

**This query paper was submitted to Revenue Personal Division in August 2025. Comments from the Personal Division Non-Resident Unit and Revenue Legislation Services (RLS) are denoted in red font. Administrative issues relevant to Personal Division were discussed at the Institute’s Branch Network Meeting with the Division on 27 January 2026.**



## **Compilation of issues raised by members with the Institute in relation to assignees and employees working across borders**

**1 August 2025**

### **Introduction**

Over the last year, the Institute has received feedback on a number of tax administration issues relating to assignees and employees working across borders. We have raised many of these issues during our Branch Network Meetings with Revenue’s operational divisions. It is clear from discussions on these issues that several have both operational and interpretive aspects. We consider it would be beneficial to have a bilateral meeting with officials from Personal Division and RLS to discuss these matters and explore suggestions to reduce administration for all stakeholders and improve clarity for taxpayers.

### **Issues in relation to requests for foreign assessments**

Members have noted that they continue to receive requests for copies of income tax assessments for the US, China and the United Arab Emirates (UAE) which cannot be fulfilled. The Internal Revenue Service (IRS) and the Chinese tax authorities do not issue income tax assessments. The UAE has no income tax. In one case, Revenue requested a copy of a UAE assessment from the spouse to permit aggregation relief. Repeated correspondence with Revenue was required before Revenue accepted that the request could not be complied with.

In the Netherlands, it is possible to complete a week 53 payroll to calculate an employee’s final tax liability rather than having to submit an income tax return. In such cases, it is difficult

to convince Revenue to accept letters from the employer outlining the final taxes for the employees.

In addition, we understand requests continue to be received from Revenue for **certified** translated copies of income tax assessments, where assessments are available. Where translations of the key words in the assessment were provided, Revenue did not accept this and requested the document to be fully translated. The requirement for certification of the translation adds to the cost for taxpayers.

Members have also reported requests from Revenue for a SA302 (evidence of earnings) from HMRC. This document does not automatically issue when a UK tax return is filed via commercial software (e.g. by a tax agent). It can be manually requested from HMRC over the phone and issued by post. However, it should be unnecessary to make such a request. The [HMRC website](#) specifically states that the tax calculation provided by commercial software on which the tax return is prepared by the tax agent is the equivalent of the SA302. However, Revenue will often reject the calculation provided by commercial software and insist on a SA302.

### **ITI suggested approach**

We request that Revenue updates its information material for staff to ensure all officials are aware that some jurisdictions do not provide assessments and alternative supporting information may suffice, where required. We believe that Revenue should also draw the attention of staff to the HMRC treatment of commercial software production as the equivalent of the SA302 and the production of this document by commercial software should be accepted.

Regarding translations of assessments, we believe it should be possible for Revenue to obtain confidence on the key contents of a foreign assessment without the need for a certified translation. Google Translate or use of AI may be sufficient in many cases to translate the key information Revenue is seeking from an assessment. There may be common words or phrases which Revenue has identified from similar assessments that could be relied upon if there are concerns about the validity of any translation submitted by a taxpayer.

## **Non-Resident Unit (NRU) comment:**

In cases where the individual is claiming aggregation relief, if an income tax assessment is not available, Personal Division will accept a signed affidavit for the spouse.

The NRU does not request **certified** translated copies of income tax assessments.

The NRU will accept the tax calculation provided by commercial software on which the tax return is prepared by the tax agent as the equivalent of the SA302. We note that we receive many Income Tax returns being submitted without SA302/Calculation.

## **Tax refunds due to the employer**

### **Tax-equalised cases**

If a refund is due to an employer in respect of a tax-equalised assignee, a refund mandate letter may be completed for the assignee to sign to allow the refund to be paid directly to the employer company. The facility to mandate the refund to the employer is important as it helps to ensure that refunds are dealt with, as intended, under the terms of the tax equalisation arrangement. Section 865 TCA 1997 (and Revenue guidance) permits Revenue to make a repayment of tax directly to an account nominated by the taxpayer.<sup>1</sup>

Different approaches are adopted by employers in preparing this mandate. Many employers will follow the sample mandate format outlined in Appendix 2 of the Tax & Duty Manual (TDM) [Income Tax Processing for Temporary Assignees](#). Some mandates are prepared based on the PAYE A2 Authorisation Form. We are also aware of instances where employers have submitted a PAYE A2 in the absence of a specific form for refunds due to employers. We note that the PAYE A2 Form is being withdrawn considering it was developed to facilitate the payment of PAYE refunds to tax agents.

Feedback from members indicates that at times Revenue staff do not follow the mandate submitted or are unaware that such a mandate can be made and instead, pay the refund to the employee.

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<sup>1</sup> Section 865 (8) TCA 1997 states 'Where the Revenue Commissioners make a repayment of tax referred to in subsection (2), they may if they so determine repay any such amount directly into an account, specified by the person to whom the amount is due, in a financial institution'.

## **Non-Resident Unit (NRU) comment:**

NRU process these cases using the bank account as mandated.

Can the ITI provide some sample cases where the mandate wasn't adhered to and we can follow up with the relevant area?

## **Loan arrangements**

Tax equalisation arrangements can be very expensive for companies and involve a re-gross from a foreign payroll perspective which increases the foreign taxes that have to be paid by the company, for example, for outbound assignments. Therefore, some companies prefer to use a loan arrangement with such employees.

For example, a scenario often arises with employees working across Europe on various company projects. The employees are paid via Irish payroll with Irish PAYE operated, as they do not qualify for PAYE exclusion orders. As the employees are working in a different country, foreign payroll taxes often apply. Employers may enter into a loan arrangement with the employees and pay the foreign payroll taxes on behalf of the employees which can give rise to a Benefit-in-Kind. This will depend on the jurisdiction i.e. whether the obligation to pay the tax rest with the employer or employee.

In line with Revenue guidance, where BIK applies it is applied on the loan arrangement via the Irish payroll. After the end of the tax year, the employees file their Irish tax returns to claim a foreign tax credit for the foreign taxes paid by the company. Under the loan arrangement, the refunds generated by the foreign tax credit claims are due back to the company.

## **ITI suggested approach**

We understand that the removal of the PAYE A2 has no impact on the ability for a refund to be paid to employers' bank account (considering section 865(8) TCA 1997) and previous guidance on the purpose of that subsection.<sup>2</sup>

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<sup>2</sup> An excerpt from Tax Briefing Issue 05 - Revised Arrangements for PAYE Tax Agency Services. (2012 - introduction of the A2 requirement): PAYE Refunds to Employers' Accounts: Section 865(8) of the Taxes Consolidation Act, 1997 allows, in a limited number of cases, PAYE refunds to be made directly to employers' bank accounts. These refunds generally relate to short-term employments in Ireland and are unaffected by the provisions of this eBrief

In our view, there is scope for greater consistency in the approach to the preparation and acceptance of instructions mandating payment of an employee's tax refund to their employer, in appropriate cases. The contents of the aforementioned *Income Tax Processing for Temporary Assignees* TDM relates primarily to the bulk processing service for refunds arising in tax equalisation cases limited to the LCD case-base.

However, we believe it would be useful to include the template, in Appendix II, for mandating refunds to the employer in tax-equalised cases in other Revenue material such as the *Tax Equalisation* TDM and for Revenue to note, via an eBrief, that this template can be used in tax-equalised cases regardless of the Revenue division which is processing the refund. This would help increase awareness of this template and standardise the process.

It would also be helpful to extend the ability to mandate a refund to the employer to circumstances involving loan arrangements, as outlined above.

**Non-Resident Unit (NRU) comment:**

The NRU receive a considerable number of cases submitted by Agents mandating to the employer bank account where the income has not been subject to Tax equalisation. We in the NRU process such refunds as normal.

Can the ITI provide some sample cases where the mandate wasn't adhered to and we can follow up with the relevant area?

**Form 12 completion and reducing follow up queries**

When filing an eForm 12 for a non-resident, it is mandatory to include their address and social security number in the foreign jurisdiction and their worldwide employment income for the tax year. In contrast, the paper Form 12 only requires these details where the individual is seeking to claim aggregation relief. It appears there is no option on the eForm 12 to indicate that the taxpayer is not seeking to claim aggregation relief.

With respect to non-resident tax credits and worldwide income, many individuals choose not to pro-rata credits as Revenue often seek evidence of worldwide income which is not always

from one source. Consequently, the cost to collate the necessary evidence from multiple sources often exceeds the benefit of the pro-rated credits, particularly for non-domiciled individuals who are only taxed on the remittance basis.

**Non-Resident Unit (NRU) comment:**

As non-resident individuals are not automatically entitled to tax credits, we require evidence of their worldwide income to allocate and apportion the correct tax credits correctly.

For non-resident cases on paper Form 12, Revenue often seek evidence of worldwide income even where a claim to pro-rata the credits is not sought. Where no tax credits are claimed on the tax return, we do not believe it is necessary for Revenue to request details of worldwide income, yet this is often requested.

**Non-Resident Unit (NRU) comment:**

We have issued guidance to staff advising that if tax credits have not been claimed on the income tax return, they are not to request worldwide income.

When filing a Form 12 where the taxable income does not match the Employment Details Summary (EDS), the return must be submitted via MyEnquiries. In most cases, Revenue automatically request an employer letter or other supporting information to explain the discrepancy between the EDS and taxable income.

Feedback from members indicates that when Form 12 returns are filed with double tax credit claims, the assessments are often issued initially without the credit and there is no correspondence from Revenue to outline why the claim has been rejected and what data Revenue requires to include the claim. If further data is required in order to process the credit, it would be helpful to receive a communication from Revenue as to what is required. The absence of a section on the return to allow for the upload of supporting documents for a foreign tax credit (FTC) claim impacts on the ability to provide the information upfront.

### **ITI suggested approach**

There are limitations in the Form 12 and eForm 12 in dealing with non-resident and assignee cases. Considering discrepancies may arise between the EDS figure and the taxable computation, there should be a field within the eForm 12 where the reason for these discrepancies could be explained or a section to upload relevant FTC documents.

Pending IT developments to those forms, we would welcome scope to address these issues in the meantime in a practical manner to reduce administration in these cases. For example, if internal guidance for staff could highlight that information on worldwide income is unnecessary in certain circumstances or if Revenue could communicate why a foreign tax credit has been excluded. In our bilateral engagement with Revenue on assignee matters in 2021 and 2022, we raised that it would be useful if there was a mechanism when submitting the return to outline the reason for a difference between the taxable income and the EDS. This would help to reduce additional queries and administration in dealing with these cases. This could be achieved by providing information within the tax return or submitted with the return via MyEnquiries and reviewed by the caseworkers when processing the return.

In addition, adopting a more self-assessed approach to Form 11 cases where this discrepancy arises would be helpful, so that only a selection of cases are checked, based on risk. Reducing the number of requests for additional supporting information from the employee or employer would reduce administration for all concerned.

### **Non-Resident Unit (NRU) comment:**

Suggested that pay amendments are made by the employer, streamlining the process for the customer and eliminating the need for supporting documentation.

Revenue staff are overriding the payroll as submitted by the employer for the customer and generating large refunds. Supporting documentation is required in all cases where a payroll is being amended by a Revenue caseworker. A letter from the employer confirming work-days is required to support the claim.

Exclusion Order/ PAYE Direction may be applicable in some cases and should be applied for. Exclusion orders can be applied for online, and the process is straight forward. In the absence of an exclusion order or PAYE Direction, supporting documentation is required in all cases to satisfy conditions that the refund is due.

NRU staff will always request supporting documentation for Foreign Tax Credit claims. To improve efficiency, supporting documentation should be submitted with the return.

### An explanation of the operation of 'Rule 9'

At times when trying to access details on a client profile or even viewing the documents folder and viewing assessments/Tax Credit Certificates that have already been issued, members report receiving an error which states: "***we cannot complete your request because our records show your personal details need to be updated. Please contact Revenue and quote Rule 9.***" We understand that this error occurs most frequently where post has issued to the client from Revenue and has been returned to Revenue as the sender.

### ITI suggested approach

We understand this message and notification to contact Revenue relates to data security to guard against any unauthorised access to a person's information. It would be helpful if there was some indication with the 'Rule 9' warning as to the nature of the issue arising so it could be resolved quickly and the agent could access the information.

### **Non-Resident Unit (NRU) comment:**

Rule 9 arises in cases where the Non-Resident marker is on record. These cases require caseworker intervention to ensure claims are correct and due to the customer.

### Payrolling of share option gains and workday adjustments

At the last Branch Network Meeting with Personal Division, we discussed the change to the collection of tax on share option gains from 1 January 2024, noting the possibility of increased correspondence in some cases. For example, some employers may tax the full gain even if part of the vesting period was spent working outside the State.

If the operation of PAYE on share option gains is processed by an employer on a self-assessment basis, as set out in Example 11 on page 36 of [Chapter 3 - Unapproved Share Options](#) TDM, this should run smoothly for all parties from a tax administration perspective.

However, if the employer is not aware of any workdays that an employee spent working in a Double Tax Agreement (DTA) country during the vesting period of the award, Irish PAYE will be applied on the full gain. Foreign tax is also likely to be due on the gain, which may lead to cash-flow problems for the employee.

**RLS comment:**

On the assumption that the employee is an employee throughout the vesting period, the employer is required to return the correct amount of tax in respect of the gain exercised by the employee. The employer is best placed to know if the employee was assigned to carry out duties of employment in a different jurisdiction and for how long.

Another issue which can arise in the administration of the new regime for employers with a mobile workforce is where an employee leaves to work in another jurisdiction and there is insufficient salary from which to withhold tax. For example, the employee may receive options while in Ireland and the gain is taxable, in part, in Ireland.

**RLS comment:**

The legislative provisions for the collection of tax in respect of notional emoluments is contained in Chapter 4 of Part 42 TCA 1997, the Employment Regulations 2018 and the Universal Social Charge Regulations 2018.

Engagement between the employer and the employee is essential to ensure that the individual is aware of the tax liability arising in Ireland and to put in place the correct mechanism to ensure that the employer can collect the tax from the employee in due time.

Revenue is not restrictive as to how this is made. However, the legislation provides for the employer's right to withhold shares that would cover the cost of the acquisition of shares and any tax liability that may arise. Sell-to-buy arrangements may facilitate the collection of tax where there is insufficient salary.

Instances have arisen where the employer wrote to Revenue regarding the rate of tax to apply to the gain and were instructed to apply the emergency tax basis. The Irish employer paid the tax on behalf of the employee as there was insufficient or no salary from which to deduct tax. The employee disputed the fact that they owe the employer the money that was

paid over on their behalf. The employee has been told to pay the employer and file a return with Revenue to recover any excess tax.

### **ITI suggested approach**

In the circumstances where PAYE has been applied to the full share option appropriately, it would be helpful if employees could provide the details of their non-Irish workdays in the DTA country during the vesting period on a self-assessment basis, via the Irish tax return, without the need for Revenue caseworkers to request evidence in every case involving a claim for double taxation relief.

Of course, we expect Revenue to request additional information in some cases. However, feedback on experiences to date in relation to non-share option gains (e.g. carve outs for non-Irish workdays or bonuses paid through the Irish payroll but earned whilst the employee worked outside Ireland) indicates that Revenue caseworkers request letters from the employer in respect of every employee claiming relief.

### **NRU comment:**

It may be more appropriate for these payroll amendments to be made by the relevant employer, streamlining the process for the customer and eliminating the need to contact Revenue requesting amendments.

In the absence of the above, confirmation from the employer of the number of Irish workdays is required to enable Revenue carry out the correct calculations.

In terms of paying the employer back for taxes paid on their behalf, consideration could be given to having a grace period to repay the employer e.g. a 12-month grace period without triggering a preferential loan.

We would also welcome the opportunity to discuss how to deal with scenarios where the employee has departed and there is insufficient salary from which to withhold tax creating a difficulty for the employer.

**RLS comment:**

Section 122(1) of the Taxes Consolidation Act (“TCA”) 1997 defines preferential loan as: -

*"preferential loan" means, in relation to an individual, a loan, in respect of which no interest is paid or interest is paid at a preferential rate, made directly or indirectly to the individual or to the spouse or civil partner of the individual by a person who in relation to the individual or the spouse or civil partner is an employer, .....*"

Where the employer pays an employee's tax on his or her behalf and there is an expectation that the employee will repay that amount, then it falls within the scope of section 122 TCA 1997.

This means that from the date the employer makes the tax payment on behalf of an employee, the provisions set out in s.122/s.112 TCA 1997 and Regulation 14 of the Income Tax (Employments) Regulations 2018 apply.

The use of the word **shall** in section 122(2) TCA 1997 means that there is no basis in the legislation for the requested 12 month grace period. This would be a matter for the Minister for Finance.

**Tax credits and non-resident non-executive directors**

We have raised previously with Personal Division the issue of having to repeatedly request the removal of tax credits in certain circumstances where they cannot be deleted via the income tax return. One common example where this arises is in respect of non-resident non-executive directors (NEDs).

A NED of an Irish incorporated company is liable to Irish income tax on all of the remuneration arising from the office regardless of his/her residence position for Irish tax purposes. In making applications for Tax Credit Certificates (TCCs) through MyEnquiries, the agent confirms that the NED is not resident in Ireland for tax purposes for the relevant tax year and that no tax credits should be granted in the TCC. It may also be confirmed at that stage that the NED is not pursuing any claim for aggregation relief.

Despite communication from the agent, TCCs issue which grant either all or one of the following tax credits: the Personal Tax Credit; the PAYE Credit; the Age Credit.

Consequently, there is further correspondence with Revenue, the NED and the client's

payroll team to try to correct the matter in-year. This involves unnecessary administration and additional costs for all parties. If the matter is not corrected in the tax year, the NED incurs a tax underpayment.

Another common issue arising for NEDs relates to instances where TCCs are issued on a week1/month1 basis. This typically leaves the NED in an overpayment position. A NED may not have a bank account in the Single Euro Payments Area (SEPA). This means that the refund cannot be processed by electronic transfer to the appropriate bank account and Revenue posts a cheque instead. Difficulties can then arise for NEDs to obtain the refund and deposit it to their non-SEPA area bank accounts.

### **ITI suggested approach**

Could Revenue add a 'marker' by request to such cases to aid Revenue staff in handling these cases so that an incorrect TCC does not issue? We believe this would reduce some of the administration in dealing with these cases.

### **NRU comment:**

Once the employment has been correctly registered the correct TCC should issue. We are unaware of cases where credits have been incorrectly applied.

(We have asked the ITI to supply some sample cases and are awaiting receipt of same.)

Electronic payment is the preferred method of payment generally. We believe Revenue should review the ability to send refunds to non-SEPA bank accounts. The Institute has asked the Collector General's Division to review the inability to pay refunds to non-SEPA bank accounts as part of its banking and payment modernisation programme which is currently underway.

### **Delays with processing PAYE Directions**

Another issue currently being encountered by members relates to delays with processing PAYE Directions to reduce the withholding tax for non-resident employees and directors. In some instances, the requests appear to be sent to the non-resident section for processing, and that section issues the directions. In other case, the Directions are issued by the Revenue division which is responsible for the employer.

### **ITI suggested approach**

We believe it would be helpful if there was a more formal process for these types of payroll related applications, rather than sending letters in via MyEnquiries. We would also welcome clarity on which Revenue division is responsible for processing the applications and in what circumstances (i.e. the non-resident section or the employer's division).

### **NRU comment:**

PAYE Directions were processed via PAYE Branch until 03/09/25. Since 04/09/25 PAYE Directions are dealt with by the Non-Resident Unit, ensuring consistency of treatment.

PAYE Dispensations/ PREM Exemptions are dealt with by the relevant Revenue Division/Branch dealing with the tax affairs of the company.

### **Refunds of payroll taxes to non-resident directors**

Members have reported ongoing issues with refunds for non-resident directors claiming a refund of payroll taxes under Article 16 of the Ireland/US Double Tax Agreement. The issues reported focus on inconsistency in processing. For example, in some cases refunds may be processed within two weeks whereas in other cases a delay of several months can arise. In some cases, Revenue often responds after a number of weeks seeking information that was already included in the original submission - specifically the basis of the calculation of the final taxable income.

### **ITI suggested approach**

We believe it would be useful to discuss ways to streamline the processing of these types of refunds and information sought by Revenue.

### **NRU comment:**

Cases are processed in date order, the length of time that it takes to process a case depends on the level of information that has been provided with the Income Tax Return. In all cases, confirmation from the employer is required confirming where the duties have been carried out. To prevent delays in processing, all information necessary to process the claim/query, should be submitted with the Income Tax Return.

Staff have been reminded to check documentation previously provided in the original submission to avoid unnecessary delays.

### Drawing lump sums from US section 401(k) and similar pension plans

During the discussions at the TALC Direct/Capital Taxes Sub-committee - Precedent 28 Subgroup in 2022, practitioners discussed with RLS the desire for Revenue to provide guidance on its view of lump sum drawdowns from US section 401 pension products, highlighting that the lack of clarity on whether Revenue's interpretation of 'commutation' following Finance Act 2022 amendments to the taxation of foreign pension lump sums (section 200A TCA 1997) would apply to 401(k) products.

We recently highlighted at our annual Branch Network meeting with Revenue's High Wealth & Financial Services Division (HW&FSD) last May that we would like to revisit the discussion on the development of Revenue guidance by RLS on standard foreign pension products, such as the 401k pension product.

Individuals returning to Ireland after a considerable period working abroad who have accumulated a pension fund will want clarity on how this fund will be treated for tax purposes. It is very difficult to advise with any certainty on the position for these standard pension products and the absence of clarity exposes taxpayers to the risk of Revenue taking a different view in an intervention. This is increasingly an issue as individuals seek to relocate from the US in the current political climate. Similarly, guidance on individuals moving from an Irish employment to work in the US and onto a 401k plan would be helpful.

### ITI suggested approach

We believe it should be possible to provide some general guidance on the treatment of common pension products from jurisdictions such as the US and the UK to support taxpayers to correctly self-assess their tax obligations. We would welcome the opportunity to discuss further the scope of general guidance that Revenue could provide.

### **RLS comment:**

Revenue notes the request for guidance on the treatment of lump sum withdrawals from US Section 401(k) pension arrangements and similar foreign pension products. It is not possible

to provide the type of broad product-specific guidance requested, as there is likely to be significant variation in the legal form, operation and drawdown rules of foreign pension plans. The tax treatment will depend on the facts and circumstances of the particular arrangement in each case. If practitioners encounter specific cases where uncertainty arises, they may submit a query for consideration under the RTS process.

Revenue also notes that guidance on the meaning of “commutation” for the purposes of section 200A TCA 1997 is set out in paragraph 2.2 of [Tax and Duty Manual Part 07-01-09A](#).

### **Form 12 and Form CG1**

Last October, we asked about Personal Division’s plans to update the eForm 12, in particular whether CGT could be included on the online form. Revenue indicated that it was advancing efforts to move the Form CG1 online in the first instance and we welcome an update on this development as plans progress.

While not solely related to assignees or cross-border cases, we believe it is important to reiterate that there is duplication of effort where a Form 12 has been submitted, and gains are less than the annual exemption of €1,270 but Revenue also requests the Form CG1 to be completed. The Form 12 is a return of income and capital gains, so in our view, a Form CG1 should not be necessary in such circumstances.

### **Not applicable to NRU**

### **Pension Auto Enrolment (AE) – cross-border matters**

#### **RLS comment:**

Please refer to our correspondence with the TALC Direct and Capital Sub-committee and the Department of Social Protection on matters relating to AE.

{The correspondence to which RLS refers was included in TaxFax on 19 December and is available [here](#).}

We would also like to highlight a number of cross-border considerations that arise in relation to AE for consideration.

## **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.

**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 the Taxes Consolidation Act 1997 applies. A PEO disapplies this chapter.

### **PAYE Direction Cases**

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.

### **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?
- 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.

### **Other Matters**

Other matters raised with the Institute where we believe additional guidance from Revenue is merited include:

- More guidance on the tax treatment of trailing bonuses that are earned in one year and paid in another. An issue can arise where an FTC is to be claimed in another country and the trailing bonus has been reported on the prior year return in Ireland.

**RLS:**

To enable us to consider this request, please outline specific scenarios in respect of which guidance is being sought. Please note that we are unable to provide guidance on the issue of claiming a foreign tax credit in another territory, as this falls outside the scope of Irish tax rules.

- Guidance on the 'Green Card' and how it operates in the US. For example, an individual who holds a Green Card must file a return in the US as a 'resident' even where they are not strictly resident for tax purposes in the US. This can then often slow down the processing times of the Irish return and result in significant correspondence with Revenue.

**RLS:**

Revenue is not in a position to provide guidance on US Green Card matters, so it is unclear what specific guidance is being sought in this scenario.

**NRU:**

Having a Green Card has no impact on the Irish Tax Return being processed.

- Regarding Dividend Withholding Tax (DWT) claims on Irish tax returns, members report receiving a lot of queries from Revenue seeking specific documentation, which can be burdensome. We would welcome scope to discuss ways to streamline information requests.

**Not applicable to NRU, maybe more relevant to Business Division.**

**ROS developments requested**

We have outlined in the appendix below suggested ROS developments that we believe

would support compliance and reduce administration for both practitioners and Revenue in handling the types of cases reflected above.

**Noted. We will raise the points raised with the relevant areas for further discussion.**

DISCUSSION DRAFT

### Appendix of suggested ROS developments to support compliance

ROS tab/function	Description
Form RSS1	Form RSS1 needs to be updated to include a field for "Was PAYE Withheld"
General – register employment	Tax agent visibility online of selections made by a linked client e.g. where a taxpayer elects to be resident.
<b>Form 12 - Paper filing</b>	
General Tab	<p>Incorrect registration to Income Tax in tax year. It should be possible to enter and submit the Form 12 even if the assignee or spouse are linked to income tax. Currently, contact is made with Revenue via MyEnquiries to advise Revenue of the correct position, but the process is quite inefficient and practitioners receive responses asking them to de-register the assignee via ROS. This is not possible if the start date is during the tax year, or Revenue de-register them with effect from 1 January. However, this does not resolve the issue of being unable to submit a Form 12 for the year if the income tax registration is incorrect.</p>
PAYE income	<p>The possibility to change PAYE/USC base income if a full refund or apportionment of employment income was calculated or an RSU was excluded for a non-resident. There should also be additional space where additional notes can be added outlining why these amounts have changed and a location where additional documents can be attached e.g. calculation of apportionment of employment income.</p>
	<p>It is not possible to input two foreign tax credits (FTCs) details for the assignee and their spouse or two FTCs for the assignee. If the credits relate to the same country, practitioners may sum up incomes for double tax and foreign taxes to avoid paper filing. It would be</p>

	more convenient if separate FTC details could be included for the assignee and spouse and to add a second FTC for an assignee, if relevant.
Tax credits & reliefs	Adding an option 'Delete' to remove the Personal Tax Credit if the assignee is non-resident and is not claiming tax credits.
	Regarding medical expenses, where the assignee has claimed some expenses in the Receipts Tracker, but some non-qualifying expenses need to be excluded, it should be possible for the agent to edit the medical expenses.
<b>Form 11</b>	
Split Year Treatment	Revenue to confirm whether a field has been provided on the Form 11 to claim Split Year Treatment.
General	It is not possible to amend a Form 11 already submitted by an assignee. A MyEnquiry must be submitted to Revenue to outline the changes required so that they can be made manually. The Institute understands that it is not possible to view and amend historical information filed with Revenue, via ROS, before the appointment of the tax agent. However, at a minimum, where a tax agent has been appointed to act for a particular tax year, to deal with an intervention, self-correction etc. they should be authorised to amend the tax return filed by the taxpayer.