



PAYE Modernisation
Revenue Commissioners
By email: payemodernisation@revenue.ie

12 December 2016

Our ref: ACB/DOY/JEW

Dear Sir/Madam

Subject: PAYE Modernisation – Public Consultation Paper

We are writing to you in response to your invitation for submissions regarding the modernisation of the Pay As You Earn (PAYE) system.

PwC is the largest professional services firm in Ireland. We provide assurance, tax and advisory services to a broad range of organisations, from Irish plcs, large domestic corporations and multinational groups operating in Ireland, to private businesses, the public sector and not-for-profit organisations. We are also a leading payroll services provider. The clients we advise share a common objective – to pay their employees accurately, on time and in compliance with their employer payroll obligations.

We welcome the opportunity to engage with Revenue on the modernisation of the PAYE system and we support Revenue's commitment to engage directly with relevant representative bodies as the detailed arrangements underpinning PAYE modernisation are being developed. Ongoing engagement will be critical to developing a practicable and efficient regime, while at the same time minimising additional costs for businesses.

Modernisation and real time reporting

The modernisation of the PAYE system proposed by Revenue in its consultation document involves the introduction of real time reporting (RTR) for employers. There are limited details available in relation to the mechanics and associated operational aspects of the regime at this point. However, we understand that, with effect from 1 January 2019, it is intended that employers will report pay, tax and other deductions to Revenue, as well as details of any employees leaving the employment, at the same time as they run their payroll.

While RTR follows the path taken by the UK in April 2013 with the introduction of Real Time Information (RTI), it is worth noting that the Irish system, as proposed, would appear to be more extensive than the current UK model in a number of ways. Additionally, the application of payroll

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taxes to the taxable value of benefits-in-kind and other non-cash benefits provided to employees is stricter in Ireland than in the UK.

Revenue's consultation document envisages that Forms P30 and P35 as well as P45s, P46s and P60s will be eliminated under the modernised PAYE system. The UK, in implementing RTI, recognised the need to be appropriately flexible regarding the provisions of RTI (for instance, retaining Forms P60 and P45) and we would encourage Irish Revenue to adopt a similarly practical approach.

Our submission focuses on the challenges and obstacles for employers in implementing and operating a system of RTR in Ireland. We have also set out below a number of recommendations in relation to how Revenue could support employers in preparing for this significant change. Our recommendations will develop over time as the details surrounding the introduction and implementation of RTR in Ireland become clearer.

Implementation of RTR – challenges and obstacles

A key tenet of Revenue's *Customer Engagement Strategy 2015* is a reduction in the administrative burden on its customers.

In the World Bank's recently published report *Doing Business 2017*, Ireland ranked 5th in the world for ease of paying taxes. One of the key metrics of this global ranking is the administrative burden placed on employers with regard to paying and filing employer payroll and social security returns.

While Revenue's consultation document on PAYE modernisation envisages that RTR will indeed reduce administration for employers, the work required by employers to prepare for the implementation of RTR on 1 January 2019 should not be underestimated. It will also be very important that the introduction and operation of RTR does not damage Ireland's strong record of facilitating taxpayers' transactions and interactions with Revenue.

We have set out below the main time and cost burdens which are likely to arise for employers in getting ready for RTR.

Systems and processes

In preparing for the introduction of RTR, employers will need to review HR, financial, reward and payroll systems and processes. They will need to map their information flows and business resources to ensure that they will be able to make their submissions accurately and on time. This will be critical for all employers, including those who outsource their payroll to a payroll service provider. The requisite systems review will come at a cost. For example, companies may have to upgrade software, develop new payroll procedures, train staff and communicate with employees.

Data quality and cleansing

Accurate employee data and consistency across all systems will be fundamental to making a successful real time report. The data will need to be presented in a format which is compatible with Revenue's own systems and matches with Government records. As a result, employee personal data and its format will need to be validated by employers.



It is crucial that Revenue define, as soon as possible, the data items that will be required under RTR. In this regard, we welcomed the advance notice provided by eBrief No. 93/16 of the additional information which will need to be disclosed in the Form P35 for 2017 onwards.

In keeping with the overall objective of reducing administrative burdens, we recommend that Revenue minimises additional data requirements in relation to collection and reporting by employers under the proposed RTR regime. Furthermore, sufficient advance notice of any additional data which will be reported under RTR must be given to employers during the preparatory period to 1 January 2019.

Below is a list of data items which caused delays in the acceptance by HMRC of RTI full payment submissions from employers:

- Ineligible characters e.g. hyphens in employee names, as with double barreled names;
- Matching employee names across different IT systems;
- Abbreviations of names e.g. Liz instead of Elizabeth, Tom instead of Thomas;
- Gaps in address fields and problems with houses which had names rather than numbers;
- Temporary and incorrect/invalid National Insurance Numbers.

These indicate the criticality of Revenue providing timely guidance in relation to any format requirements which will apply to RTR data.

In order to support employers with data validation, Revenue may wish to consider conducting a data alignment process similar to that run in the UK. Every PAYE scheme in the UK passed through a data alignment process as a first step toward moving towards RTI. The objective of such an alignment programme by Revenue would be to enable employers and Revenue to check the format of information held and minimise discrepancies between the two sets of records to avoid data processing difficulties.

Software

From a software perspective, employers will need to discuss the requirements of RTR with their payroll software suppliers. Software functionality may need to be enhanced to enable the extraction of the relevant information from employers' systems at the time a payment is made. We note from the consultation document, that Revenue is committed to engaging early and proactively with software providers. This will be essential to the success of this modernisation project.

Operation of RTR – challenges and obstacles

- **Tax challenges and obstacles**

Shadow Payroll

Revenue should confirm if employers will be subject to the same RTR obligations in respect of all employees, including assignees, those on foreign contracts of employment and business travellers. This is important as these categories of employees may pose particular challenges for employers in complying with RTR.

Many employers with internationally mobile employees engage third party vendors to deliver and manage employee benefits, such as relocation services and subsistence expenses. Information on the benefits provided would typically be provided by the vendor to the employer at various stages



throughout the year. On receipt of the information, employers identify the taxable value of benefits provided to employees and process this through payroll accordingly.

Unless the system of RTR to be introduced in Ireland allows for a measure of flexibility, particularly in respect of internationally mobile employees, there is a significant risk of employers with mobile workforces finding themselves in breach of RTR requirements. In the UK, HMRC has recognised the challenge faced by employers with internationally mobile employees and permits the reporting of Modified PAYE scheme payroll information by employers later than for other payrolls.

Currently P30s are due for filing up to 23rd of the month following salary payment. We recommend that timelines for reporting for internationally mobile employees are not reduced from this date under the RTR system. During the period between payroll processing and reporting to Revenue via the P30, employers have an opportunity to evaluate employees' presence in Ireland, gather home country remuneration data and accurately calculate the Irish tax payable as a result of the performance of duties of foreign employments in Ireland. Clarification is required from Revenue as to how the practical challenges faced by such employers will be addressed under Ireland's proposed RTR regime.

Benefits in Kind and Taxable Expenses

PAYE, PRSI and USC have applied to taxable benefits in Ireland since 1 January 2004. Many employers have implemented systems which track benefits provided to employees to ensure that the correct amount of tax is withheld through the PAYE system. However, with the proposed introduction of RTR in Ireland, it is important to note that the tracking of such benefits on a real time basis may not be possible in all situations, in particular where companies have complex or innovative compensation and benefit structures. For example, a company may outsource expense reimbursement to a third party vendor. The third party vendor may only report to the company a month in arrears or on a quarterly basis.

The preparation of the annual P35 is currently used by employers as an opportunity to adjust any PAYE that might have been over or underpaid throughout the year. We recommend that current year reconciliations be permitted in Ireland under the proposed system of RTR and that employers are still given the facility to amend the PAYE position at year end, should this be required. We understand that the Dutch RTR system permits employers to make amendments/adjustments in year. It would be important that penalties would not apply in such situations provided the adjustment is made during the tax year.

We would also recommend that the P60 is kept in its electronic form to enable employees to understand their total earnings and deductions for a year. In this regard, we note that, notwithstanding the UK's overhaul of its PAYE system a number of years ago, HMRC retained a Payment Summary which is similar to the P60.

Companies, often multinationals, who operate share schemes / RSU schemes may face particular challenges under a system of RTR. These schemes are typically global programmes and tend to be administered centrally (e.g. through a dedicated stock administration unit) or by an outsourced service provider.

Given the complexity for employers of frequent stock awards and vestings, especially across multiple territories, reporting on such schemes is usually circa one month in arrears. This means that, while employees will receive stock / trigger the taxable event on a given date, it will typically be the case that these awards cannot be processed through payroll until the following month. There needs to be a



recognition of the fact that, where employers have comprehensive tracking and reporting processes that facilitate the compliant accounting for all taxes due, they will not be penalised where “live” real time reporting is not possible for the practical reasons outlined.

To the extent that the introduction of proposed RTR will require amendments to PAYE regulations or to legislation, we recommend that drafts of proposed amendments are made available as soon as possible for review and consideration by stakeholders, including tax agents, representative bodies and employers.

- **Practical challenges and obstacles**

It is important that Revenue plan for the practical challenges which employers will face when operating under a system of RTR.

We acknowledge some of the potential benefits which Revenue has outlined in the consultation document. However, these benefits will apply mostly to medium to large employers of staff employed in Ireland.

For example, RTR will make it more difficult for a new employer to achieve Irish payroll processing and reporting compliance. A new employer – either a new company in Ireland or a foreign employer required to register for PAYE in Ireland – will need to register with Revenue. The PAYE registration may not be in place in sufficient time to allow for RTR reporting. It will be necessary for Revenue to support RTR payroll processing by employers whose registrations may not be activated in time, and for there to be grace periods from penalties and interest in the case of legitimate delays in reporting to Revenue.

Likewise, it will be important for Revenue to take account of scenarios where individuals may not yet have a PPS Number (PPSN) or may not have provided it to their employer. We are also conscious that Revenue may not have full visibility of the time lag that can arise in obtaining a PPSN given that this is managed by the Department of Social Protection. We recommend that the current option available to employers of using an individual's date of birth is retained in circumstances where a payroll is being run but the employer has not been provided with the individual's PPSN.

Revenue should also provide for a measure of flexibility within the RTR system to account for the fact that, due to timing issues, it can sometimes be impossible for employers to determine, with certainty and in the pay period, the amount of tax credit which will ultimately be due to an employee. Currently such credits are applied based on the best estimate available of the foreign tax – generally based on the foreign payroll withholding tax amount. For example, where a foreign tax credit has been claimed via payroll in Ireland on a best estimate basis and subsequent foreign jurisdiction calculations identify that an excess of tax relief was received in Ireland or too little relief was claimed, this is currently resolved via the individual's Irish tax return. Employers should not be penalised in either of these circumstances where they apply the best estimate available in their RTR and payroll for the relevant period.

It will also be critical that employers' tax agents are able to have full access to relevant records. Employers, agents and Revenue should be able to view the same information and agents should have access to full functionality in the RTR system. This should ensure that errors are minimised and that queries raised by Revenue are promptly resolved. Additionally, we recommend Revenue take this opportunity to enhance access functionality so that employers can select different levels of access for agents, employees etc.

It will be important for Revenue to provide clarity, as soon as possible, on how practical details such as nil P30s would be addressed under the proposed RTR regime. Additionally, we hope that Revenue will avail of the opportunity afforded by RTR system developments to address known inconsistencies in the current system and fix a number of employer return reporting anomalies. For example, where an



employee is on a PAYE Exclusion Order, it is necessary to enter a value for taxable pay and USC, even though these values should strictly speaking be "€0".

Currently, employers whose total PAYE and PRSI payments for the year are less than a set *de minimus* amount may return their PAYE and PRSI payments on a quarterly rather than a monthly basis. It will be crucial, particularly for employers with only a small number of employees in Ireland, that provisions for quarterly remittances continue to be available under RTR. Similarly, some employers settle amounts due to Revenue via direct debit. We would expect that such provisions would continue to apply under the new RTR system. It would also be helpful to have confirmation from Revenue how settlements under Section 985B will be handled in an RTR regime.

Moreover, following the introduction of RTR in 2019, we presume employers will continue to be entitled to avail of self-correction provisions for P35s submitted in prior years, as allowed for in the Revenue Audit Code of Practice. It would be helpful to understand from Revenue how adjustments and corrections in year and post year end will be handled in a new RTR system.

The proposal that employees would be able to make claims during the year for reliefs currently claimed at the end of the year is welcome. However confirmation should be provided by Revenue as to whether such a claim would adjust the employee credits or trigger a cash refund. If the former, employers would have to check changes to employees' credits in order to calculate the correct PAYE. This would place a large and additional burden on employers. In addition, in the event that errors arise in making a claim by an employee (whether the error is made by the employee or Revenue) it will be important for employers to have clarity around who will be accountable for fixing these errors.

Timetable for introduction of RTR

Piloting of the regime

Following the current period of consultation, Revenue's timetable for PAYE modernisation should incorporate a pilot phase to allow a period of time to test the processes and optimise the support to be provided for businesses.

In the UK, RTI was piloted in three phases between April 2012 and March 2013. The Real Time Information Pilot report produced by HMRC describes the pilot as '*a crucial stage in the preparation for RTI*', and lists the benefits as follows:

[The pilot] enabled HMRC to fully test the RTI process, prior to full roll out, by identifying and resolving problems, and anticipating risks and issues. Overall, the pilot boosted confidence that the process worked well and provided evidence that it would reduce administration burdens for employers'. Gov.UK – research and analysis – The Real Time Information Pilot 18 July 2013

A similar approach to piloting RTR would be beneficial in Ireland to ensure that the system is designed, to the greatest extent possible, around how businesses operate.

RTR on a phased basis

With the introduction of mandatory e-filing and iXBRL, Revenue has proved that a staged approach to large scale change is effective. HMRC phased the introduction of RTI, with those employers who chose not to join the pilot being mandated to join RTI between April and October 2013.



We would envisage employers in Ireland joining RTR progressively, subject to successful reviews at each stage. This would allow for real-time monitoring of go-live criteria and for issues to be addressed in a controlled manner.

Revenue support

Ongoing Revenue support and education for employers will be critical to the successful implementation of RTR. Measures will need to be put in place to support the RTR migration process and prepare for the main roll out. In addition, an extensive communication and consultation campaign will be key to ensuring RTR awareness and readiness. Revenue might consider implementing, the following initiatives in order to assist employers:

- communication and guidance including webinars and roadshows;
- the set-up of a dedicated RTR customer advice team; and
- the training of contingency staff on help lines and online.

We recommend that Revenue also consider technical support likely to be required for small businesses. In this regard, we note that HMRC provided micro employers with a free software product for RTI reporting.

It will also be essential for Revenue to plan ongoing support, such as manual reporting forms and liaison support for customers without reliable internet access who are eligible to avail of an exclusion from the obligation to pay and file electronically.

Additionally, the new system will trigger increased engagement by employees with Revenue. Revenue should ensure that it can meet this demand for support.

Implications of non-compliance

Detailed guidance and communication will be required from Revenue in relation to the consequences of non-compliance. Such guidance should include:

- Circumstances which will trigger a penalty;
- Exclusions from penalties;
- Possible 'grace periods';
- Quantum and calculation of penalties;
- Appeals procedures; and
- How penalties may apply to companies which have other payroll frequencies (weekly, biweekly).

In introducing the RTI regime in the UK, HMRC delayed the introduction of penalties. Likewise, employers were afforded a grace period in respect of penalties (albeit informally) when PAYE withholding was introduced for benefits-in-kind in Ireland. We would expect a similar approach to be adopted in relation to the introduction of RTR in Ireland. Furthermore, in certain overseas territories where Irish subsidiaries are headquartered, the word 'penalty' can be perceived very negatively regardless of the quantum of penalty. Perhaps Revenue might consider an alternative word for very minor infringements of monthly payroll processes.

Conclusion

In conclusion, we would like to thank Revenue for the opportunity to put forward our thoughts via this public consultation process. We note Revenue's intention to engage directly with relevant



representative bodies and we would welcome the opportunity to participate on an ongoing basis in this process.

Please do not hesitate to contact Doone O'Doherty on (01) 792 6593 or doone.odoherty@ie.pwc.com should you have any queries in regard to the above.

Yours faithfully

A handwritten signature in black ink that reads 'Pádraig Ó Dooherty'. The signature is written in a cursive style with a large initial 'P'.

PwC