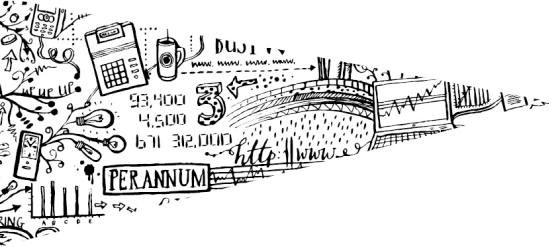


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Tax alert Ireland

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Application of PAYE to director's remuneration

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The Revenue Commissioners recently issued guidance notes ([Tax Briefing 06/2011](#) - <http://www.revenue.ie/en/practitioner/tax-briefing/2011/no-062011.html>) concerning the tax treatment of director's remuneration and the application of PAYE to such income, particularly in cases where the director's services are provided through a service company.

The guidance note states that in general, there is a requirement to deduct PAYE from payments made to directors of Irish registered companies in respect of their services. The guidance also states that where the remuneration is mandated, allocated to, directed or otherwise paid over to a third party, including a service company, that the fee remains liable to income tax and that PAYE must be deducted accordingly.

Separately from the Revenue Tax Briefing, the Central Bank of Ireland has stated that it expects that directors of Collective Investment Schemes and other regulated entities will be appointed in a personal capacity and that it will not approve arrangements whereby directors of such entities are contracted via a conduit company or other third party.

Taxation of director's remuneration generally

The guidance restates the accepted position that remuneration paid in respect of a directorship of an Irish incorporated company is within the scope of income tax, (and accordingly Universal Social Charge and PRSI), and that tax must be withheld under the PAYE system. This remains the case even if the director is not resident in Ireland for tax purposes, unless the charge to Irish tax is relieved by the provisions of a double taxation agreement.

Directors provided by service companies

The briefing also addresses the situation where an individual who acts as a director provides his or her services via a personal service company. The Revenue's stated position is that where an individual is entitled to receive a fee in his or her capacity as a director of a company, but the fee is mandated, allocated, directed, routed to, or otherwise paid to a company or other third party, the payer is still obliged to deduct tax from the payment under PAYE, notwithstanding that the fee is paid to the service company and not the individual. This position may or may not be applicable depending on the particular circumstances.

Some exceptions to the above position are made for professional partnerships of solicitors or accountants which supply partners to act as directors of client companies, where the fee is received by the partnership rather than the individual. In such cases application must be made to Revenue for the issue of a PAYE Exclusion Order to permit the fees to continue to be paid gross.

Action required

The obligation to apply PAYE lies with the party making the payment and in the event that PAYE is not deducted, it is the payer who will be held liable for any amounts of PAYE due, but not deducted. Companies should therefore review the arrangements under which they currently make payments to, or in respect of directors to confirm that they are compliant with PAYE obligations, having regard to the Revenue position set out in Tax Briefing 06/2011. Where director's remuneration is subjected to PAYE, VAT should not be applied.

Collective Investment Schemes and other regulated entities should also review their arrangements in light of the Central Bank's pronouncement and ensure that they are compliant with these requirements.

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