

# Executives seconded to work in Ireland



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## Introduction

We have an excellent track record of delivering a high quality payroll; tax and work permit solutions to a wide range of multinational clients.

We understand the issues facing multinational companies when they send executives on assignment to Ireland and we are well placed to provide solutions.

## Work Permits

In general a national from a country which is not in the European Economic Area (EEA) or Switzerland will need an employment permit to work in Ireland.

There are a number of different type employment permits in Ireland but companies sending executives to Ireland will generally apply for either the Green Card Permit or the Intra Company Transfer Permit.

### Intra-Company Transfer Permits

The Intra-Company Transfer Permit is designed to facilitate the transfer of senior management and key personnel from an overseas branch of a multinational corporation to its Irish branch or subsidiary. The main features of the scheme are:

- The employee must be earning a minimum annual salary of €40,000.
- The employee must be working for a minimum period of 12 months with the overseas company prior to transfer.
- Applications may be granted for a maximum period of up to 24 months in the first instance and may be extended upon application to a maximum stay of five years.

- The Irish company must have a direct link with the overseas company by common ownership e.g. either one company must own the other, or else both must be part of a group of companies controlled by the same parent company.

### Green Card Work Permits

The main features of the Green Card scheme are:

- The Green Card permit is available for occupations with annual salaries of €60,000 or more. It is also available for a restricted list of occupations with annual salaries of €30,000 to €59,999 in the following sectors of employment: information technology, healthcare, industry, financial and research.
- The Green Card permit is issued for two years and a renewal permit is not required. Provided the employee is still working in the same occupation, for the same employer and for at least the same salary as stated on his Green Card permit he will be given a Stamp 4 permission for two years. This allows the employee to work in Ireland without a permit and it is an interim arrangement.
- Holders of a Green Card permit can have their spouses, civil partners and families join them immediately.
- Either the employer or the employee can apply for the employment permit, based on an offer of employment.

## Employer obligation to operate Irish payroll taxes

Income tax is deducted at source from salary in Ireland under the Pay As You Earn (PAYE) system. Any income attributable to the performance of employment duties in Ireland is within the scope of the PAYE system regardless of whether the employer has a fixed base here or where the salary is paid from.

If an employee assigned to Ireland remains on the home country payroll the employer will also have an obligation to account for the Irish payroll taxes in respect of the salary paid for the employment duties carried out in Ireland.

We can operate the shadow payroll to account for the taxes due and provide assistance with tax equalisation calculations.

### Short-term business visits to the State of not more than 30 days – non-treaty countries

Where a non-resident employee from a non-treaty country performs in Ireland incidental duties and performs those incidental duties in Ireland for no more than 30 days in aggregate in a tax year, PAYE need not be deducted in respect of income attributable to such duties. A 'day' is any day in which any work is performed in Ireland.



### Assignments of not more than 60 working days – tax treaty countries

Revenue will not require an employer to operate PAYE where the following criteria are satisfied:

- a) The individual is resident in a country with which Ireland has a Double Taxation Agreement and is not resident in Ireland for tax purposes for the relevant tax year;
- b) there is a genuine foreign office or employment;
- c) the individual is not paid by, or on behalf of, an employer resident in the State;
- d) the cost of the office or employment is not borne, directly or indirectly, by a permanent establishment in the State of the foreign employer;
- e) the duties of that office or employment are performed in the State for not more than 60 working days in total in a year of assessment and, in any event, for a continuous period of not more than 60 working days. A 'working day' is any day in which any work is performed in Ireland.

### Assignments not exceeding 183 days

Where temporary assignees who are resident in Tax Treaty countries:

- 1) are present in Ireland for a period or periods not exceeding in the aggregate 183 days in a year of assessment, (a day during any part of which, the employee is present in Ireland counts as a day of presence for the purposes of computing the 183 day period); and

- 2) suffer withholding taxes at source in the 'home' country on the income attributable to the performance of the duties of the foreign employment in Ireland, then the Revenue Commissioners will not require an employer (or certain other persons) to operate the Irish PAYE system in respect of such temporary assignees who have income attributable to the performance in the State of the duties of a foreign employment where the following conditions together with those listed at (a) to (d) above are met.

The foreign employer must:

- a) be registered in Ireland as an employer for PAYE tax purposes; and
  - where there is an intermediary paying the employees of the foreign employer, supply details of the intermediary who is paying the employees; and
  - where there is a relevant person (defined as working for a person who is not the employee's employer) supply details of the relevant person for whom the employees of the foreign employer are doing work in the State.
- OR
- where the employees of the foreign employer are performing in the State the duties of the foreign employment, and are paid by a connected entity in the State of the foreign employer (connected in the sense that the entity is controlled by the foreign employer or visa versa or both are under common control) on behalf of that

employer or are paid by the foreign employer, and the connected local entity in agreement with the foreign employer has assumed responsibility for compliance with PAYE/PRSI obligations on behalf of the foreign employer, then the foreign employer need not register as an employer but must supply:

- i. the PAYE registered number of the connected entity;
  - ii. its own full name and address; and
  - iii. where there is a relevant person (as defined in section 985D TCA 1997 – the name and address of that relevant person for whom the employees of the foreign employer are doing work in the State;
- b) maintain a record of the full name, latest Irish and overseas address, date of commencement and cessation of the individual, the location where the individual carries out the duties of the temporary assignment and the amount of earnings in respect of the temporary assignment;
  - c) sign a written acknowledgement that in all cases where liability is subsequently found to arise in respect of payments of emoluments to assignees (e.g. because of a breach of any of the conditions) the employer will be liable under the relevant provisions of the Taxes Consolidation Act 1997 to pay the tax that should have been deducted from those emoluments; and



d) supply evidence of withholding tax in the foreign jurisdiction on the income attributable to the performance in Ireland of the duties of the foreign employment. The following will be regarded as acceptable evidence of withholding taxes in the foreign jurisdiction:

- Certified copy of payslip. (Must be certified by the employer or the independent auditor of the employer. In the case of companies certification by a director or company secretary will be acceptable).
- OR
- Statement from the relevant foreign tax jurisdiction.

e) on request, supply a copy of the contract(s) relating to the employer's engagement in Ireland; and  
f) seek clearance in writing from the Revenue Commissioners by the later of 21 days after the date the assignee takes up duties in Ireland, pending written clearance from Revenue, PAYE need not be operated if all other conditions are met.

#### Secondary Liability – Employee of non-resident employer

Where an employee works for someone based in Ireland (the relevant person), but is employed by a non-resident employer and PAYE is not applied by the employer (or a non-resident intermediary) the relevant person will be liable to account for PAYE on the amount that the employee receives, grossed up where the employee is entitled to a net sum, free of tax.

#### Social Insurance (PRSI)

The employees liable to social insurance in respect of the employment duties carried out in Ireland and the employer is obliged to deduct PRSI at source from the salary.

#### EU Countries

EU Regulations allow posted workers, who are sent by their employer in another EU country to work on a short work assignment in Ireland remain subject to the social security system of the home country. The regulations allow the employee contribute to their home country social insurance system for an automatic two year period which can be extended to five years with the agreement of the respective authorities. The employer should apply for a Form A1 in the home country in advance of the assignment.

#### Non-EU Bilateral Social Security Agreements

Ireland has a number of bilateral social security agreements with countries outside the EU which allow employees posted to Ireland on temporary work assignment to remain within the social security system of the home country.

If the employee wishes to remain within their home country social security system while on assignment in Ireland the employer must apply for a Certificate of Coverage under the bilateral agreement. The maximum validity period for the certificate varies between the different bilateral agreements.

Ireland has Bilateral Social Security Agreements with the following countries:

- Austria
- Canada
- Quebec
- Australia
- United States of America
- New Zealand
- Republic of Korea
- Japan
- UK to cover the Channel Islands and Isle of Man
- Switzerland

## Travel and Subsistence Expenses for Temporary Assignees

Where an employee who has worked for the employer prior to being sent on temporary assignment to Ireland and the intention is that the employee will return to work at the location from which he / she was at the end of the assignment then certain expenses can be paid to the employee tax free.

These expenses may not be paid to an employee recruited to work in Ireland.

### Vouched Expenses

The cost of reasonable accommodation and meals whilst on temporary assignment may be reimbursed up to a maximum period of 12 months.

As regards hotel accommodation, reasonable accommodation includes accommodation for an assignee for a twelve month period. Where a spouse and children accompany an assignee to the State during the period of the temporary assignment, reasonable accommodation includes hotel accommodation for the spouse and children for the first month only of the assignment to facilitate the procurement of rented accommodation.

As regards rented accommodation, reasonable accommodation includes vouched rent, rental of furniture and payment of utilities (e.g. light and heat) which would normally be payable by a tenant. Where an assignee is accompanied

by a spouse and children in the State during the period of the temporary assignment, reasonable accommodation includes rental of residential accommodation which is suitable for an assignee and his / her spouse and children.

Alternatively a flat rate reimbursement of expenses can be paid to the temporary assignee on the basis of the Civil Service schedule of rates.

### Travel Expenses

The vouched cost of the journeys to and from the State at the commencement and cessation of the temporary assignment may be paid or reimbursed free of tax.

The vouched cost of one return trip per year to the home location for the assignee, his or her spouse and children may also be paid or reimbursed free of tax.

In the case of an assignee whose spouse and children do not accompany him/her on temporary assignment, the cost of one return trip per year to the State for the spouse and children may be paid or reimbursed free of tax.

For further details on the expenses that can be paid tax free to employees on assignment please contact us.





### **Personal Public Service No. (PPS No.)**

On arrival in Ireland the employee must apply for a PPS No. This number is a unique reference number under which the employees tax and social insurance deductions are recorded. The number will also be required to access health services.

To apply for the PPS No. the employee should visit the nearest office of the Department of Social Protection with documentary evidence of identity and residence in Ireland. We can assist with the application process in advance of the employees arrival in Ireland.

### **Tax Incentives for Executives coming to Ireland**

There are a number of tax breaks in place to make it attractive for foreign executives to come and work in Ireland.

#### **Special Assignee Relief Programme (SARP)**

A special incentive was introduced in Finance Act 2012 for overseas employees who move to Ireland to take up key jobs with Irish-based companies. Under the incentive the employees will not pay tax on 30 per cent of their annual income between €75,000 and €500,000.

The main conditions for the relief to apply are as follows:

The employee is a relevant employee and this is defined as an individual:

- who arrives in the State in any of the tax years 2012, 2013 or 2014;
- who has not been resident in Ireland for the whole of the five tax years immediately preceding the year of arrival;
- who has worked full time for the "relevant employer" outside of Ireland for the whole of the 12 months immediately preceding his arrival in Ireland;
- who performs the duties of employment in Ireland for a minimum of 12 months from the date on which he takes up residence in Ireland for his relevant employer or an associated company;
- a relevant employer means a company that is incorporated and tax resident in a jurisdiction with which Ireland has a double taxation agreement;
- the relief is equal to a deduction of 30% of the difference between €75,000 (the lower threshold) and the employee's relevant income (up to a maximum of €500,000, being the upper threshold). Relevant income is the employment income inclusive of benefit in kinds, share option gains and share based remuneration. In calculating the lower threshold of €75,000 benefits in kind, share based remuneration etc. is not taken into account; and
- the relief cannot be claimed if he is availing of the remittance basis of taxation in respect of employment duties exercised outside the State.

#### **Split Year Residence**

Where an inbound assignee was not resident in Ireland in the previous year arrives with the intention and in such circumstances that he should be resident for the following year, the pre arrival employment income is excluded from the charge to Irish tax (despite the fact that the assignee might be tax resident in Ireland for the year of arrival).

#### **Remittance Basis**

In general Irish resident and domiciled individuals are liable to Irish tax on worldwide income and gains.

However, individuals who are tax resident in Ireland but who are not Irish domiciled are liable to tax in Ireland on foreign income only to the extent that the foreign income is remitted to (i.e. physically brought into) Ireland. This is known as the remittance basis of taxation. The majority of those coming to work in Ireland on temporary assignment would not be Irish domiciled and should be in a position to avail of the remittance basis of taxation for any part of their income not attributable to Irish employment duties.

The income paid by a foreign employer to an employee for employment duties carried out in Ireland is regarded as Irish source income and is not covered by the remittance basis.

Any individual in a position to utilise the remittance basis of taxation should seek tax advice in advance of their arrival in Ireland.

## Employment Tax Services

In addition to our payroll processing service we provide expert advice on employee compensation and the provision of tax efficient solutions to incentivise employees.

We advise on all areas of employer and employee taxes including:

- Advice on employee share incentive schemes including Share Options, Share Purchase Plans and Restricted Stock Units.
- Advice on the provision of employee benefits including health insurance and pension schemes.
- Advice on the payment of tax free travel and subsistence allowances.
- Application for PAYE Exclusion Orders.
- Completion of personal tax returns for key executives.
- Advice on the taxation of ex-gratia payments on termination of employment.
- Redundancy counselling.
- Revenue Audit support.

## We also provide the following other services

- Accountancy and audit.
- Provision of serviced office accommodation.
- Company formation.
- Corporate tax compliance.
- VAT compliance.



## Moore Stephens

Moore Stephens is a leading Irish owned provider of accountancy and advisory services for smart, commercially ambitious enterprises seeking the highest standards in client service and expertise. We are ranked in the top 10 Irish accountancy practices with 10 partners and over 100 staff. We have offices in Dublin and Cork and have grown steadily in the Irish marketplace since our foundation in 1970. We provide our clients with access to a range of core and specialist services including audit and tax compliance, business and personal tax planning, corporate finance, insolvency, corporate governance and forensic accounting. Our success stems from our industry focus, which enables us to provide an innovative and personal service to clients in niche markets. Specialist sectors include credit unions, healthcare, banking recovery and restructuring, agriculture and education, while maintaining our predominant foothold in the Irish SME sector. We recognise that Irish business will become increasingly export orientated in line with the national recovery plan. To address our clients' need for the highest quality international advice we have joined the Moore Stephens International Network.

## Moore Stephens globally

Moore Stephens International Limited is a global accountancy and consulting association with its headquarters in London. With fees of US\$2.6 billion and offices in 106 countries, you can be confident that we have access to the resources and capabilities to meet your needs. Moore Stephens International independent member firms share common values: integrity, personal service, quality, knowledge and a global view.

## Contact information

If you would like further information on any item within this brochure, or information on our services please contact:



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