

Establish a project review team involving multiple stakeholders ☑

We recommend that a joint working group comprising Revenue officials, employer representatives, tax professionals and payroll operators be set up to review and address issues surrounding planning for implementation and to resolve post implementation issues. This is to provide for the best opportunity to identify and address in advance issues that could affect the success of implementation and to resolve as speedily as possible post implementation issues.

This review team could operate in a manner similar to TALC (or perhaps under the auspices of TALC) with its objective being to oversee the efficient roll out of PAYE Modernisation. This would give stakeholders a properly organised forum where issues can be discussed.

Use a pilot scheme ☑

Prior to full implementation of UK RTI, the RTI system was piloted by approximately 10 employers including the NHS and the Post Office for one tax year. We recommend that the Irish Revenue take a similar approach.

We suggest that the new PAYE scheme should be piloted by two large government departments and two large State bodies on the basis that these should give a sample employee population with a broad scope of pay structures, part-time and full-time employees as well as a range of allowances and benefits. The pilot might also be extended to employers in the private sector. Here, we suggest that pilot scheme participants might usefully include employers offering a diverse range of benefits as well as those with mobile employees.

Success in the pilot stage across a varied population of employees should give greater confidence to Revenue and employers alike that the design of the new system will cope with their pay structures and employee populations.

The pilot scheme should effectively operate as a parallel run of the participating employer's current payroll. Identified issues could be considered by the review team with follow up during the post pilot period to assess if the issues have been satisfactorily addressed before implementation across the general population of employers

Communication and lead in period ☑

Once a pilot scheme has been completed, we recommend that there is a lead in period of at least six months during which time details of the new system are published with detailed guidance, online videos and demos, Revenue roadshows and helplines being available to enable users to familiarise themselves with the system.

As is the case with current Revenue best practice, there should also be a detailed set of Frequently Asked Questions (FAQs) available for review by both employers and agents which is updated in a timely manner to address issues emerging as employers raise questions on their preparation for adoption.

Advance training of Revenue support and other stakeholders ☑

Strong upfront support from Revenue personnel who have had in-depth training on the new PAYE system will play an important role in a successful rollout. Where there is a high calibre of support with in-depth coverage on employer helplines/online customer support, etc. this should serve to address the challenges faced by employers in adapting to the changes presented by the new system.

Perceived lack of support and inadequate training on the part of HMRC personnel to deal with RTI rollout in the UK was a common complaint of employers. It appears from this experience that many HMRC officials only received training after the roll out of the RTI system.

In planning training for employers, we further recommend that Revenue think also of the wider group of payroll providers and tax agents who – with advance training - could also provide useful avenues of support for employers faced with this change.

"Success in the pilot stage across a varied population of employees should give greater confidence to Revenue"

Phased implementation

We have suggested above that flexibility in the timetable for implementation is something which should be factored into planning. We recommend that consideration is given at an early stage to introduction of the new PAYE system on a phased basis, similar to the introduction of other requirements such as online filing for self-assessed taxpayers and the requirement for companies to prepare financial statements in iXBRL.

While the new PAYE system is likely to involve additional costs (both in time and money terms) to all employers, the proportionate impact of the cost of transition is likely to be greatest for small/micro businesses. A phased introduction with deferral of adoption for small/micro businesses could be useful both to allow initial focus of Revenue resources on the smaller number of large employers and to give small/micro businesses additional time to finance the costs of transition and to change their systems and train staff, etc.

Summary of recommendations:

- Flexibility of timetable to implementation
- Communication and lead in period
- Establish a project review team involving multiple stakeholders
- Advance training of Revenue support and other stakeholders
- Use a pilot scheme
- Phased implementation

2. Development of the system – design features

The effective working of a real-time and modern system for PAYE is wholly dependent on the timely input of correct data into the system. The system should be designed so as to:

- encourage and support timely input of internally generated and correct information by employers for the complete population of employees
- minimise the risk of delays in obtaining relevant information or the corruption or introduction of errors from sources external to the employer – whether Revenue or other government agencies.

Feedback from the UK experience of dealing with the rollout of RTI in the UK was that undue time has been consumed by business in dealing with unexplained errors and discrepancies in payroll data in the RTI system. The recommendations we have made below seek to identify and address those areas where we believe that by:

- adopting the right balance in timing of data input
- streamlining processes where there is greatest risk of delays and errors arising from external inputs, and
- creating a transparent record of changes made to data within the system

many of the issues that have arisen in other system's implementation of RTI could be addressed in the design of the new Irish system.

Timing of data input by employers ☑

The most important aspect in operating the new system will be that employers are given time to get the input data right.

We recommend that payroll information need not be submitted until at least five working days after the date of payment.

We acknowledge that there is a balance to be struck in setting a standard for timely input of information and allowing an appropriate amount of time for employers to run controls and checks that the internally generated information is accurate and complete. We recommend erring on the side of allowing employers time to complete and validate information. In simple terms, it is easier to deal with once off complexity when routine information is accurate and time is not consumed in dealing with erroneous data.

Leavers and joiners – getting a clear cut off ☑

Paragraph 2.1 of the consultation document suggests that the new system will provide that employee 'leavers' will be reported to Revenue when the employer prepares payroll for the month and new employee 'joiners' will be reported to Revenue before their first pay day.

We can foresee that there could be an overlap between these populations of employees which could result in 'cut off' errors and duplicate data. We recommend that further consideration is given to the design of the cut off points for 'leavers and joiners' so as to minimise insofar as possible the risk of error. In the proposed design we believe that there is a risk that an employee could find that there are insufficient tax credits taken into account in the last payroll run of the old employer.

Based on our discussions with KPMG colleagues in the UK, the most common errors in dealing with populations of employees that are already within the UK tax system arise where employees move from one employer to another. We recommend that 'leavers and joiners' should be an area of focus and testing in the design of the new system. Getting this right would address the most common area of complexity and error for the most straightforward payroll structures.

Interaction with other systems ☑

The new Revenue system must be compatible with other systems such as payroll software and other systems from which the Revenue operating system should be capable of downloading information. We understand that Revenue is separately working closely with the Payroll Service Providers Association (PSPA) to provide them with the briefing necessary to initiate work on design of payroll software to support the new system.

We recommend that in addition to this bilateral cooperation between Revenue and the PSPA that the PSPA should also engage with Revenue in a forum which include agents and employer representatives so as to have the benefit of these wider insights in designing and testing the related software.

Interaction with other government agencies ☑

At present, there are a number of points of interaction between the PAYE system and Department of Social Protection (DSP). Given the ambitious timelines that have been set for the operation of RTI, it is important that data which is provided by DSP is integrated seamlessly into the modernised PAYE system.

We have described below a number of points of interaction between the PAYE system and DSP that give rise to issues under the current PAYE system. We recommend that these should be expressly included in the design of a modernised PAYE system in order to incorporate data currently provided by DSP.

(a) PPS number applications. If the responsibility for issue of PPS numbers continues to rest with DSP, the system should accommodate an immediate upload of PPS numbers from the DSP system to the new Revenue system.

This is of particular relevance for new arrivals into the country (discussed in detail below) who cannot submit certain information until their PPS applications have been processed e.g. registration as an employee.

An approach that the UK has adopted to meet the needs of businesses with a large population of mobile employees is the Trusted Employers regime. Under this regime, certain employers are authorised to apply for a UK National Insurance Number (NINO) on behalf of an individual. We recommend that if the authority to issue PPS numbers continues to rest with DSP that a similar authorisation regime might be put in place in Ireland. This could reduce the risk of employer default arising due to delays in the issue of a PPS number by DSP.

The risk of inappropriate release of PPS numbers could be managed by putting in place controls and safeguards with loss of authorisation status for employers which fail to meet the standards for continued status as a Trusted Employer.

(b) Under the current regime, employers must operate PAYE in respect of certain DSP payments, e.g. illness benefit. In many cases, there is a time delay in the DSP taking the steps to ensure that the employer ROS inbox contains the relevant details to allow the employer to deduct the appropriate amount of PAYE from the payment. These can be exacerbated by delays in communicating the information in the ROS inbox to the team processing the payroll, in particular where an employer outsources the payroll. The new system should provide for direct communication by the DSP to Revenue to facilitate all taxable social welfare benefits being coded to tax credit certificates.

(c) The new system should be designed with the capability of handling various issues involved in the operation of social security. Where the DSP has issued certificates of coverage, certificates of retention or A1 certificates, this information together with expiry dates should be accessible through the new Revenue system.

Confidentiality and multiple payrolls ☑

Payroll data can by its very nature be sensitive information within an organisation. Many employers have separate payrolls to facilitate retention of confidentiality on payroll data for different groups of employees.

It is expected that the new system will of course protect the confidentiality of taxpayer information allowing online access to an employee only to information relevant to that employee.

In addition, we recommend from the employer's perspective that the design of the system accommodates the following flexibilities:

- Employers can group and view information on multiple payrolls from a single ROS administrator certificate. A group payroll department or an external payroll provider may run several different payrolls within the same group of companies
- Employers can maintain separate ROS certifications (with different approved access) for different payrolls – to accommodate confidentiality on different payrolls.

Clear audit trail of information uploads and changes required ☑

We also recommend that thought is given to designing the system so that it is possible to record and trace records of changes made to data within the system. This is to facilitate the identification of the source of error or data discrepancy within the system. This should include:

- Retention of a copy of sent email communications or system uploads (to allow identification and comparison of source inputs with subsequent data to better identify the source of errors)
- Design of data display to allow clear identification of existing amounts on record in the system and changes required by the employer
- Consistency of view of data to those accessing the system

Adoption of these design features would avoid the type of issues still encountered by business in the UK system as highlighted in an ICAEW submission this year:

- Not all HMRC staff can see the same figures as one another on HMRC's employer PAYE accounts
- Earlier year updates (EYU), which are akin to the Irish P35 amendment, must show the amounts by which HMRC's figures should be changed rather than the correct figures, involving employers having to find out what figures HMRC has on its records.

Correction of payroll errors by employers ☑

It is common for payroll processors to make administrative errors, e.g. incorrect input of a salary or a bonus figure. Under the current system, the employer effectively has until the 23rd of the month following the payroll date to rectify PAYE amounts.

There must be a facility to allow for human error. The system should allow for payroll errors to be rectified. For example, if an employee is inadvertently overpaid, a subsequent reduction in cumulative pay during a year should enable the associated tax overpayments to be recouped through the PAYE system.

Need for agent access ☑

In the current system, employers, payroll agents and tax advisors cannot access many client records such as DSP notifications and PAYE registrations. This lack of access has been highlighted by operational difficulties in meeting the recently introduced requirement that an individual must use the myAccount facility instead of the paper Form 12A (see eBrief No. 92/2016). Agents, payroll operators and employers have no ability to correct an employee's tax credit certificate through either ROS or myAccount. The new system should facilitate interested parties having access to enable the correct tax credits to apply and the correct level of tax to be deducted. Not having such access is an administrative barrier to the correct operation of payroll.

☑ Summary of recommendations:

- Timing of data input by employers
- Leavers and joiners – getting a clear cut off
- Interaction with other systems
- Interaction with other government agencies
- Confidentiality and multiple payrolls
- Clear audit trail of information uploads and changes required
- Correction of payroll errors by employers
- Need for agent access

3. Operation of the System

Pay elements

KPMG has reviewed the range of pay structures and employee benefits that we find amongst our clients.

We have tested these against our understanding of the operating framework of the new system and found that the types of pay and benefits delivered by Irish based employers appear to break down into three categories:

(i) Cash based remuneration and benefits where the amount of the employer expenditure is the taxable amount. For these types of remuneration, we anticipate that generally accepted standards of record keeping and controls over payroll records should allow employers to record and upload real-time information into the new system on a timely basis

(ii) Variable pay awards (dependent on cumulative results over a period), benefits where market benchmarks can result in fluctuating taxable benefits over the period and ad hoc payments where the final taxable amount varies depending on relief eligibility. For these types of remuneration, the greater complexity of calculation of the taxable amount suggests that employers should be afforded greater time to collect and collate the underlying data and correctly calculate the taxable amount before uploading the data into the system

(iii) Other benefits where the final taxable amount or relief available is dependent on the outturn for the taxable year as a whole. For these types of remuneration, we recommend either a once off adjustment for the final period of the year or that consideration is given in tandem with the operational design of the new system to a policy choice of redesigning the taxable measure of the benefit/relief to simplify the calculation of tax within the framework of the new system

Our findings are summarised in tabular form in the following pages.

Mobile employees

Finally, we have reviewed the unique mix of issues that can arise in the payroll arrangements of employers with a population of mobile employees. Additional complexities arise where the operation of Irish PAYE requirements interacts with international tax requirements such as a change in an individual's tax residence status, tax treaty reliefs and operation of payrolls where the individual is paid in non-euro currencies and at foreign paypoints. Applying the categories at (ii) and (iii) above, we have recommended approaches to address the unique challenges presented by the payroll practices relevant to these employee populations.

Given Ireland's tax policy focus on remaining a competitive location for foreign direct investment, it is important that Ireland is not seen globally as being a difficult environment to operate in from an administrative perspective.

Our findings in this part of the document are broken down between:

(i) International relocations to Ireland

(ii) Business travellers and

(iii) International relocations from Ireland.

3.1 Pay elements

Item	RTI appropriate	Appropriate with minor adjustments	Currently not appropriate	Comments
Regular cash pay items, e.g. salary, overtime, bonus, car allowance, etc.	✓			Note 1
Non-complicated benefits-in-kind, e.g. company vans, free use of accommodation, free use of other assets, medical insurance, etc.	✓			Note 2
Company cars			✓	Note 3
Preferential loans		✓		Note 4
Approved salary sacrifice schemes, e.g. travel pass and bike to work schemes	✓			Note 2
Share based remuneration		✓		Note 5
Termination payments		✓		Note 6

Note 1: Cash pay items

For these types of remuneration, we anticipate that generally accepted standards of record keeping and controls over payroll records should allow employers to record and upload real-time information into the new system on a timely basis.

Note 2: Non-complicated benefits-in-kind (BIKs) and approved salary sacrifice schemes

Similar to cash pay, the employer should have details to hand to process non-complicated benefits-in-kind such as those listed in the above table.

Note 3: Company cars

The modernisation of the PAYE system could be an opportunity to consider from a tax policy perspective if there is merit in redesigning the currently complex provisions to measure the taxable benefit-in-kind (BIK) from the provision of company cars so as to better align the current provisions with a real-time information system.

Employers have been operating PAYE and PRSI on the benefits arising from company provided cars since 1 January 2004. In our experience, this is one of the most complicated areas for employers given the business mileage reduction incorporated into the BIK calculation. While the calculation itself is not complicated, the fact that there are so many variables to take into account means it can be difficult for employers to monitor that the correct amount is collected over time, in particular for those who have a large fleet of company vehicles.

As mileage can fluctuate throughout the year, most employers will perform a year end reconciliation to adjust the final taxable amount based on annual mileage records. In the event that business mileage is higher than anticipated, the BIK charge for the year will be reduced. Under the current cumulative PAYE system, such a reduction in taxable income would generate a PAYE refund to the employee.

Other countries have adopted different approaches to measuring the BIK from a company car which may merit review from a tax policy perspective to assess if a revised measure might be more easily operated and aligned with the new system. Approaches used by other countries include BIK based on CO2 emissions and fuel type.

Ireland could consider a flat rate charge with the employee entitled to make an online claim to reduce the charge for business mileage.

Note 4: Preferential loans

Fluctuating loan balances can mean a delay in calculating employee BIK on preferential loans.

We recommend that the tax on such fluctuating BIKs be collected in the following month's payroll, or that the information be submitted one month following the month's payroll so as to allow the taxable amount to be accurately calculated.

Note 5: Share based remuneration

Since 1 January 2011, Irish employers have been collecting PAYE on certain share based remuneration.

This can be complex for the following reasons:

(a) The share transactions are often dealt with by teams outside Ireland e.g. in the case of shares in a foreign parent and the Irish payroll team might not have access to the transaction details in real-time

(b) In the case of multinational employers, the transactions are often in foreign currencies and must be translated into euro at the relevant date in order to estimate the Irish taxable amount in euro

(c) The earliest that data can be available is the vesting date as it is not possible to prepare calculations in advance of knowing the foreign currency exchange rate and market value of the shares on the relevant date

(d) Many employees will opt to "sell" part of their shares received in order to meet their income tax liability on the share award and this requires a further calculation of taxable amount.

Given the complexities involved in reporting share based remuneration, we recommend that employers are afforded a period of at least two months to process PAYE on share based remuneration.

Note 6: Termination payments

The calculation of the taxable sum arising on a termination payment can involve collecting additional data in order to determine if certain reliefs are available to reduce the taxable sum upon termination. This can include data on the amount of prior termination payment receipts as well as prior years' remuneration and pension entitlements of the individual.

In order to provide adequate time for the employer to correctly calculate the taxable sum, we recommend that the taxable date should be at least one month from the termination date.

3.2 Mobile employees

In the sections below, we have reviewed the unique mix of issues that can arise in the payroll arrangements of employers with a population of mobile employees.

Additional complexities arise where the operation of Irish PAYE requirements interacts with international tax requirements. We have recommended approaches to address the unique challenges presented by the payroll practices relevant to these employee populations.

Given Ireland's tax policy focus on remaining a competitive location for attracting foreign direct investment, it is important that Ireland's modernised PAYE system can be seen to be equally fit for purpose in handling mobile employees.

3.2.1 Inbound/relocations to Ireland

Tax equalisation/tax protection

KPMG conducts an annual survey of the remuneration practices of companies that operate internationally (multinational corporations or MNCs). In our 2016 survey, we found that 83% of MNCs operate tax equalisation practices whereby they compensate an employee on assignment from the 'home' base by adjusting the after tax amount of their pay to that which they would have received in their 'home' jurisdiction.[2]

From the employer perspective, gross up calculations are often required to ensure that the employee is left in a tax neutral position, i.e. similar to the "stay at home position" or that they are not adversely affected from a tax perspective by moving to Ireland.

Complicated calculations can be required to facilitate a company's tax equalisation policy. This can be relevant whether the employee is paid in Ireland or abroad.

We recommend that tax equalised/tax protected individuals be kept outside the scope of RTI type requirements and that details for such employees are filed annually after the year end once the position has been finalised.

We believe that this should also reduce the administrative burden for Revenue as compared to the current position for these employees which currently requires processing of adjustments for the tax returns filed by expatriates.

We recommend that this treatment should include the following:

(a) Individuals on assignment to Ireland who are paid outside Ireland, and

(b) Individuals who have a tax equalisation/protection element to their remuneration package.

Special Assignee Relief Program (SARP)

With the exception of tax equalised cases, we expect that the new system should have the capability of operating SARP in real time.

We recommend that this should also facilitate the making of employer notifications through the system.

This would enhance the operational efficiency of the relief for employees on assignment.

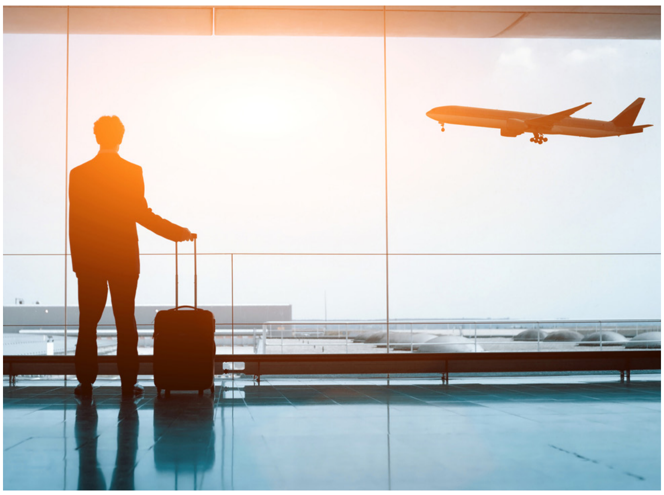
(a) Current payroll systems do not facilitate the calculation of SARP.

We recommend that this capacity is included in the new system.

For example, difficulties were encountered in the preparation of 2015 tax returns where an individual arrived in Ireland during the tax year and qualified for SARP. This was because ROS currently is unable to process SARP on an apportioned basis to deal with new arrivals during the year i.e. where the €75,000 threshold which applies for a full year has to be time apportioned to the period of time spent in Ireland.

(b) **We recommend** that the new system facilitates an employer notification of the employee's entitlement to claim SARP through the system.

(c) **We also recommend** that the annual employer return is facilitated through the new system.



2. https://assets.kpmg.com/content/dam/kpmg/xx/pdf/2016/10/global-assignment-policies-and-practices-survey-2016.pdf

3.2.2 Outbound – relocations from Ireland

One of the challenges faced by employers (and by Revenue in auditing payroll taxes) is ensuring that there is a complete record of mobile employees, especially where some employees may be temporarily outside the scope of PAYE because of time spent on assignment outside Ireland.

We recommend that the new system can accommodate and 'flag' employees who are temporarily outside the scope of Irish tax by reason of foreign assignments.

We also recommend that the range of existing clearances and reliefs applicable to those employees can be notified and claimed by employers through the operation of the system.

This should provide a basis for employers and Revenue alike to have a clearer view of the complete population of such employees and to better manage the payroll tax obligations of those employees.

PAYE exclusion orders (PEOs)

We recommend that the new system should have the capability of allowing employers apply for and track PEOs for outbound employees.

A1 Certificates/Certificates of Coverage/Certificates of Retention

Mobile employees on temporary assignment can, in many cases, remain within the scope of their 'home' jurisdiction social security regime.

As explored earlier in this submission, **we recommend** that the new system should be designed to interact with and retrieve information from the DSP system.

In the case of mobile employees, we recommend that this should include tracking social security certificates so that the employer can automatically determine whether the employee is within the Irish social security system, i.e. subject to PRSI.

Foreign tax credits

There are cases where individuals go abroad on assignment but retain their status as Irish resident individuals subject to tax both in Ireland (by reason of residence) and in the jurisdiction where they are assigned because of the exercise of their duties there. Relief from this possible double taxation is provided by crediting the foreign tax against Irish tax due on the income.

A new process for allowing a credit through the PAYE system for non-refundable foreign tax was introduced in December 2015 as outlined in Revenue eBrief 119/2015.[3] The conditions to be satisfied for operation of the relief are difficult to meet in practice and application must be made on a case by case basis.

We recommend that the new system is designed to accommodate real-time foreign tax credit relief and its application through payroll where credit relief is due under a double taxation agreement.

3.2.3 Business Travellers

This category of employees includes employees on both Irish and foreign employment contracts who travel outside Ireland to a significant extent in the course of the exercise of their employment duties.

PAYE clearance

Where certain conditions are met, an employer can claim an exemption from the operation of PAYE in respect of employees of foreign entities who are exercising the duties of a foreign employment in Ireland for a limited period of time, i.e. between 60 and 183 days in any 12 month period.

The current Revenue practice is to grant these PAYE clearances on a case by case basis.

One of the conditions required to obtain the clearance is that the application is made within 21 days of the employee first taking up duties in Ireland. This condition can be difficult to meet as, at this point, the employer might not know if the employee will exercise duties in Ireland for more than 60 days.

Where the clearance is not granted, this gives rise to additional administrative complexity in affording the tax relief due to the employee under the relevant double taxation agreement as the only manner of relief is to process a PAYE refund claim at the end of the year.

We recommend that consideration is given in designing the new system to meet the requirements of mobile employees that consideration is given to adopting an approach that is similar to the Short Term Business Visitor Agreement in the UK.

Under this regime, if the employer signs up to an agreement with Revenue, they can self-assess whether a double tax agreement exemption is available throughout the year and submit an annual report to Revenue with details of inbound assignees/visitors following the year-end. Adoption of this type of approach would seem to be aligned with the general framework of the new system and should afford significant time savings for both employers and for Revenue in relation to these populations of employees. The link to HMRC guidance is attached.[4]

3. http://www.revenue.ie/en/practitioner/ebrief/archive/2015/no-1192015.html
4. https://www.gov.uk/hmrc-internal-manuals/paye-manual/paye82000

Notes

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