

Implications for Cross Border Employers & Workers

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For Further information please consult:

<http://ec.europa.eu/social/easi>”<http://ec.europa.eu/social/easi>

EURES

The EURES (which stands for European Employment Services – most people don't know this!) Cross Border Partnership is there to support the cross border worker, jobseeker and employer.

EURES Advisers are based all along the border region, north and south, in the government employment services as well as through chambers of commerce and trade union bodies.

Please log on to our website for all the latest information on cross border working, job seeking or employing and the important issues of the day www.eurescrossborder.eu or follow us on twitter @crosseures

Any queries after the event please contact the EURES Cross Border Partnership and an adviser will follow up with presently.

Cross Border Workers in Covid Time

Anyone who has attended these seminars in the past is familiar with the complexity of the rules applicable to the cross border workers.

Guess what - Covid 19 and the response to the pandemic has added another layer of complexity.

Today's message – The current rules are temporary – this too will pass.

Personal Tax Residence Test ROI

Normal Rule

- 183 days – anytime during day in calendar year – resident for that year
- 280 days – anytime during day over 2 calendar years – resident in the 2nd year

Covid Rule

“Where a departure from the State is prevented due to COVID-19”

Revenue will consider this ‘force majeure’ for the purpose of establishing an individual's tax residence position.

“unavoidably present in the State on that day due only to ‘force majeure’ circumstances.

Statutory Residence Test UK

Normal Rule

- 183 nights (midnight) in tax year (6 Apr – 5 Apr) – resident for that year
- Also other ties to the UK with less days – resident for that year

Covid Rule

It is possible to exclude a maximum of 60 days spent in the UK in any tax year as a result of 'exceptional circumstances'.

- circumstances are considered as exceptional. if you:
 - are quarantined or advised to self-isolate in the UK
 - advised not to travel from the UK
 - are unable to leave the UK as a result of the closure of international borders, or
 - are asked by your employer to return to the UK temporarily
- as a result of the virus.

Cross/Trans Border Workers Relief ROI

Normal Rule

- Employee remains resident in ROI
- Foreign employment,
- Commutes at least one a week
- Pays tax in other country
- Employments last 3 month
- Not proprietary directorships
- No further tax or USC to pay in ROI(if that is the only income).

Covid Rule

If employees are required to work from home in the State (ROI) due to COVID-19, such days spent working at home in the State will not preclude an individual from being entitled to claim this relief, provided all other conditions of the relief are met.

Mistaken assumptions?

Employee or Employer can decide where payroll is operated- Wrong
Always based on where the duties are carried out.

Employee or Employer can “elect to be taxed in home country” Wrong
No ability for employee or employer to “elect” to be taxed in home country.

Based on domicile or residence of the employee. Wrong – residence of employee is only relevant for the treaty exemption

Foreign Employer Registration Requirements -ROI

No PAYE/No Reporting

Under 30 Irish workdays p.a.

Not Irish resident

No application to Revenue

Relief under domestic tax

No PAYE/No Reporting

Up to 60 Irish workdays p.a.

Not Irish resident

Tax treaty resident outside Ireland

No application to Revenue

Meets tax treaty exemption rules

Clearance from PAYE obligations

Between 60 Irish workdays - 183 Irish days p.a. ^[3]

Not Irish resident

Tax treaty resident outside Ireland

Application required to Revenue

Subject to PAYE in home location

Meets tax treaty exemption rules

ROI Based Workers – Employer Obligation to set up Payroll in ROI

Normal Rule

- Requirement to set up payroll in ROI
- UK/NI resident employee working for UK/NI resident employer posted to ROI
- 30 days
- 60 days
- 183 days

- ROI resident employee of UK/NI employer recruited to work in ROI or allowed to work from home – ROI payroll required from the outset

Covid Rule

Revenue will not seek to enforce Irish payroll obligations for foreign employers in genuine cases where an employee was working abroad for a foreign entity prior to COVID-19 but relocates temporarily to the State during the COVID-19 period and performs duties for his or her foreign employer while in the State.

UK/NI Based Workers – Employer Obligation to set up Payroll in UK/NI

Normal

- Requirement to set up payroll in UK/NI
- ROI resident employee working for ROI resident employer posted to UK/NI
- 30 days
- 60 days
- 150 days
- 183 days

- UK/NI resident employee of ROI employer recruited to work in UK/NI or allowed to work from home – UK/NI payroll required from the outset

Covid Rule

HMRC offering some flexibility – case by case basis – where number of days in UK shifts reporting position.

Covid 19 Employer/Employee Wage Supports

ROI TWSS Wage Subsidy

- Paid to Employer based on 70% of net wage
- Processed through Real Time Payroll
- Employee can work
- No tax ,USC or PRSI on employee
- No PRSI for Employer on subsidy
- Employer encouraged to top up to normal net wage
- End of year adjustment to tax credits for employees

UK - Furlough

- Paid to employer based on 80% of gross wage
- Processed through Real Time Payroll
- Employee couldn't work until July then that changed
- Taxed as normal through payroll
- Employer encouraged to top up to normal gross wage
- No adjustments should be required at year end

Covid 19 Employer/Employee Wage Supports

ROI TWSS Wage Subsidy

- Moved to EWSS from 1 Sept to Mar 2021
- It is taxed through payroll
- There will be tax implications for employees where employers availed of TWSS
- Particularly cross border workers
- Intend to run a second seminar focused on employee implications and obligations.

UK - Furlough

- Only runs to 31 October
- Reducing from 80% to 70% Sept, 60% Oct

Covid 19 - Implications for Redundancy

UK – Statutory Redundancy based on pre Covid average wage not furloughed wage subject to cap £538 per week

Short time working except where furloughed

- 4 or more weeks in a row
- 6 or more weeks in a 13 week period, where no more than 3 are in a row can trigger redundancies.

Covid 19 - Implications for Redundancy

ROI - Normally, if you are laid off or put on short-time hours, you can claim redundancy from your employer after 4 weeks or more, or 6 weeks in the last 13 weeks. However if this layoff was because of COVID-19, you cannot claim redundancy. This is set out in the [Emergency Measures in the Public Interest \(COVID-19\) Act \(pdf\)](#) and applies from 13 March 2020.

This rule has been [extended to last until 17 September 2020](#).

Short time working/reduced hours for less than 1 year redundancy based on full weeks pay subject to cap €600 per week .

Covid 19 – Relaxation of Rules

All of the rule relaxation measures are temporary so should be kept under review.

Second Seminar tentatively booked in for 5th November to cover in more depth

- tax implications for cross border workers of TWSS, Furlough, tax return obligations, tax liabilities arising etc . For ROI 2020 and UK/NI 2020/21 tax years

Questions?

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