Moving to Ireland

Overview of the Irish Income Tax Implications

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Introduction

The below information provides a brief summary of the Irish income tax rules that apply to an individual moving to Ireland with specific regard to receipt of employment income during this period. This document is for information purposes only and does not purport to represent legal or taxation advice.

In general, the criteria used to determine an individual's liability to Irish income tax on his/her employment income (hereafter referred to as his/her **"remuneration"**) are his/her residence, ordinary residence and domicile status.

1. Fundamental Concepts – Residence, Ordinary Residence and Domicile

Please note that for the purposes of the below a tax year for Irish income tax purposes is aligned with the normal calendar year (i.e. the tax year 2012 refers to the period 1 January 2012 to 31 December 2012).

1.1. Irish Resident

An individual will be regarded as being resident in Ireland for a tax year if he/she is present in Ireland: (1) for a period of at least 183 days in that tax year; or (2) for a period of at least 280 days in any two consecutive tax years, provided that the individual is present in Ireland for at least 31 days in each period. In determining days present in Ireland, an individual is deemed to be present if he/she is in Ireland at any time during the day.

It is possible for an individual who is not tax resident in the year of arrival in Ireland (i.e. he/she does not meet the above condition of Irish tax residence) to elect to be Irish tax resident for that year. Certain conditions must be met for this election to be utilised, for example, the individual must be able to evidence to the satisfaction of the Irish Revenue Commissioners that he/she will be Irish tax resident in the following tax year.

1.2. Ordinarily Resident in Ireland

An individual will be regarded as ordinarily resident for a particular tax year if he/she has been Irish resident for the three previous consecutive tax years (i.e. he/she becomes ordinarily resident with effect from the commencement of the fourth tax year). An individual will remain ordinarily resident in Ireland until he/she has been non-Irish resident for three consecutive tax years. Thus, an individual who is resident and ordinarily resident in Ireland in the tax year 1 January 2012 to 31 December 2012 and departs from Ireland in that tax year will remain ordinarily resident up to the end of the tax year 1 January 2015 to 31 December 2015.

1.3. Irish Domicile

Domicile is a concept of general law. It may, broadly speaking, be interpreted as meaning residence in a particular country with the intention of residing permanently in that country. Every individual acquires a domicile of origin at birth, usually that of his/her father. A domicile of origin will remain with an individual until such time as a new domicile of choice is acquired. However, before that domicile of origin can be discarded, there has to be clear evidence that the individual has demonstrated a positive intention of permanent residence in the new country and has abandoned the idea of ever returning to live in the "domicile of origin" country. For example, an individual with an Irish domicile of origin who lives abroad for a number of years and then returns to Ireland would not be regarded as ever having abandoned his/her Irish domicile of origin.

2. Tax Treatment for Irish Resident Individuals

An individual who is tax resident in Ireland for a tax year is liable to Irish tax on his or her worldwide income and gains for that tax year. In this way, he/she will be subject to Irish income tax in respect of his/her employment remuneration regardless of where the duties are performed (however, please see below regarding special rules for “year of arrival” and “remittance basis” for non-domiciled individuals). Where appropriate, a credit against Irish tax may be due under the terms of a double taxation agreement in respect of foreign tax paid on foreign source income and gains that are assessable here.

2.1. Year of Arrival

It is possible for an individual who is resident in Ireland (i.e. he/she meets the condition of Irish tax residence in Section 1.1) for the year of arrival to not be taxed on remuneration from an employment exercised outside Ireland in the part of the year before he/she arrived in Ireland. For this to apply, certain conditions must be met - including that the individual must be able to evidence to the satisfaction of the Irish Revenue Commissioners that he/she will be Irish tax resident in the following tax year.

2.2. Non-domiciled individuals and the remittance basis of assessment

The remittance basis of assessment applies to foreign sourced income and foreign capital gains of an individual who although tax resident in Ireland for a tax year is not Irish domiciled for that tax year. Under the remittance basis of assessment, the non-Irish income and gains are taxable only to the extent that they are remitted to Ireland.

However, such an individual will still be liable to Irish income tax in any event on all remuneration derived from an Irish employment and will be liable to Irish income tax on remuneration derived from non-Irish employment to the extent that duties of the employment are performed in Ireland (or where the income from the non-Irish employment, the duties of which are not performed in Ireland, are remitted to Ireland).

3. Tax Treatment for Non-Resident Individuals

3.1. Individual is Non-Resident but is Ordinarily Resident in Ireland

Such an individual is treated in the same way as an individual who is tax resident (as above). However, he/she will not be taxable on remuneration from an employment (or from income derived from a trade or profession) exercised wholly abroad. He/she will also not be taxed on any other foreign source income to the extent that it does not exceed €3,810 in any given tax year.

The individual in question may be entitled to any reliefs (including credit for foreign tax paid) that may be due under the terms of a double taxation agreement.

3.2. Individual is Neither Resident nor Ordinarily Resident in Ireland

Such an individual, for that tax year, is generally taxable in Ireland on all of his/her Irish source income including the income from an Irish public office (see Section 6) and remuneration derived from any employment (or income derived from a trade or profession) exercised in Ireland.

Where such an individual has income or gains subject to Irish tax, he/she may be entitled to any reliefs (including credit for foreign tax paid) that may be due under the terms of a double taxation agreement.

3.3. Individual is Neither Resident nor Ordinarily Resident in Ireland nor Domiciled in Ireland

Similar to 3.2 above save for certain gains.

4. Potential Relief from Income Tax in respect of Temporary Assignees to Ireland

Subject to certain conditions being met there are potential reliefs from the application of Irish income tax for a non-resident individual in receipt of employment remuneration which would otherwise be subject to Irish income tax. In broad overview, these are as follows;

a) Short term business visits to Ireland of not more than 60 working days in any given tax year by an individual that is resident in a country with which Ireland has a Double Taxation Agreement. An application to the Irish Revenue Commissioners is required for this to apply.
b) Business visits to Ireland of not more than 183 days in any given tax year by an individual that is resident in a country with which Ireland has a Double Taxation Agreement. It is also necessary that there is an obligation to make deductions at source from that individual's salary / wages under both the Irish income tax system and a foreign tax deduction system simultaneously. No application to the Irish Revenue Commissioners is required for this to apply.
c) Short term business visits to Ireland of not more than 30 working days in any given tax year by an individual that is resident in a country with which Ireland has **not** a Double Taxation Agreement. No application to the Irish Revenue Commissioners is required for this to apply.

As noted above, there are a number of conditions to be met before any of these reliefs will apply.

5. Special Assignee Relief Programme

Finance Act 2012 introduced a new relief for certain international assignees coming to Ireland - referred to as the Special Assignee Relief Programme (the SARP). It is the intention of the SARP to entice key foreign directors and employees to Ireland by providing very favourable tax treatment on employment income thereby facilitating foreign direct investment.

In general overview, the SARP works by providing an income tax relief on a proportion of income earned by an individual who qualifies for the relief and who is assigned by their employer to work in Ireland for that employer or an associated company of that employer (i.e. a company that is controlled by / controls the employer company or both companies are controlled by the same persons). In this way, it is possible for an individual who is assigned to work for an Irish associated company to qualify for the relief.
In addition an individual who qualifies for the SARP may also benefit from an exemption from income tax on certain benefits-in-kind (which would otherwise be taxable) such as specific travel expenses and children's education fees.

Please note that the relief does not extend to either PRSI or USC (please see Section 10 and 11 for further detail on same).

5.1 Conditions

To qualify for the SARP the individual must meet the following conditions;

(1) The individual in question must have worked as a full time employee of the employer for a whole 12 months immediately before his/her arrival in Ireland and must have exercised all the duties of his/her employment for that employer outside of Ireland.

(2) He/she must have arrived (or arrive) in Ireland in any of the tax years 2012, 2013 or 2014 at the request of his employer to perform the duties of his/her employment in Ireland for that employer or for an associated company (as defined above).

(3) He/she must perform the duties of this employment in Ireland for a minimum period of 12 consecutive months from the date he/she becomes resident in Ireland.

(4) He/she must not have been resident in Ireland for the 5 tax years immediately preceding the tax year in which he/she first arrived in Ireland to perform the above mentioned duties.

(5) The individual in question must be resident in Ireland for the tax year and not resident elsewhere (please note that Revenue Guidance in the area states that where the other jurisdiction does not

impose a residency test on the individual but imposes a citizenship test instead; then a citizen of that jurisdiction will satisfy this criterion (i.e. he/she will not be seen as resident elsewhere) and may claim the SARP - assuming that the other relevant conditions are met).

(6) The individual must have relevant income in excess of €75,000 (in broad terms, this means the employment income of the individual but excludes such amounts represented by general benefits-in-kind, bonuses or share based remuneration etc.)

Please note that the employer company must be tax resident and incorporated in a country with which Ireland has a double taxation agreement or a tax information exchange agreement.

The relief can be claimed for a maximum of 5 consecutive years (assuming that all the relevant conditions are met for each of the respective 5 years) and, as noted above, only applies to individuals who come to Ireland in 2012, 2013 or 2014.

As noted above, in order to claim the relief the individual must be resident in Ireland and not resident elsewhere for that tax year. Following from this, it is possible that an individual will not be resident in Ireland in his/her year of arrival or even if they are resident in Ireland for that year may be resident elsewhere also. In this scenario, the individual will not be entitled to claim the SARP in the year of arrival.

In this case, the individual can claim the relief in the year following the year of arrival (assuming that he/she is resident in Ireland in that tax year and not resident elsewhere and also meets the various other conditions).

The remittance basis of taxation as referred in Section 2.2 does not apply to income from the employment to which the SARP is claimed.

5.2 The Relief

Where the relevant conditions are met and the SARP applies, the individual can claim a deduction from income derived from an employment that is subject to income tax. **Fundamentally**, the deduction is calculated using the following formula;

(A – B) x 30%

Where;

A = the individual's employment income for the period less pension contributions and excluding any amount not assessable to tax in Ireland subject to a maximum of €500,000

B = is €75,000

If the individual only performs the duties of the employment for part of the tax year then A and B above are reduced proportionally. Also, if an individual performs duties of the employment outside Ireland that are not regarded as incidental duties to the employment for a tax year then A and B are again reduced proportionally.

5.3 Reporting Obligations and Claiming Procedures

A claim for the SARP to apply creates an obligation for the individual in question to file a return of income in respect of each tax year in which the relief is claimed.

In order to claim the relief the individual in question can retrospectively apply for the relief after the end of the tax year using the Form SARP 1. In this way the amount of the relief is received by way of refund. When the individual is completing the Form SARP 1 in this manner, the employer is also required to certify on the form that the individual in question meets the relevant criteria for the SARP to apply.

Alternatively, an employer (or an associated company as the case may be) can make an application for the relief to apply at source via the PAYE system (please see Section 9). In this way, the relief would be received in real-time. An employer (or an associated company as the case may be) making such an application would also do so using the Form SARP 1. This application by the employer is only required to be made once (i.e. not on a yearly basis assuming the individual continues to qualify for the relief).

In any tax year in which an employer (or an associated company as the case may be) certifies that an individual qualifies for the SARP they must make an annual return to the Irish Revenue Commissioners setting out in respect each of each relevant individual their name and PPS number and amount of income that was not deducted via the PAYE system (please see Section 9) due to the application of the SARP and must also provide details of the increase in the number of employees employed, or details of the number of employees retained by the employer (or associated company as the case may be) as a result of the assignment to Ireland of the individuals who are benefiting from the SARP.

As will be appreciated from the above, the conditions of this relief are complex and the above is only intended to provide a brief overview of the key principles and criteria. As such, specific advice should be taken in this regard.

6. Non-Resident Directors of Irish Incorporated Companies

A director (including a non-executive director and / or a non-resident director) of an Irish incorporated company holds, for taxation purposes, an Irish *public office* the remuneration (including remuneration by way of benefits-in-kind) arising from which is chargeable to income tax in Ireland irrespective of where the holder of the public office is tax resident or where the duties of that public office are exercised. However, such directorship income may, in some instances, be relieved from the charge to Irish tax under the terms of a double taxation agreement between Ireland and the country of residence of the director.

7. Allowances, Reliefs and Tax credits

Under the Irish income tax system, resident individuals are entitled to what are known as allowances or 'tax credits' that serve to reduce their income tax liabilities (Please see Appendix I for a detailed list of same).

Non-resident individuals are, in general, entitled to a proportion of allowances and tax credits with such proportion being the fraction –

$$\text{Personal Tax Credits, Allowances and Reliefs} \times \frac{\text{Irish Taxable Income}}{\text{Worldwide Income}}$$

Non-resident individuals resident in an EU Member State whose income within the charge to Irish income tax is 75% or greater of their total worldwide income may be entitled to the full amount of allowances and tax credits.

8. Taxation of Married Couples

Under the Irish tax system –

(a) where only one spouse is resident in Ireland, that spouse is treated and assessed for tax purposes as if unmarried (known as “single assessment”);
(b) where both spouses are resident here for tax purposes, the couple may elect to be taxed as single individuals or under what is known as “joint assessment” under which one spouse is assessable on the income of both spouses.

The application of the single or, alternatively, the joint assessment regime to an individual’s income has a bearing on the extent of the allowances and tax credits that are relevant to the individual. Please note that as regards (a) above, in cases where Irish Revenue Commissioners are satisfied that the non-resident spouse has no income, the couple may be afforded the benefits of being taxed as a married couple.

9. The Pay As You Earn (PAYE) System

Once it is discerned that Irish income tax applies to the individual’s employment remuneration, it is normally withheld by the payor company under the Pay As You Earn (PAYE) system.

9.1. PAYE system

The PAYE system is the statutory system used by employers for deducting and remitting to the Irish Revenue Commissioners the income tax due on employment remuneration.

In this way, where the employment remuneration of an individual is within the scope of the Irish PAYE system, employers (or other relevant persons as the case may be) must;

(a) deduct the relevant amounts of income tax due from the individual; and
(b) remit such amounts deducted to the Irish Revenue Commissioners.

A list of the applicable income tax rates and tax bands is disclosed in Appendix I.

Where Pay Related Social Insurance (PRSI) and the Universal Social Charge (USC) are due, such contributions are generally also collected under the PAYE system. Please see Sections 10 and 11 for further detail on PRSI and USC.

9.2. Registering for the PAYE system

For first time applicants to the PAYE system (e.g. employees taking up their first Irish employment), it will be necessary for that person to obtain a Personal Public Service number (PPS number) from the Department of Social Protection and then apply to the Revenue Commissioners for a determination of tax credits and rate bands that will apply to his emoluments that are within the scope of the PAYE system.

10. Universal Social Charge

The Universal Social Charge is a tax payable on gross income, including notional pay, after any relief for certain capital allowances, but before pension contributions. The relevant rates are attached in Appendix I. In general, USC is collected through the PAYE system.

11. Pay Related Social Insurance (PRSI)

Irish Social Contributions are known as Pay Related Social Insurance (PRSI). The PRSI class of the individual determines the rate at which PRSI is calculated. Ascertaining the applicable PRSI class for an individual can be complex and full details of the main contribution classes and examples of both the individuals covered by each class and the appropriate rates are available from the Department of Social Protection's website - www.welfare.ie. In general, PRSI is collected through the PAYE system.

It is possible in certain circumstances for non-Irish resident individuals to obtain an exemption from the application of Irish PRSI (the equivalent of PRSI will be applied in their country of residence).

12. Further Information

As noted previously, this document only purports to be a brief overview of the Irish income tax rules that apply to an individual moving to Ireland (with specific regard to receipt of employment remuneration). It is for information purposes only and does not represent legal or taxation advice.

Appendix I

Tax Rates and Tax Bands

Personal Circumstances	Tax Year 2012
Single, Widowed or a Surviving Civil Partner without qualifying children	€32,800 @ 20%, Balance @ 41%
Single, Widowed or a Surviving Civil Partner qualifying for One Parent Family Tax Credit	€36,800 @ 20%, Balance @ 41%
Married or in a Civil Partnership - one Spouse or Civil Partner with income	€41,800 @ 20%, Balance @ 41%
Married or in a Civil Partnership - both Spouses or Civil Partners with income	€41,800 @ 20% (with an increase of €23,800 max), Balance @ 41%

Universal Social Charge (USC)

Individual aged under 70 years	
Tax Year 2012	**Rate of USC**
Income up to €10,036.00	2%
Income from €10,036.01 to € 16,016.00	4%
Income above € 16,016.00	7%
Individual aged 70 years or over, or individual who hold a full medical card (regardless of age)	
Tax Year 2012	**Rate of USC**
Income up to €10,036.00	2%
Income from €10,036.01 to € 16,016.00	4%

USC Exempt Categories for Tax Year 2012

- Where an individual's total income for a year does not exceed €10,035
- All Department of Social Protection payments and payments similar in nature to such payments paid by other Government bodies
- Income already subjected to DIRT

There is a surcharge of 3% on individuals who have income from self-employment that exceeds €100,000 in a year, regardless of age. Thus, where such individuals are under 70 years and do not hold a **'full'** medical card, a rate of 10% applies to such income and where such individuals are aged over 70 years or hold a **'full'** medical card, a rate of 7% applies.

Exemption Limits

Personal Circumstances	Tax Year 2012
Single, Widowed or a Surviving Civil Partner 65 years of age or over	€18,000
Married or in a Civil Partnership 65 years of age or over	€36,000
Single, Widowed, a Surviving Civil Partner, Married or in a Civil Partnership 65 years of age or over additional for 1st and 2nd qualifying child	€575
Single, Widowed, a Surviving Civil Partner, Married or in a Civil Partnership 65 years of age or over additional for each subsequent qualifying child	€830
Marginal Relief Tax Rate*	40%*

*The Marginal Relief Tax Rate only applies to persons 65 years of age or over

Personal Tax Credits

Personal Circumstances	Tax Year 2012
Single Person	€1,650
Married Person or Civil Partner	€3,300
Widowed Person or Surviving Civil Partner - qualifying for One Parent Family Tax Credit	€1,650
Widowed Person or Surviving Civil Partner without qualifying children	€2,190
Widowed Person or Surviving Civil Partner in year of bereavement	€3,300
One-Parent Family Tax Credit (with qualifying child), Widowed Person or Surviving Civil Partner, Deserted, Separated, Dissolved Civil Partnership, Divorced or Single	€1,650
Widowed Person or Surviving Civil Partner Tax Credit (with qualifying child) – First Year following Bereavement	€3,600
Widowed Person or Surviving Civil Partner Tax Credit (with qualifying child) – Second Year following Bereavement	€3,150
Widowed Person or Surviving Civil Partner Tax Credit (with qualifying child) - Third Year following Bereavement	€2,700

Widowed Person or Surviving Civil Partner Tax Credit (with qualifying child) - Forth Year following Bereavement	€2,250
Widowed Person or Surviving Civil Partner Tax Credit (with qualifying child) – Fifth Year following Bereavement	€1,800
Home Carer Tax Credit (max.)	€810
PAYE Tax Credit	€1,650
Age Tax Credit if Single, Widowed or Surviving Civil Partner	€245
Age Tax Credit if Married or in a Civil Partnership	€490
Incapacitated Child	€3,300
Dependent Relative Tax Credit (See note 1)	€70
Blind Tax Credit - Single Person	€1,650
Blind Tax Credit - One Spouse or Civil Partner Blind	€1,650
Blind Tax Credit - Both Spouses or Civil Partners Blind	€3,300
Incapacitated Person - Relief for Employing a Carer	€50,000 (max)

▣ CONTACT US

Our Offices

Dublin
33 Sir John Rogerson's Quay,
Dublin 2,
Ireland.
Tel: +353 1 667 0022
Fax.: +353 1 667 0042

Cayman Islands
Landmark Square
West Bay Road
PO Box 775
Grand Cayman KY1-9006
Cayman Islands
Tel: +1 345 949 0022
Fax: +1 345 945 0042

Hong Kong
604 6F Printing House
6 Duddell Street
Central
Hong Kong
Tel: +852 3521 0352

New York
245 Park Avenue
39th Floor
New York, NY 10167
United States
Tel: +1 212 792 4166
Fax: +1 212 792 4167

Tokyo
12th Floor,
Yurakucho Itocia Building
2-7-1 Yurakucho, Chiyoda-ku
Tokyo 100-0006, Japan
Tel: +813 6860 4885
Fax: +813 6860 4501

e-mail: enquiries@dilloneustace.ie
website: www.dilloneustace.ie

Contact Points

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For more details on how we can help you, to request copies of most recent newsletters, briefings or articles, or simply to be included on our mailing list going forward, please contact any of the team members below.

David Lawless
e-mail: david.lawless@dilloneustace.ie
Tel: +353 1 667 0022
Fax: +353 1 667 0042

Sean Murray
e-mail: sean.murray@dilloneustace.ie
Tel: +353 1 667 0022
Fax: +353 1 667 0042

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