



**BREAKFAST BRIEFING ON**

# **CROSS BORDER TAX & EMPLOYMENT**

**FOR WORKERS & EMPLOYERS**



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# **CROSS BORDER TAX & EMPLOYMENT**

**FOR WORKERS & EMPLOYERS**

**ANNA DOHERTY - CBPES ADVISOR**



# Cross Border Partnership for Employment Services (CBPES)

Presenter: Anna  
Doherty



## CBPES

- In 2022, the new Cross Border Partnership for Employment Services replaced the EURES Cross Border Partnership Ireland – Northern Ireland.
- CBPES covers all of Northern Ireland and the border counties of Ireland (Louth, Cavan, Monaghan, Donegal, Sligo and Leitrim).
- It has a full time co-ordinator to organise the day to day activities of the Partnership.
- CBPES Advisers are specifically trained in Cross Border affairs -At present these include reps from the Public Employment Services in DfC and DSP.



# Organisation

	Department for Communities NI	Department of Social Protection, Ireland
Londonderry Chamber of Commerce	Dundalk Chamber of Commerce	Irish Congress of Trade Unions
UNITE the Union	Confederation of British Industry	Irish Business Employers Confederation



## Aims & Objectives

- The Cross Border Partnership supports cross border workers, jobseekers and employers in the Ireland - N Ireland border region.
- For jobseekers and workers, we provide information on job opportunities, working conditions, training opportunities and tax and welfare conditions.
- For Employers, we provide information on the supply/demand of labour that exists and support recruitment across the border.



# Employer Support

- We run a series of events to help the cross border employers, workers and jobseekers including;
- Cross Border Job fairs - both on site and virtually using our new platform [www.crossborderjobfair.com](http://www.crossborderjobfair.com)
- Employer Incentives Events
- Employer Awareness raising
- English for Employability
- Cross Border Query Support
- Employer Signposting
- 'Reciprocal Process' for promoting vacancies across the border.



## Further Support

- We provide a range of material, printed and electronically to help our users.
- Mobility Packs,
- Leaflets, brochures,
- Website [www.cbpes.com](http://www.cbpes.com)
- Social Media Presence – Twitter, Facebook, Instagram & LinkedIn.





## Some Issues

- Currency
- Taxation
- Benefits
- Healthcare
- Qualification Recognition
- EU Settlement Scheme
- Frontier Workers Permit Scheme



Thank You!

Cross Border Partnership for  
Employment Services (CBPES)  
Ireland / N Ireland

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**ORLA RAFFERTY - HR CONSULTANT**



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**CROSS BORDER**  
PARTNERSHIP  
**Employment Services**



**Breakfast Briefing Seminar**

**Cross Border Employers & Workers**

**15 May 2025**

**Linkedin Instagram Facebook**

**[info@orlaraffertyconsulting.com](mailto:info@orlaraffertyconsulting.com)**

# Topics

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- Ireland - Employment Updates
- N Ireland - Employment Updates
- Border life - Case studies
- 2025 thoughts to date



# Employment Updates – Ireland

May 2025

# Ireland - Employment Updates

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Ireland's long-awaited pension auto-enrolment system, "My Future Fund," to **launch - January 2026 ...to align with the standard tax year...**

Employees aged 23–60 earning over €20,000 annually and not already in a pension scheme will be automatically enrolled

Contributions will start at 1.5% from both employer and employee, increasing every three years to a maximum of 6% by year 10. The government will also contribute, and employees can opt out after six months

**Employee:** Starts at 1.5% of gross salary, increasing by 1.5% every three years until reaching 6% in 2034

**Employer:** Matches the employee's contribution

**State:** Contributes €1 for every €3 the employee contributes

**Admin:** The scheme will be overseen by the **National Automatic Enrolment Retirement Savings Authority (NAERSA)**, established on 31 March 2025

**Tata Consultancy Services (TCS)** has been contracted as the managed service provider

**Opting Out:** Employees can opt out during months 7 and 8 after enrolment. If they opt out, they will be automatically re-enrolled after two years if they still meet the eligibility criteria



# Ireland - Employment Updates

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## **Maternity Leave & Equality Law**

**Nov 2024 - Maternity Protection, Employment Equality and Preservation of Certain Records Act 2024** - Amends maternity leave rights - providing for the postponement of maternity leave for a period of between 5 and 52 weeks - require treatment for a serious medical reason

**Employment Equality Acts** - a new measure to limit the use of non-disclosure agreements

# Ireland - Employment Updates

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From 5 to 7 days

Increase of sick pay ... **POSTPONED**

## **Irish Independent:**

**"Government decision to delay rollout of new entitlement to paid sick leave until start of next year described as 'hammerblow to workers'"**

## **The Irish Times:**

**"Delay in changing sick pay law cannot be justified, union says"  
...the Irish Congress of Trade Unions' criticism of the government's delay in implementing changes to the sick pay law, argue the delay is unjustifiable.**

# Ireland - Employment Updates

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## Pension Reform

While the **State pension age remains at 66 years of age**, a new flexible pension age model was introduced from 1 January 2024, employees now having the option to continue working up until the age of 70 in return for a higher Pension

There is no corresponding obligation on employers to allow employees to continue working up to the age of 70.

An expectation that this will lead to an increase in the number of requests from employees

Plans to introduce legislation which will allow employees to stay in employment until State pension age

It provides that, in general, an employer cannot set a compulsory retirement age below the state pension age if the employee does not consent to retire

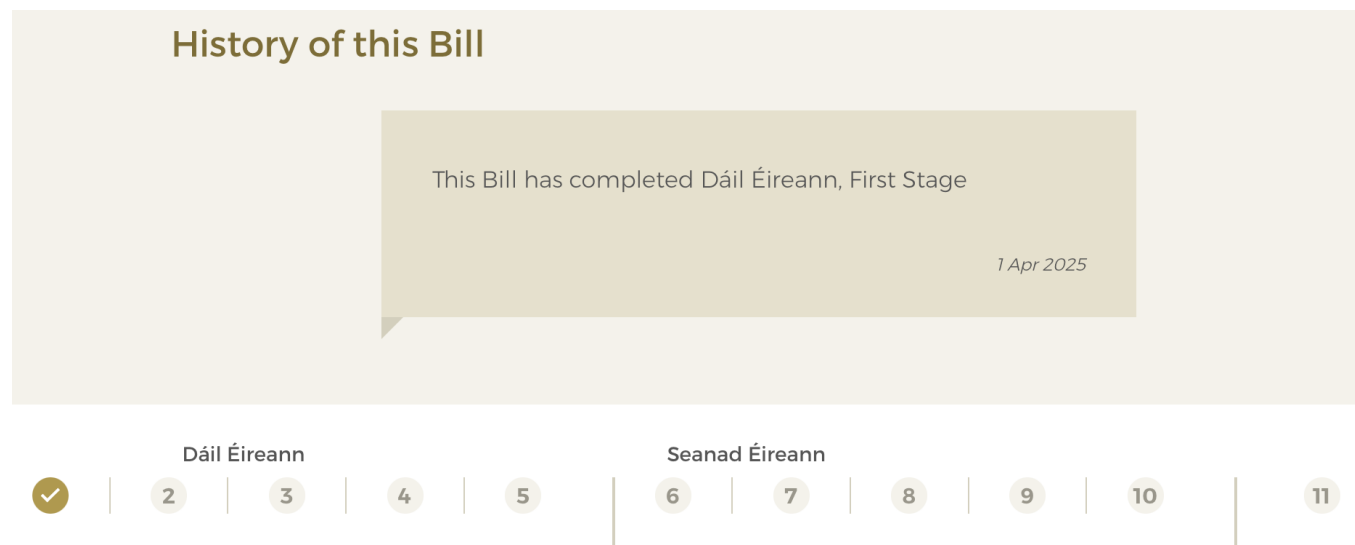
This element of consent reflects the fact that many employees may still want to retire at the contractual retirement age

# Employment (Contractual Retirement Ages) Bill 2025

Bill 10 of 2025

Bill entitled an Act to provide that an employee may notify employer that they do not consent to retire at the contractual retirement age; to provide that an employer who receives such notification may not enforce the contractual retirement age where the employee is less than the pensionable age unless the retirement of the employee concerned is objectively and reasonably justified by a legitimate aim and the means of achieving that aim are appropriate and necessary; to further provide for the prohibition of penalisation resulting from such notification; for those and other purposes to amend the Workplace Relations Act 2015 ; and to provide for related matters.

*Last updated: 8 Apr 2025*





## Employment Updates – N. Ireland

May 2025

# N Ireland - Employment Updates

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**28 April 2025** - Economy Minister Dr Caoimhe Archibald **Minister announces most significant upgrade of employment legislation in 25 years**

## **Good Jobs Agenda**

**Terms of employment, pay and benefits, voice and representation, and work-life balance.**

- End exploitative zero hours contracts
- Enhance protections for agency workers
- End abuse of fire and rehire tactics
- Ensure tips left to workers are passed on to them in full
- Modernise our trade union framework
- Make it easier to attain flexible working
- Enhance rights to family-related leave, including the introduction of carer's leave, as well as neonatal leave and pay

# N Ireland - Employment Updates

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“These proposals provide a balanced approach which will ensure our employment law framework works effectively for both workers and employers in the modern era.”

“This is an ambitious package of reforms to employment law which will see the biggest upgrade of our employment legislation since the Good Friday Agreement.”

*Economy Minister Dr Caoimhe Archibald*

# N Ireland - Employment Updates

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**HOLIDAYS 28** days per annum for a full-time worker **inclusive** of any public/bank holidays

Supreme Court, chief constable of the Police Service of Northern Ireland V Agnew thousands of police staff in Northern Ireland would be able to reclaim up to 35 years' worth of miscalculated holiday pay, *amounting to a bill of more than £40m –emphasising the importance of getting holiday pay right*

Clarity on **carryover of holidays and holiday pay**

20 days - must include commission payments, overtime payments etc using preceding **12 weeks (NI) as the calculation (52 weeks GB)**, Ireland a **13-week** reference period applies

Can carry over full entitlement if on maternity and adoption leave

Can carry over 4 weeks due to sickness, this leave must be taken by end of period of 18 months from the leave year in which entitlement rose



# All Areas – holiday pay backdating

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Pay claims following **AGNEW**

**GB there is a back stop** for holiday pay claims – with a **two-year** limit on unlawful deductions claims

**NI - back stop does not apply** - this means that liability can potentially date back to 1998 when the Working Time Regulations were introduced, or back to the date on which employees commenced employment, whichever is later

**Ireland - up to 6 months** from the date of the dispute, but this time limit may be extended to 12 months if you have a "reasonable cause" for the delay.

# Border employment checks

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- Before offer of work (on application), **check eligibility to work in jurisdiction**, know where their place of residency is:
  - If employee not resident of NI and are from within EU, they can only work in NI/GB if they have **settled or pre-settled status**, are a **frontier worker**, or have a **work visa**. Visa status needs checked some visas are not eligible to work for another employer
- For those working remotely – ALWAYS **seek** advice on payee/tax status – **prior to saying yes** - have an estimation of work time in each jurisdiction
- For those living in a different jurisdiction than they work, ALWAYS seek advice on which payroll should they be on and their tax requirements

## Case study

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Susan lives in Ballyshannon, Co Donegal and works in Enniskillen, Co Fermanagh 5 days a week.

Susan should be contracted under **Northern Ireland contract** Employment Rights (NI) Order, 1996 and paid in sterling, her employer should check with an accountant or tax specialist for any payments she needs to pay to Irish revenue, (if applicable) and seek advice on allowances e.g. family allowance she may be eligible for.

“Cross border workers must apply for Child Benefit in the country where they work. Unless one parent is employed or is self-employed on each side of the border, then they should apply in the country of residence of the children.” Source – [https://www.gov.ie/en/publication/62b5c5-operational-guidelines-child-benefit/\(opens in new tab\)](https://www.gov.ie/en/publication/62b5c5-operational-guidelines-child-benefit/(opens%20in%20new%20tab)) .

## Case study

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John works in Lifford, Co Donegal 5 days a week and lives in Strabane, Co Tyrone.

John should be contracted under an **Ireland contract**, under Terms of Employment (Information) Act 1994 and paid in euros, his employer should check with an accountant or tax specialist for any payments he needs to pay to Inland revenue or for advice on allowances he is eligible for.

## Case study

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Philip is employed by a Dublin based company, works remotely 4 days a week, with one day in Dublin, which he drives to and returns to that night, he lives in Omagh, Co Tyrone, it is likely he will always work remotely.

Philip should be contracted under a **Northern Ireland contract**, Employment Rights (NI) Order, 1996 and paid in sterling, his employer should check with an accountant or tax specialist for any payments he needs to pay to Irish revenue, (if applicable) and seek advice on allowances.

Philip and his employer should also undertake an audit under GDPR on the processing of personal information to ensure he is meeting the requirements of the jurisdiction where he works and how/where he processes data.

## Case study

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Patrick lives and works in London, he is employed by a Northern Ireland company, who do not have an office in London.

Patrick should be contracted under an **GB contract**, under the Employment Rights Act, 1996 and paid in sterling, tax and allowances are same as his colleagues based in Northern Ireland, he maybe availing of living in London allowance should his employers offer that as a benefit

Note there are numerous differences between GB employment law and NI law - check ACAS for free up to date information, attend webinars at minimal cost.

Patrick's employer needs to be aware of **significant proposed changes in GB employment law and guidelines**

## Case study - Simtic a Dublin based factitious electrical company

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Jean, has recently joined Simtic, holds French passport, an electrical engineer and needs to go to sites to work (service and maintain machines) all over UK, Ireland and EU. Jean can only travel through **all EU countries** to work, (she requires a work visa for UK)

Sean, from Meath, holds an Irish passport, he is an electrical engineer, he can travel to work through **UK, and all EU countries**

Thomas, from Armagh, holds an Irish passport, he is an electrical engineer he can travel to work in **UK, all EU countries**

Pauline from Armagh, holds a British passport, she is an electrical engineer, she can only travel to work in **UK and Ireland**





2025

Clarified language in the Equality Act  
2010 UK

Using AI responsibly and effectively

Unprecedented challenges  
Changing market landscape trends  
Volatile geopolitical backdrop

May 2025



# Clarifying Language



## **The Equality and Human Rights Commission**

released an interim update on Friday, 25 April 2025 to help employers and others understand how to follow the law in response to the [UK Supreme Court ruling](#) of 16 April.

That ruling clarified language in the Equality Act 2010 (the Act).

Following the ruling, the national equality and human rights regulator for England, Scotland and Wales is working 'at pace' to update its statutory and non-statutory guidance, which will help employers, service providers, public bodies and associations understand their duties under the Equality Act and put them into practice.

The [interim update](#) from the EHRC outlines that under the Equality Act.

- a 'woman' is a biological woman or girl (a person born female)
- a 'man' is a biological man or boy (a person born male)
- if somebody identifies as trans, they do not change sex for the purposes of the Act, even if they have a Gender Recognition Certificate (GRC)
- a trans woman is a biological man
- a trans man is a biological woman.

### **The EHRC interim update further states:**

"In workplaces, it is compulsory to provide sufficient single-sex toilets, as well as sufficient single-sex changing and washing facilities where these facilities are needed.

## *CIPD*

"Organisations should be reviewing **their provision of facilities** to ensure they are legally compliant in line with the EHRC interim update. This update from the EHRC states several instructions to be followed by employers. The update is clear that **sufficient single sex facilities should be provided by employers** and that transgender women should not be permitted to use the women's facilities and transgender men should not be able to use the men's facilities."

## Use AI responsibly and effectively

- Have clear, principled guidelines on AI usage at work, covering ethical practices, data security and the fair treatment of people
- Foster a culture of experimentation and shared learning, with cross-team collaboration to help people develop their skills and understand the risks
- Keep up to date with how AI may impact the business, operating model, and competitive positioning who is your AI guru?
- Encourage **employees to be open** in their usage of AI internally
- Establish good practices now, AI Policy – keep under regular review – keep as a tool kit for managing risks

**Unprecedented challenges** - responding to changing customer requirements

**Changing market landscape trends** - need to responds to new regulations

**Volatile geopolitical backdrop** - require organisations to be strategic and flexible

Adapting to climate change, technological adoption, governance,  
changing demographics of workforce - presenting challenges and opportunities

Critical importance of **strategic workforce planning** - ensuring **workforce agility** - **alignment between organisations' business and people strategies** emerged as key messages from

- understanding where growth and opportunities will come from
- understand their current and emerging future skills
- 'buy, borrow or build' the skills they need both for now and the future.

Think about the 'bot' where automation and AI can enhance productivity and help create better jobs that optimise human capability and support wellbeing, a crucial outcome for the future

Take a holistic view of the skills issues that face their business

...

**As leaders should we  
encourage, develop, create opportunities for engagement, adaptability,  
inclusion and resilience to help find our way through a fast changing,  
volatile business and external environment**

...



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# **CROSS BORDER TAX & EMPLOYMENT**

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**ROSE TIERNEY - CHARTERED TAX ADVISOR**

# **CBPES Tax Breakfast Implications for Cross Border Employers & Workers**

Rose Tierney

15 May 2025



# Cross Border Workers & Cross Border Employers Current Issues



- Recent survey carried out by Arins part of Notre Dame University
  - **47% of Employers are no longer recruiting Crossborder Workers**
    - Why?
  - Because Remote Work and WFH have been the biggest disrupters to Employment Law and Taxes of the past decade
- And
- There is NO clear government guidance for Remote and WFH for Crossborder workers and employers on the island.
  - Employers are struggling to recruit staff without offering remote working as an option
    - Existing legislation doesn't cover the land border scenarios.



- 
- But all is not lost!
  - Due to the LEEF Report published in November doors are starting to open, channels are opening to listen and hear the issues and potential solutions.
  - But these things move slowly





# LEEF REPORT

**Publication of LEEF Report 11 November**

**<https://crossborder.ie/reports/all-island-labour-market/>**

**Independent Research**

**Coauthored by**

**Maureen O'Reilly, Annmarie O'Kane , Rose Tierney and Anne Devlin**

Throughout the research period, the authors engaged with government agencies, business leaders, business representative organisations, advice providers, and cross-border workers from both sides of the border. Their input helped focus the study on the practical, lived experiences of individuals living, working and investing in the region. Their contributions often emphasised the need for shared policies and strategies that reflect the interconnected nature of the labour force they are so reliant on.





# LEEF REPORT

- The study aims to provide an evidence base that will inform and contribute to public and political discussion on addressing challenges and enhancing opportunities for workers, businesses and the wider economy while aligning with the objective of the Good Friday Agreement to enhance cooperation, connection, and mutual understanding on the island.
- The report notes that the Common Travel Area (CTA) should provide the basis for a successful all-island labour market but finds that in practice it can be exceptionally complex. The current rules and regulations, and their practical application, need to be assessed to ensure that they do in fact support the free movement of workers between the jurisdictions. Further, the ability of non-Irish and non-UK residents to work on a cross-border basis will also be a critical consideration in what constitutes the all-island labour market going forward.
- *"With increasingly interconnected economies and more extensive opportunities to work together, it is vital that we consider our labour market from an all-island perspective,"* said Maureen O'Reilly, Economist, and co-author. *"This study highlights the significant cross-border challenges encountered by employers and workers across the island and suggests that greater clarity and collaboration is needed to maximise the opportunities that the labour market can offer for economic growth".*
- The study offers actionable insights for policymakers, businesses, and cross-border workers, across a range of areas including taxation, pensions, social security, mobility of workers, skills and qualifications, collective bargaining and trade union coverage.



# LEEF REPORT



- *“With increasingly interconnected economies and more extensive opportunities to work together, it is vital that we consider our labour market from an all-island perspective,”* said Maureen O’Reilly, Economist, and co-author. *“This study highlights the significant cross-border challenges encountered by employers and workers across the island and suggests that greater clarity and collaboration is needed to maximise the opportunities that the labour market can offer for economic growth”.*
- The study offers actionable insights for policymakers, businesses, and cross-border workers, across a range of areas including taxation, pensions, social security, mobility of workers, skills and qualifications, collective bargaining and trade union coverage.





# LEEF REPORT

- Rose Tierney, dual qualified Chartered Tax Adviser and Chartered Accountant in both the UK & Ireland, and co-author, said *“Small businesses and cross-border employers must comply with complex taxation rules designed for large, international operations. For workers who live on one side of the border on this island and work for an employer on the other side, the complexity of dual payroll and the lack of pension tax relief are difficult and costly for both employers and employees to navigate.*
- *It was helpful to discover that other border regions have moved ahead with bilateral agreements that significantly ease the burden on local employers while encouraging the cross-border mobility of skilled workers. This study gives hope for real progress in engaging with policymakers on both sides of the border to work through potential solutions for this island.”*





# LEEF REPORT

- Current issues emerging
- The rules for foreign employer registration and shortterm business visitors (known as 60 day rule) and the Article 15 DTA relief only work practically for international movements of personnel to other jurisdictions off the island.
- **The same rules cannot be applied on a practical level or in any cost effective way for land border movements on the island.**
- **A revised set of guidance is required for landborder employment scenarios**





# LEEF REPORT



- Rules that should work to simplify this like
  - Dual Payroll/Shadow Payroll
  - Real Time Tax Credit through the payroll
- Only serve to complicate the administration as they don't work or are too complex to administer and drive up the costs.



# LEEF REPORT

- Allocation of Social Welfare to home jurisdiction where > 25% duties there
- Most EU Countries are Moving 25% Social Welfare Rule to 40%
- Meaning you could work 40% of the week at home before social welfare shifts to home jurisdiction
- Uk have not decided whether they are changing from 25% or not





# LEEF REPORT



- Other countries have also faced the same problems with their borders and by and large smaller employers have ignored them.
- EU have said countries can go ahead and agree bilateral arrangements don't need EU approval
- OECD is going to concentrate on the PE issue first in 2025 . Only after that will they look at the employment issues arising out of remote working Crossborder.

# LEEF REPORT



- Some countries have already agreed arrangements to reduce the incidences of dual payroll and potential PEs



# LEEF REPORT



- The lack of tax relief for pension contributions for those who live on one side of the border and work on the other is a huge issue for crossborder workers.
- While Transborder relief can mask the impact for ROI to NI movements there is no equivalent relief for NI to ROI movements so top up tax to HMRC may be required.
- Pensions are a bad investment for crossborder workers.

# LEEF REPORT

- Auto enrolment pensions are also impacted,
- No tax relief in ROI for contributions to NI AE scheme by ROI residents
- No clarity on whether NI residents contributing to proposed ROI AE scheme will be taxed on State and Employer contributions in NI



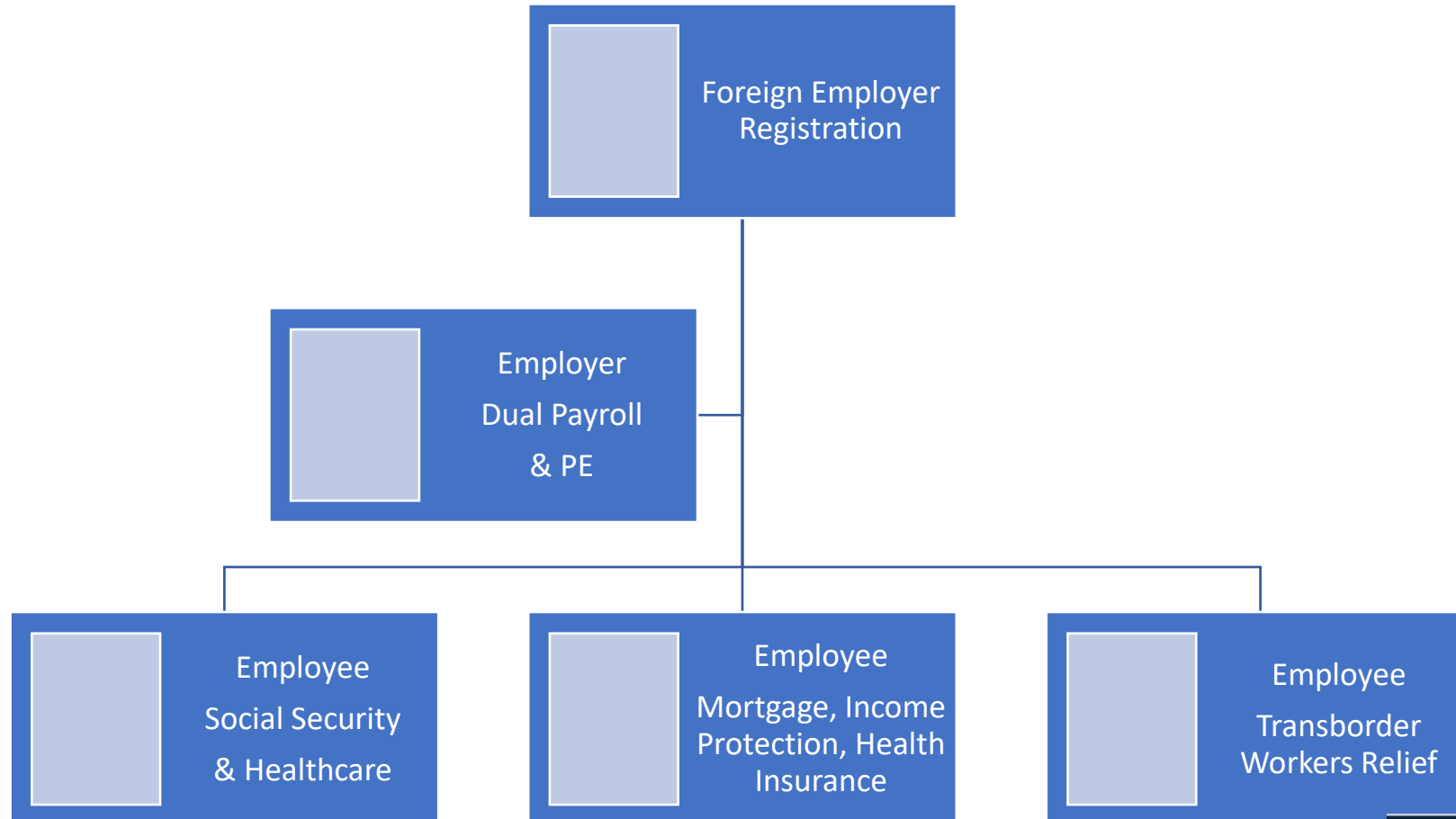
# Core Issues and Knock on Effects

- There are main core issues which have a knock on effect of creating other issues
- 1. **Foreign Employer Registration Requirement** – where the employer is obliged to register a payroll on the opposite side of the border
- 2. **Pension Crossborder Tax Rules** – where neither employer nor employee is getting tax relief and employees are unsure of tax on drawdown

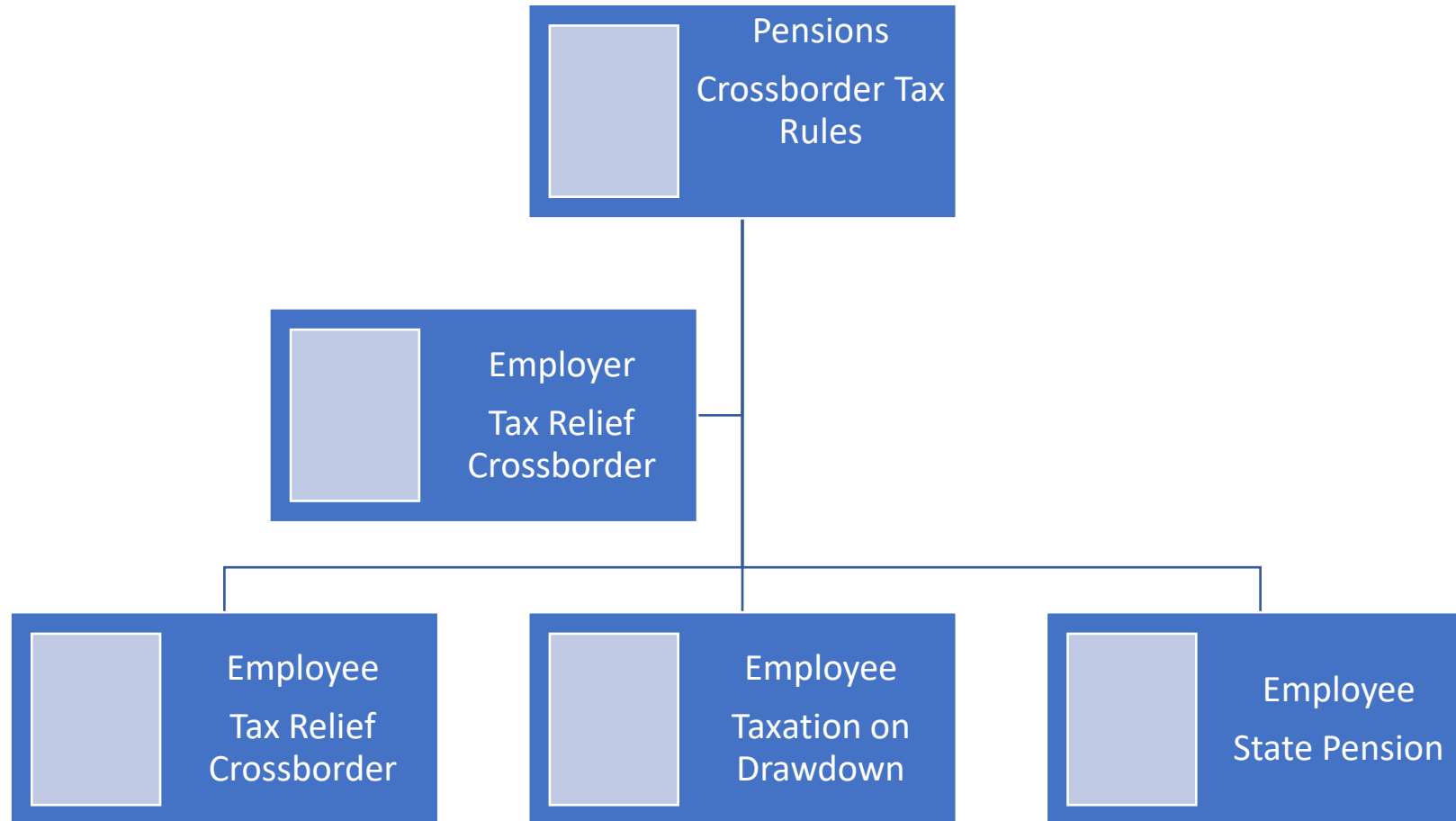




# Core Issues – Foreign Employer Registration



# Core Issues- Pensions Crossborder Tax Rules



# WFH Crossborder

- Commuting Crossborder Fulltime -100% payroll in Employer jurisdiction
- WFH across the border Fulltime – 100% of payroll in Employee jurisdiction of residency
- WFH across the border on a Hybrid Basis - Employer must run **Dual Payroll**
- Eg Northern employer ROI resident Employee
  - Run UK payroll in full , run shadow payroll for ROI duties
- Eg ROI resident Employer NI resident Employee
  - Run ROI payroll in full , run shadow payroll for UK duties



# WFH Crossborder



- The payroll is split between UK and ROI based on **work pattern**.
- **The more variable or irregular the work pattern the more difficult this is.**
- Employees net take home pay is affected unless a realtime double tax credit is claimed.
- A Real Time Tax Credit can be claimed through the UK/ROI payroll for tax suffered on ROI/UK duties but approval required from HMRC or Irish Revenue **and not available to non residents.**

# WFH Crossborder

- Where no realtime tax credit is available Employer can finance the shadow payroll taxes payable to HMRC/Revenue.
- This creates a loan to employee BIK charge on the employee Tax & NIC (NI) or Tax & USC & PRSI (ROI)
- At the year end the employee files a tax return in Home jurisdiction declaring worldwide income. Takes credit for taxes suffered in country of residency and shadow payroll jurisdiction. Claims refund.
- **This refund is due to the employer as they funded the taxes.**
- Complicated to unpick tax return (to calculate refund to employer) if jointly assessed with spouse. Employees find it very intrusive.



# WFH Crossborder

- Revenue and HMRC charge Benefit in Kind (BIK) tax on loan to employee which funded the taxes
- BIK charge on interest free preferential loan to employee (loan which funded shadow payroll taxes)
- 13.5% interest rate in ROI
- 2.25% interest rate in NI



# WFH Crossborder – Government Jobs

- Civil Servants /Government Service Employees who WFH crossborder are not protected by Article 18 from dual payroll.
- Article 18 usually leaves the taxing rights in the jurisdiction of the employer unless
  - the services are **rendered in** the jurisdiction where the employee is resident and
  - the employee is a resident and national of that jurisdiction and
  - didn't become resident just to render the services.



# WFH Crossborder – Government Jobs

- Eg Daniel works for Louth Co Council and is resident in Newry but WFH some days in NI . The carrying out of duties in NI pushes him out of ROI payroll and into NI payroll . Employer should be running NI payroll and Daniel needs to file a tax return with HMRC
- Sheila works for Newry, Mourne & Down District Council and lives in Dundalk. She WFH 2 days a week. The carrying out of duties in ROI pushes her out of NI payroll and into ROI payroll . The portion of her duties that she carried out from home is not covered by Article 18 . Employer should be running ROI payroll and Sheila needs to file a tax return with Revenue .
- How many Government Depts, Local Authorities, Educational Establishments are allowing WFH crossborder?





# Dual Payroll



- Payroll in small businesses shouldn't be so complicated that it has to be outsourced.
- Its not just WFH employees who are subject to dual payroll.
- The UK define a workday for the purposes of the statutory residence test as the place where the substantial duties are carried out usually taken as more than 3 hours of work a day in the UK .
- The ROI residence rules define “a day” as a day during any part of which an individual is present in the State but
- ROI define a “workday” as “a day during any part of which an individual performs work in the State”.
- That means a workers can be taxed in both jurisdictions on the same days pay.

# Cross/Trans Border Workers Relief ROI



- Employee remains resident in ROI
- Foreign employment,
- Foreign taxes deducted
- Commutes at least one a week
- Employment lasts 3 months
- Not proprietary directorships
- No further tax or USC to pay in ROI(if that is the only income).
- DOES NOT APPLY TO WFH DUTIES IN ROI

# Cross/Trans Border Workers Relief ROI

- Is much wider than ROI/UK it applies to all treaty countries.
- Only 1700 – 1900 claims for relief were made. Low compliance.
- Extremely valuable relief. Lots more cross border workers would be entitled. A loss of this relief would be detrimental to many thousands of workers.
- It masks the problem with tax relief for pensions



# Other Blocks to WFH Crossborder

- As well as dual payroll what are the other excuses/blocks employers are putting up to WFH Crossborder?
- Regulatory Issues, GDPR, Pension Access, Social Insurance, PE Risk
- **What is PE Risk?**
- MLI amendment to tax treaty in 2019 increased the PE risk for companies by widening the scope of what constitutes a Permanent Establishment (PE)
- Some overseas caselaw – Denmark case



# Other Blocks to WFH Crossborder



- WFH Contract of Employment (depending on employee role and nature of business) could create a PE of the UK company in the ROI ie corporation tax exposure. Where there are several employees working from home - bigger risk
- UK Company ROI branch – claim for foreign branch exemption – branch only taxed in ROI at 12.5%.
- ROI Company UK branch tax exposure 19%/25% tax on branch profits in UK

# Impacts of Hybrid Working Crossborder

- **Income Protection policies** found to be unsuitable for incomes earned via two payrolls different jurisdictions.
- **Private Medical Insurance schemes** policies needing to be switched from one jurisdiction to the other.
- **Financial impacts on** loans from credit unions and banks linked to employment/payroll, and mortgage offers restricted by hybrid working and dual payrolls.
- **Redundancy** implications for workers moved to a payroll / new branch across the border.
- **Employment law** implications due to automatic changes to contracts with minimal or no consultation.



# Impacts of Hybrid Working Crossborder



- Mortgage offer withdrawn when employee moved onto dual payroll
- Health Insurance as an employee – dual payroll required policy changeover - preexisting conditions limit options

# Where's the Legislation and Guidance?

- **ROI Revenue Manuals**
- Part 42-04-65: PAYE - Employee payroll tax deductions in relation to non-Irish employments exercised in the State
- **HMRC Manuals**
- The CWG2 Employer Further Guide to PAYE and NIC
- <https://www.gov.uk/hmrc-internal-manuals/payee-manual/payee82000>





# Other Issues

- Social Insurance – you pay it on the employment where the duties are carried out unless you are posted by the employer from one State to the other then you can continue to pay it in the home State – apply for A1 online.
- When 25% of duties are carried out in home State full social security responsibility shifts to home State
- ROI moving to 40% rule along with other EU countries. Uk not moving from 25% ?? Misalignment of rules
- Access to Benefits – usually where you last worked but if on dual payroll apply in country of residency.
- Access to Healthcare – Crossborder worker can access it in both States – so a change to the place of employment may change their access to healthcare.



# In Conclusion

- Look at who is now backing our work in this area and opening doors
  - Chartered Accountants Ireland
  - Intertrade Ireland
  - Dept of Economy Northern Ireland
  - DCU
  - DBEC
  - ARINS

The future is looking a lot brighter!



# Questions?

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**BREAKFAST BRIEFING ON**

# **CROSS BORDER TAX & EMPLOYMENT**

**FOR WORKERS & EMPLOYERS**