

The PAYE system of collection applies to directors as it does to any other employees. Revenue Payroll Notifications must be requested and applied to the pay of directors. Any emoluments paid to directors must be reported to Revenue on or before payment, the same as any other employee.

In relation to the assessment of income on individual directors, income received by a proprietary director in respect of that directorship remains assessable on an earnings basis, whereas income received by a non-proprietary director is assessable on a receipts basis. The term proprietary director exists only for specific provisions of the Tax Acts, e.g. section 472 Taxes Consolidation Act 1997 (Employee Tax Credit). In relation to the operation of PAYE, there is no difference between proprietary and non-proprietary directors. Also, proprietary directors are subject to self-assessment regardless of whether they have other income or not.

Where emoluments are voted for a Director, PAYE operates on the date of payment of those emoluments.

If additional emoluments are awarded, in accordance with relevant legislation, Interest may be payable for 'deemed' payments. Penalties will only be applied where there is a breach of requirement to operate PAYE by an employer.

You may refer to the [Revenue Tax & Duty Manual](#) part 42-04-23 Unpaid Remuneration section 996 TCA 1997.

Declaring a fee for directors up to 6 months after the accounting date

There is no change in respect of the application of section 996 (Treatment for tax purposes of certain unpaid remuneration) of the Taxes Consolidation Act 1997 i.e. remuneration, which is deductible as an expense in the computation of the profits or income of a trade or profession for a particular accounting period but which remains unpaid at the end of the period, is deemed to have been paid at a particular date in relation to that period.

The PAYE provisions apply to the payment as if it has been paid at that particular date.

This provision does not apply to unpaid remuneration which is paid before the end of 6 months from the relevant date (i.e. end of the accounting period) or within 18 months from the first day of the period of account where that period exceeds 12 months.

In a scenario where a company makes up its accounts annually to 31st December and unpaid remuneration is deductible as an expense in the company accounts at year end 31/12/19. If the unpaid remuneration was not paid prior to 30/06/2020, then the provisions of section 996 TCA 1997, apply. Consequently, the remuneration is deemed to have been paid on 31/12/2019 and the payment should be reported with a pay date of 31/12/19.

In the above scenario, if the remuneration is reported with a pay date of 31/12/19 and payment is received, Revenue may charge Interest on Late Payment. If the payroll is reported and payment is not received, the debt will be enforced, and Interest on Balance Outstanding would accrue. Fixed penalties apply where an employer fails to comply with the PAYE provisions and related regulations. In respect of unpaid remuneration, provided the provisions of section 996 are complied with, no penalty will be incurred.

Payments to Directors with a positive balance on the director loan account:

Tax and Duty Manual on [Tax and Universal Social Charge treatment of income arising from having or exercising of the public office of director of an Irish incorporated company](#) (42-04-61) states that *“payments to office holders, in their capacity as office holders, are chargeable to tax under Schedule E and subject to deductions at source under the PAYE system. Where a company makes a payment to a director and, at the time of the making of the payment, the company is unable to establish by way of documentary evidence at that time that the payment is something other than in the nature of remuneration arising from the directorship, then such a payment is paid to the director in his or her capacity as an office holder and is subject to deductions under the PAYE system.”*

Therefore, irrespective of the balance in the Director's loan account, if a payment is made and the nature of the payment is not established at the time of payment deduction under the PAYE system should be applied. This payment should be reported to Revenue on or before the making of the payment.

A company declared a bonus salary of €200k for their Financial year 2018 which was paid to the proprietary director in April 2019. The salary was accrued in the company's 2018 accounts. As required under the new PAYE modernisation scheme the salary was subject to PAYE in 2019 when it was drawn down. However, as the salary related to 2018 and it is a proprietary director, it is assessable in 2018 so it is included in the 2018 tax return.

There is no change to the basis of assessment for emoluments paid to proprietary directors. Directors' remuneration is regarded as accruing evenly over the 12 months accounts period. Figures for directors' remuneration charged in the company accounts should reflect the amounts of remuneration earned by the directors in that accounting period.

Accordingly, the figure for director's remuneration assessable under Schedule E, for a year of assessment, should be ascertained on the basis of directors' emoluments charged in the company accounts for the year, if ended on 31 December, or an apportionment of the figures for remuneration charged in company accounts, for usually two years, to correspond with the income tax year of assessment.

The financial year-end for company accounts may differ from the tax year-end. Therefore, strict adherence to an "earnings basis" could give rise, in such cases, to continuous apportionment of remuneration based on accounting periods to income tax years (other than in companies whose financial statements correspond with the tax year i.e. annual accounts made up to 31st December). It could require the apportionment of two years company accounts figure to a particular tax year, after the latest set of accounts have been received.

There has been a long-established practice of adopting the figure charged in the company's financial accounts ending within the year of assessment as the basis for the Schedule E rather than apportioning figures on an income tax year basis. This has not changed.

Under the PAYE system employers are obliged to operate PAYE on the director's emoluments at the time of payment. With effect from 1 January 2019, all employers are obliged to report on or before the making of a payment of emoluments.

For proprietary directors the Form 11 for 2019 will be prepopulated with details from the 2018 P35. However, the details of the payment will remain in the employee view screen for 2019 as a payment made in that year.

Example 2

Proprietary Director's Remuneration

30/06/17 €50,000

30/06/18 €65,000

30/06/19 €75,000

(Section 996 TCA 1997 not applying). PAYE Operation (Receipts basis)

PAYE must be applied at the date of payment using the Revenue Payroll Notification (RPN).

Assessment Purposes (Earnings basis)

2017

30/06/17 €50,000x6/12 = €25,000

30/06/18 €65,000x6/12 = €32,500

2017 Schedule E €57,500

2018

30/06/18 €65,000x6/12 = €32,500

30/06/19 €75,000x6/12 = €37,500

2018 Schedule E €70,000

Further information on payments to directors and proprietary directors can be found on www.revenue.ie at this [link](#).