



PAYE Modernisation Consultation Paper

December 2016

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PAYE Modernisation
Revenue Commissioners
Bishop's Square
Redmond's Hill
Dublin 2

Our Ref:
12 December 2016

Dear Sir/Madam

Re: Public Consultation – PAYE Modernisation

We are pleased to submit comments on behalf of Deloitte in response to your call for input on the PAYE Modernisation. We appreciate this opportunity to share our views and trust that you will find our comments valuable to the proposed reform of the PAYE system.

In preparing this response we have considered the proposal as set out in the Public Consultation Paper - PAYE Modernisation which was issued on 11 October 2016. We have sought comments from Deloitte's own internal tax function, our consulting practitioners, our payroll service outsourcing team (both domestic and expatriate) and our clients.

We look forward to continued collaboration with Revenue on this and other tax initiatives and are available to discuss anything in this document as needed.

Yours faithfully



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Executive Summary

We very much welcome a reform of the PAYE system. We are of the view that given the changes in technology, lifestyle, and employment arrangements which have taken place since the introduction of the PAYE system in 1960 the current system does not reflect modern working relationships and a change is warranted. We therefore encourage the introduction of a new system designed to better accommodate the complexities of today's employment patterns and structures while simultaneously addressing the nuances associated with some of the more unusual payroll arrangements. We believe that the interests of smaller employers should be considered in order to ensure that any costs of implementation of the new system ("Modernised System") do not outweigh the benefits.

We understand that the ultimate objective of the proposed Modernised System is to place employers in a better position to ensure that the right tax deduction is made at the time when each staff member is being paid and to give greater certainty to employers and employees that the correct taxes are being deducted. It is anticipated that a real time reporting process between employers and Revenue will be fully integrated into the employer's payroll run, thereby contributing to a significant streamlining of business processes and reducing administrative cost for employers.

While the overall objective of the Modernised System is to be welcomed we believe it is critical that there are no cost barriers for employers arising as a result and that non-routine payroll items are considered. The key stakeholders include employers, employees, payroll software providers, payroll providers and tax agents. These stakeholders should be consulted throughout the design and implementation process. We believe this is essential to ensure that any payroll intricacies can be dealt with in real time. We take this opportunity to outline our thoughts around some of the challenges to be considered in the modernisation process.

We believe in particular that careful consideration should be given to the following throughout the design and implementation phase:

- Smaller employers and associated cost of implementation
- Year-end adjustments
- Expatriates and cross border employees
- Share based remuneration
- Employers with more than one payroll run
- Social welfare benefits
- Refunds of PAYE through ROS
- Agent access
- Penalties

In summary, we believe that a reform of the PAYE system is welcome and is required to reflect modern working arrangements. The above areas for which greater detail is set out in are our submission must be considered to allow a smooth implementation of the Modernised System. The aim must be to keep Ireland as an attractive place in which to do business for both indigenous and multinational companies and ensure that a reform does not create any undue administrative barriers for employers/employees or fail to address some of the payroll complexities we have identified.

Background

We understand that it is intended that the Modernised System will fully integrate Revenue reporting into the payroll process. This will in turn minimise employer costs of compliance as there will be an increased level of automation with regard to the generation of Revenue reports.

We understand that under the proposed plan when the employer commences a payroll run the software will link to Revenue data for the latest available employee information such as allocation of tax credits, standard rate bands etc.. This data will be used to calculate the taxes due and effectively this is a replacement for the

existing Certificate of Tax Credits/P2C updates from ROS. Once payroll is processed, the proposal is that on finalisation the payroll data will be transmitted to Revenue i.e. Revenue will see the payslip data for each employee. Revenue will subsequently send an "assessment" to the employer for the taxes payable i.e. a replacement to the existing P30 process and the employer will then make payment.

Our comments below are based on our understanding of the proposed plan as set out above.



Concerns regarding the Modernised System

We have set out below some of the main areas on which we believe particular focus should be put to ensure that the Modernised System is fit for purpose.

a) Smaller employers and associated cost of implementation

- There may be many benefits associated with the introduction of the Modernised System in particular with regard to a reduction in the level of reporting required (i.e. abolition of Forms P35, P60 etc.) and an increased level of automation. It is imperative however, that Revenue work closely with smaller employers to enable them to fulfil their reporting obligations in a cost efficient manner. There are currently circa 208,000 employers registered for PAYE in Ireland and of this amount over 50% employ 5 or less employees. Their interests should be represented throughout the design and implementation stages. It must be acknowledged that in many cases smaller employers may not have in house payroll software or engage payroll providers and therefore the Modernised System may prove to be very costly for them to implement. In order to minimise the cost burden and enable this group to remain compliant Revenue could allow access to compatible software systems through ROS.

b) Year-end adjustments

- The reporting of irregular, one-off payments through year-end

adjustments needs to be carefully considered. We would typically see employers making year-end adjustments in advance of the Form P35 deadline in order to address any taxes not previously deducted at the time of payment. Typically we would see such adjustments being made to account for changes in certain employee benefits e.g. a change in the percentage of personal use for a company car late in the year once records are reviewed. In addition, we also see year-end adjustments being required where there is an early payroll cut-off date applied in December and taxable items arise after this date such as expense claims or shares vesting. It is essential that the employers will continue to have the opportunity to make these adjustments under the Modernised System to ensure that the correct Revenue return is generated and that there is no exposure to penalties for incorrect filing or underpayment of taxes.

c) Expatriates and cross border employees

- One group of individuals which need to be considered is expatriates and cross border employees. The timing of the information regarding this group of individuals and how this interacts with the calculation of

taxes must be considered. The operation of shadow payroll often means that the foreign payroll information has to be processed before the Irish taxes payable can be calculated. In some cases this means that there is a very tight timeline between completion of the calculations and filing of the Form P30. Our understanding is that the process will be that once payroll is processed Revenue will raise an assessment for the taxes payable The Modernised System will have to carefully consider how this will work in relation to shadow payroll where the payroll is processed much later than a local Irish payroll.

- A further consideration in relation to the expatriate shadow payroll is that some companies run their local payroll to allow local employees to be paid and then subsequently open up that pay period to add in the expatriate shadow payroll details once available so that a single P30 inclusive of all taxes can be filed. The modernisation needs to consider how this would be addressed.
- The various income tax reliefs which are available for this group of employees such as SARP, Workday Relief etc. should be considered in the design phase so that these reliefs can be claimed through payroll.

Companies will often not apply Workday Relief throughout the year and adjust the shadow payroll before filing the Form P35. It is important therefore that an end of year adjustment facility is included in the Modernised System to allow for this relief to be claimed.

- For outbound assignees employers can often obtain PAYE Exclusion Orders. These forms are currently issued in paper format to the employer. It is important that the Revenue system records the exclusion order so that when payroll access Revenue's latest information to run payroll this does not override the exemption granted in a prior pay period.
- A credit for non-refundable foreign tax can be claimed through payroll as confirmed by Revenue in eBrief 119/15 for outbound assignees. While this is a welcome initiative the process through which to claim this relief adds a disproportionate administrative burden when compared to the process required to claim a real time foreign tax credit in respect of RSUs (see Section d for further commentary). The employer must, on behalf of the employee, calculate the foreign tax credit available in line with the foreign effective tax rate and an application must be made to each employee's Revenue district in order to claim this. In many cases it can take some time to get the application approved and a catch up is required on the payroll to include the foreign tax credit relating to the prior pay periods. A change to the foreign

tax credit has to be requested where the numbers change for example when a bonus is paid. We would recommend that the process should be aligned to match that required for RSUs and that the requirement to obtain Revenue approval in advance is removed. This should be considered during the design phase so that employers are encouraged to grant foreign tax credits through payroll rather than waiting for the year-end tax return which seems to be currently the case for most employees impacted.

d) Share based remuneration

- It is important to recognise that where shares are awarded to employees there will be no cash payment to match the taxable income figure included on the payslip and it would therefore be very important that the Modernised system would have the functionality to recognise this notional payment. In particular, this might be relevant in the context that the data relating to share based remuneration may be reflected on the payslip in multiple ways as different companies may have slightly different ways of presenting the data. In many cases shares will be sold to cover the withholding taxes payable. Where all the shares are sold then the proceeds net of the withholding taxes are generally paid, as a non-taxable amount, to the individual via payroll. It is important that Revenue considers how they want these items reflected if they need them reported in a specific manner.

- The real time foreign tax credit should be considered in the case of RSUs payable to cross border employees. In eBrief 69/12 Revenue confirmed that they would facilitate the granting of a real time foreign tax credit via payroll where there is a gain arising. Under the current PAYE system the employer must manually override the tax credits uploaded to their system from ROS to include this tax credit. They do this by manually increasing the tax credits and also amending employees to a week 1/month 1 basis. We understand that the tax credits for each employee will be uploaded under a new automated process which allows the payroll software to "check" with the Revenue system for the most up to date employee data. It is important therefore that the Modernised System consider how the real time FTC could be factored in as employers cannot be in a position where this interaction with the Revenue data overrides the prior adjustment and forces the employer to manually override for each pay period subsequent to initially claiming the FTC.





e) Employers with more than one payroll run

- We understand that there are a large number of employers who have more than one payroll run per month. This is something that should be considered during the design phase so that the Modernised System will have the functionality to deal with this type of a scenario and ensure that the correct taxes are calculated and deducted accordingly.

- Some employers pay different groups of employees and or different payroll runs under different PAYE numbers and again this should be factored in to the design phase.

f) Social welfare benefits

- Where certain taxable social welfare benefits are made to employees such as illness benefit there can be a gap in terms of the information available to the

employer at payroll stage. An integration between the information available to Revenue and that available to the Department of Social Protection would be essential to ensure that all taxable amounts are included and the correct taxes are deducted.

g) Refunds of PAYE through ROS

- It is not currently possible to enter a negative amount for PAYE, PRSI or USC on a Form P30. In the event of a negative amount arising generally a zero amount is included on the Form P30 and the refund amount is treated like a payment on account and carried forward for offset against tax due for subsequent periods. It would be preferable if the Modernised System addressed this to allow any refunds to be claimed in real time.

h) Agent Access

- We recognise that one of the objectives of the PAYE reform is to give the employees greater flexibility and accessibility to allow them manage their own personal tax affairs through My Account. We would strongly be in favour of allowing agents access to this information also where client authorisation has been provided. In many cases we deal with employees who may only be registering for tax in Ireland for the first time and we find ourselves in a position where we can't assist them with the initial set up process. This is certainly something which should be considered during the design and implementation phase.

i) Resources for Revenue Helpline and Revenue correspondence

- We believe that extra resources will be required to provide adequate support services for all ROS users to enable a smooth transition of the Modernised System. We have set out below some recommendations regarding the Revenue helpline and general correspondence.
 1. The query cap for tax agents should be lifted. Tax agents may have queries to address for more than one

employer/PAYE Registration number and therefore exceed the number of queries allowed per call. We understand that currently employers can only raise queries for 3 employees on behalf of an employer at a time through the PAYE helpline.

2. A central phone line for payroll agents should be introduced. This would be very helpful in particular to tax agents who deliver a service to multiple clients and may have questions of a different nature to that of internal payroll operators.
3. Staff with expatriate expertise should be recruited for the support team. In light of the increase in global employee mobility and the changing legislative backdrop in recent years and therefore we would see there being a real need for expertise in this area.
4. All Revenue correspondence should contain a client reference/PAYE Reg. number (e.g. ROS correspondence, emails and RDI P30 deduction reference for bank statements). This would be of great assistance to payroll agents who deal with multiple clients and would greatly assist with the administration.

j) Penalties

- When developing the penalty regime for incorrect returns and for payments there should be a certain level of tolerance built in to reflect the large number of data items being submitted by employers on a more frequent basis. We understand that it is intended that a statutory obligation for employers to file year end reports with Revenue (i.e. equivalent of Form 35) will be introduced. We recognise this is necessary in order to enable

Revenue enforce debt collection measures for underpayments and to introduce non-filer interventions. We are of the view however, that a transition period should be considered to allow employers sufficient time to familiarise themselves with the Modernised System.



Approach in other jurisdictions

We have considered the recent changes in the PAYE process in the UK and the implementation of Real Time Reporting (“RTI”) which came into effect in 2013. We identified both the advantages and disadvantages of RTI and outlined some of the issues that they and their clients have experienced since its introduction. Our UK colleagues assisted us with this research and shared their experiences with us.

We understand that Revenue are taking a different approach to that of the HMRC. The UK system is regarded as particularly onerous on employers particularly with regard to the restrictive nature of making year-end adjustments. We have not carried out a critical analysis or expanded on any of our other findings regarding the RTI system. We would be happy to share these insights if required.

Similarly, we understand that the New Zealand Inland Revenue (“IR”) are also currently modernising their PAYE system and streamlining the collection and calculation of PAYE and related information into business processes. They are currently in the early stages of development and have referenced a partnership with the private sector in their initial plans for reform. Given the costs associated with any PAYE modernisation and the requirement for digital expertise

in the development stage this would certainly seem to be worthy of consideration in an Irish context.

The New Zealand IR have gone beyond that of just modernising the information systems for PAYE and are addressing the PAYE rules more generally. The objective of the reform is also to ensure that the PAYE rules reflect modern employment practices. For example, one area that has been identified for review is how the PAYE rules apply to cross border employment relationships. In the longer term this may be something that Revenue could review in tandem with its PAYE modernisation to ensure that the PAYE system as a whole reflects modern working patterns.





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