12 December 2025

Auto-Enrolment Retirement Savings Scheme (AE)
ITI queries on cross-border matters and responses from Revenue and the Department of Social Protection

The Institute submitted a list of queries to Revenue Legislation Services (RLS) and the Department of Social Protection (DSP), following a meeting of the joint Main TALC and TALC Direct/Capital Taxes Sub-Committee on Finance Bill 2025, to highlight a number of cross-border issues that arise in relation to AE for consideration. The queries and responses received from RLS and DSP are outlined below.

1. Concession from AE for foreign employees working temporarily on assignment in Ireland

Employees of a foreign company working temporarily in Ireland and whose earnings are reportable on a statutory payroll return are in scope of AE, even where they are a member of a foreign pension scheme. This is because the current definition of an "exempt employment" only covers arrangements where contributions are made through an Irish payroll to an Irish approved occupational pension scheme, qualifying PRSA or qualifying PEPP. Foreign pension arrangements do not generally meet this definition unless formal approval has been obtained from Revenue in relation to same under section 770 TCA 1997, or where approval has been given by Revenue to apply Migrant Member Relief through Irish payroll.

In the absence of a concession to exempt such foreign employments, AE pension contributions will be payable until the relevant opt-out period is available. The opt-out periods are generally after the first 6 months of AE enrolment but can be required again when a contribution rate change occurs. As these individuals are generally in Ireland for a short period and certainly no more than 5 years, the quantum of any resulting future pension benefits available under AE should be very low.

Furthermore, as many foreign employers cover the incremental Irish tax costs for expatriates to Ireland under a tax equalisation policy, these contributions will increase

the cost of such assignments, and the employer will need to ensure the employee meets all the relevant opt-outs period to manage such costs.

We believe a concession similar to what is provided under Para 17.3 of Chapter 17 of the Pensions Manual should be introduced by Revenue for AE purposes. This concession enables contributions to an unapproved foreign pension plan to be deemed to be an approved scheme for the purposes of treating employer contributions paid as a non-taxable benefit-in-kind and for the provision of personal income tax relief on employee contributions for up to 5 years.

Revenue Response:

Revenue is not in a position to provide a concession similar to that outlined in Paragraph 17.3 of Chapter 17 of the Pensions Manual. Auto-enrolment legislation is under the policy remit of the DSP, and any change or concession relating to the scope of "exempt employments" for AE purposes would constitute a policy matter for the DSP. Revenue's role is limited to the administration and enforcement of the existing legislation, and we are therefore unable to grant exemptions for foreign pension arrangements beyond those currently recognised under the legislation.

2. PAYE Exclusion Order cases

a. The Institute sought confirmation that a non-resident employee of an Irish company working overseas and for whom an Irish PAYE Exclusion Order (PEO) has been obtained by the employer should be outside of AE for the duration of the PEO period.

A PEO can be obtained to confirm no Irish payroll withholding needs to be deducted through Irish payroll. This exclusion from AE arises as the meaning of "gross pay" under the Act are those emoluments to which Chapter 4 of Part 42 of TCA 1997 applies. A PEO disapplies this chapter.

Revenue Response:

Auto-enrolment (AE) applies by reference to "gross pay", which is defined by reference to the income to which Chapter 4 of Part 42 of the TCA 1997 applies (section 47 of the Automatic Enrolment Retirement Savings System Act 2024).

Where a PAYE Exclusion Order is in place under section 985E TCA 1997, Chapter 4 of Part 42 does not apply to the emoluments during the period to which the PAYE Exclusion Order applies and as such, the emoluments are excluded from the definition of "gross pay". Accordingly, a non-resident employee working abroad and covered by a valid PAYE Exclusion Order is outside the scope of AE for the duration of the Order.

b. The Institute notes Revenue's position is that where a PAYE Exclusion Order is in place under section 985E TCA 1997, Chapter 4 of Part 42 TCA 1997 does not apply to the emoluments during the period to which the PAYE Exclusion Order applies and as such, the emoluments are excluded from the definition of "gross pay". Accordingly, a non-resident employee working abroad and covered by a valid PAYE Exclusion Order is outside the scope of AE for the duration of the Order.

We understand that the Department of Social Protection (DSP) has indicated to some practitioners that if the employee's payslip shows them as being an assessable PRSI class, with gross pay and no pension contribution, the employee may be enrolled for AE, if otherwise eligible.

We would like to understand if it is intended that an individual on a PAYE Exclusion Order and not in any pension scheme should be excluded from AE?

We understand that for many PAYE Exclusion Orders, the payroll is processed with gross pay and the taxpayer is retained in the Irish PRSI system on Class A. In those circumstances, it would appear that such taxpayers will be subject to AE. If it is the legislative policy intention that such taxpayers should be outside the scope of AE, we believe additional guidance is needed to clarify the correct approach to be adopted in processing payroll for PAYE Exclusion Order cases.

DSP Response:

NAERSA is blind to the existence of an exclusion order and will conduct eligibility tests on all payslips shared by Revenue. ITI correspondence notes that where a PAYE Exclusion Order applies, the emoluments are excluded from the definition of "gross pay". If this is the case and if this is reported in payroll data, then the AE rate applied to a zero amount of gross pay will result in no contributions being collected.

3. PAYE Direction under Section 985E TCA 1997

a. Where an Irish employee performs duties only partially in Ireland, it can be possible for an employer to obtain a PAYE Direction from Revenue to limit Irish payroll withholding to the income related to the relevant Irish sourced portion. As the foreign-sourced portion of such earnings are outside of PAYE withholding, this would suggest this portion of non-Irish earnings could be outside of AE contributions. Confirmation of how this would work in practice is needed including how Revenue and NAERSA will implement this in practice.

Revenue Response:

Confirmation on this matter is a matter for the Department of Social Protection.

b. The Institute notes Revenue's response that the application of AE in PAYE Direction cases is a matter for DSP. We have set out below some further detail on the clarification which is required in PAYE Direction cases.

A PAYE Direction can apply to both employees of an Irish company or a foreign company. An employer may secure agreement from Revenue that only a percentage of gross pay is in scope of PAYE and USC withholding. Where the Direction issues, the amount of gross pay which is not subject to the Direction is out of scope of Irish payroll withholding.

A notice issued by Revenue under section 984 TCA 1997 provides for a PAYE Exclusion Order ("PEO") for eligible employees. This section specifically disapplies Chapter 4 of Part 42 and Revenue has confirmed that gross pay subject to a PEO is not in scope of AE. We understand that Revenue can filter PEO cases from payroll

data as a PEO requires an identifier in payroll software and is noted on the statutory payroll return.

Under section 985E TCA 1997, there is no explicit disapplication of Part 4 of Chapter 42, however, it is implied that the gross pay for PAYE purposes is only the relevant proportion stated in the PAYE Direction. We understand that there is no "Identifier" in payroll software in a similar manner to a PEO case and practical implementation requires the manual set up of a taxable and non-taxable "element" in software to allocate the relevant amount of gross pay between taxable and non-taxable amounts. The elements would be either "Taxable and USCable" or "Non-Taxable and Non-USCable" as the context requires. Where the employee is liable to Irish PRSI, PRSI would be levied on both the taxable and non-taxable element.

Gross pay for the purposes of AE aligns to the TCA 1997 definition of "*emoluments to which the PAYE system applies or is applied*". However, NAERSA's Business Processes for Payroll guide states that employees paying any combination of PRSI classes A, B, C, D, H & J (and relevant sub-classes) will be assessed for eligibility by NAERSA.

We would welcome clarification regarding the application of AE in PAYE Direction cases. Is it the case that Revenue will only share the "Taxable and USCable" element of pay data with NAERSA in PAYE Direction cases and that the "Non-Taxable and Non-USCable" element of pay data will not be provided, even where PRSI is applied to that portion?

DSP Response:

This is a question for Revenue to determine. NAERSA will receive Revenue data filtered on age and PRSI class only.

Revenue Response:

For AE purposes, Revenue will provide the same payroll data to NAERSA for these scenarios as that provided for standard payroll arrangements (this will also be the position with respect to the payroll information provided in SARP cases).

You will note from the DSP's reply on the PAYE Exclusion Order query that where an individual's gross pay for payroll purposes is zero, then AE contributions will not be collected. However, as noted in the ITI submission, there are instances where a gross pay amount is reported by employers in cases where a PAYE Exclusion Order is in existence. We also note that complications may arise in the context of PAYE Directions, where the gross pay amount which is reported may comprise of both the taxable and non-taxable elements of pay.

We sought clarity on these points with the DSP in respect of the attached reply, as Revenue's role in relation to AE is merely to provide the fields from the payroll data that DSP had requested as part of their development of the AE system, as provided for under the relevant data sharing agreement. In relation to clarifying these issues, we received the following response from DSP:

"As explained during our recent conversation, the AE system is built to leverage Revenue PMOD data systems and the legislation was developed to link in with the definitions of gross income in the TCA. Should there be instances where the reported gross pay figure in PMOD data not align with the statutory definition and where an individual is enrolled on the basis of this information, then I would suggest that such cases be directed to NAERSA for review.

Here, Section 114 (1) (f) of the AE Act provides for reviews of determinations of the NAERSA under Section 47 of the gross pay of the applicant or an employee of the applicant. In such cases the Authority will be able to review the application of the Revenue provisions and decide whether the person should or should not have been enrolled in line with the AE legislation. If the decision is made that they should not have been enrolled, then their AE Payroll Notification can be set to the 0 rate and refunds made. Individual cases will be dealt with by NAERSA and contact details will be available on the My Future Fund website: https://myfuturefund.ie/employer."

4. At retirement

Distributions of AE funds (after any lump sum taken) to a participant will be treated as taxable employment income through the PAYE regime by NAERSA. As currently

drafted, Finance Act 2024 rules provide that PAYE should apply to such distributions even if the recipient is not Irish resident at the time of receipt.

In general, where living in a tax treaty location at the time of the drawdown of pension annuity income, the new home location usually has primary taxing rights over such income and Ireland should cease to tax the income. Guidance on the future taxation of these distributions would be helpful, for example:

- Are these to be treated similar to a PRSA/ARF?
- Is it possible for the fund to be used to purchase an annuity?

Revenue Response:

In relation to the request to provide guidance on the future taxation of the type of distributions as set out by the ITI, it should be noted that the options on retirement for AE participants are set out in the AE Act. In particular, section 80 of the AE Act states the Minister may, by regulations, make provision for the option of the participant on drawdown. Therefore, this is a matter for the Department of Social Protection

Given that a portion of the pension pot will have been funded by Government funds, confirmation of the relevant article of a tax treaty which could apply to limit Irish taxation on annuity income.

Revenue Response:

Ireland has signed 81 Double Taxation Agreements (DTAs); 78 comprehensive treaties and three limited scope treaties (with Jersey, Guernsey, Isle of Man). Therefore, it is not practicable to list the Articles that apply in each of the treaties.

In negotiating tax treaties, Ireland, as a member of the Organisation for Economic Cooperation and Development (OECD), uses the OECD Model Tax Convention on Income and on Capital (the MTC), adapting it, as appropriate, to Ireland's domestic requirements. However, where a treaty partner proposes provisions of the United Nations Model Double Taxation Convention between Developed and Developing Countries (the UN Model Tax Convention), these are considered in the context of the

negotiation as a whole. Accordingly, Ireland's treaty network features articles based on the MTC and the UN Model Tax Convention.

In general terms, Article 18 (Pensions) of the MTC and Article 18 (Pensions and social security payments) of the UN Model Tax Convention apply to pension payments.

5. Non-Irish resident non-executive directors

The following guidance is provided on the Department of Social Protection website:

"Will company directors be enrolled?
This depends on the PRSI class that you are contributing as a company director. If you pay PRSI as an employee and meet the eligibility criteria, then you will enrolled. But if you are registered as self-employed then you will not be eligible."

A non-executive director of an Irish company who is not resident or not ordinarily resident in Ireland and whose reckonable income does not consist of income from a trade or profession is an excepted self-employed contributor and is exempt from PRSI (Paragraph 6 of Part 3 of First Schedule Social Welfare Consolidation Act 2005).

These non-Irish resident non-executive directors are classified as class M for PRSI purposes (i.e., they are exempt from PRSI).

We understand that DSP have indicated that AE only applies to those on PRSI classes A, B, C, D, H & J, however, this confirmation does not appear to be included in the guidance published on the DSP website. If this is the case, this would mean that non-Irish resident non-executive directors that are classified as Class M (or exempt) should not be in scope for AE. It would be very helpful if clarification could be provided by DSP and/or Revenue on this issue.

DSP Response:

Revenue will filter payslip data on age and PRSI class before sharing with NAERSA. Class M payslips are not shared unless concurrent PRSI classes exist. In this scenario Class M earnings are ignored for the purpose of eligibility testing.

6. Role of PRSI classes in the operation of AE

It would be helpful to understand the role of PRSI classes in the operation of AE generally and in particular its interaction with section 47 of the Automatic Enrolment Retirement Savings System Act 2024 which provides for the operation of AE by reference to "gross pay", which is defined as income to which Chapter 4 of Part 42 of the Taxes Consolidation Act 1997 applies.

We have outlined below three examples which illustrate the anomalies which may arise between an employee's pay for tax purposes and their pay for the PRSI purposes.

- A foreign employee may be eligible for a PRSI exemption for a period under EU Regulations or a Social Security Agreement and will not make contributions to an Irish pension scheme. They will be subject to PAYE on their emoluments in the normal way. We would like to understand the application of the AE legislation in these scenarios.

DSP Response:

Revenue will share the "PRSI exemption reason" field in payslip files shared with NAERSA. Where a 'reason' exists, the payslips will be ignored.

- *Ex-Gratia Termination Payments*

  Section 123 TCA 1997 ("section 123") ex-gratia termination payments are a capital payment provided as compensation for loss of office or employment. Under the TCA 1997, the payment is deemed to be liable to tax under Schedule E. PAYE applies to such payments except and to the extent relief under section 201 and/or Schedule 3 TCA 1997, providing for the Basic, Increased or SCSB exemption, up to lifetime limits is available. Where such relief is available, no income tax or USC is levied. Further

no PRSI is due on both the taxable and non-taxable part of the payment i.e., Class M is applied.

Notably, an ex-gratia termination payment is generally not considered "eligible earnings" for an employee who is member of an occupational pension scheme. As a result, no employee or employer pension contributions are calculated and paid on any amount of the ex-gratia termination payments that may be paid for that employee.

By comparison, where an employee is in scope of AE, the starting position would appear to be that AE is potentially payable on some or all the Ex-Gratia Termination Payment as AE contributions will be calculated from "gross pay" which will include, potentially, this payment. As this approach is not aligned with employees in occupational pension arrangements, consideration should be given to the appropriateness of this approach given that an ex-gratia termination payment is not "earnings" in the normal sense but a compensatory payment.

Where ex-gratia termination payments remain in scope of AE, clarity on the amount of such payment liable to AE contributions is required. Similar to PAYE Direction cases, the practical implementation in payroll software of the Basic, Increased and SCSB reliefs is through the set-up of elements which equate to the value of exemption being applied. The qualifying exempt portion of the payment would be set up in Payroll as exempt from Income Tax, USC and PRSI.

We would welcome confirmation from Revenue that the Exempt amount is not considered gross pay for the purposes of TCA 1997. We would also welcome clarification regarding the application of AE to the taxable portion of any reported section 123 Ex-Gratia Termination Payment given no PRSI will be applied to that payment.

DSP Response:

NAERSA conducts eligibility tests on payslips shared by Revenue for employees aged between 23 and under 60 at time of filtering. NAERSA is blind to the make-up of

amounts in the Gross Pay field and will base its determinations on the amount in Gross Pay field.

- *SARP relief*

  SARP relief is provided for under section 825C TCA 1997 and applies a pre-tax deduction up to certain limits for income tax purposes from Relevant Earnings. Relevant Earnings remain liable to USC in full and, where applicable, PRSI. Payroll processing requires manual implementation of SARP relief in software. This requires the set-up of the following elements typically:

  - Elements designated as "Not Taxable but liable to USC" which equate to the value of relevant SARP relief, and
  - Elements designated as "Liable to Tax, USC" being the balance of earnings which are not eligible for SARP relief.

  It should be noted that where PRSI is due in Ireland (e.g. the individual is not exempt under the terms of social security agreement), 100% of Relevant Earnings will have PRSI applied under Class A to J.

  In this scenario and similar to our queries above, given PRSI could apply to both the SARPable and Non-SARPable income, we would like to understand the Pay Data that will be shared by Revenue with NAERSA in these cases.

DSP Response:

For Revenue to respond to: Question refers to ITI requesting Revenue to provide information as to how the Pay Data will be shared by Revenue with NAERSA in SARP cases.

7. The registration process for AE

The following guidance is provided on the DSP website:

"How will the employer portal work?

You and/or your payroll/tax agent will be able to access the MyFutureFund employer portal using the same credentials used to access Revenue Online Services (ROS). Employers can do this directly with their ROS PREM Cert. Agents will be able to access the portal using their Tax Advisor Identity Number (TAIN).”

We would welcome clarification on the agent-link Employer PAYE/PRSI permission required for an agent to act for an employer in respect of AE. Paragraph 6 in Revenue’s Guidelines for Agents and Advisers Acting on Behalf of Taxpayers notes there are four different options for agent permissions in respect of Employer PAYE/PRSI. For example, Employer's PAYE / PRSI (Financial, Payroll, ERR and Global Mobility agent) allows the agent to carry out the full reporting, notifications, record updating, returns filing and payment filing requirements for the linked client while an Employer's PAYE/PRSI (Payroll Agent) currently can report payroll only i.e. to drawdown RPN instructions and submit payroll only.

More generally, it would be helpful to understand whether it is intended to issue guidance on the registration process including step-by-step guides for employers and their agents to access the *MyFutureFund* portal.

DSP Response:

A step-by-step registration guide/videos will be hosted on the My Future Fund website when it launches on the 1st of December.

In relation to reporting/ permissions, if an Agent has TAIN and ROS cert, they can carry out any/all activities within the Employer Portal.