

Professional Memberships Fees as a Benefit-in-Kind

Revenue recently clarified the position for employers and employees in relation to professional membership fees.

Prior to the 1st January 2011, the payment or reimbursement of an annual membership fee for a professional body on behalf of or to an employee, by an employer did not give rise to a taxable benefit-in-kind if membership of that professional body was relevant to the business of the employer.

This exemption was abolished for 2011 and subsequent years by the Finance Act 2011 and therefore deemed a taxable benefit-in-kind subject to PAYE, PRSI and the USC.

Following representations made by numerous individuals and professional bodies, Revenue has been asked to clarify:

- the extent to which a deduction may be available to employees under the general rule governing employee expenses in respect of annual membership fees paid to a professional body; and
- the extent to which, for ease of administration, employers need not make tax, PRSI and USC deductions where such professional membership fees paid by the employer on behalf of the employee would in any event be allowed as a deduction expense.

Tax deductibility of employee expenses

In general, a tax deduction is allowed in relation to expenses incurred wholly, exclusively and necessarily by an individual in the performance of the duties of his or her employment.

With regard to annual professional subscriptions, Revenue states that whilst each case should be examined on its own facts and circumstances, Revenue will allow a tax deduction for the employee for the tax year 2011 and subsequent years in the following circumstances:

Where there is a statutory requirement for membership of a professional body etc.

Revenue have confirmed that where it is required by statute to be a registered member of a designated professional body, association, society, council etc. before an employee carries out the duties of their employment, tax relief is now available.

Therefore, where an employee pays their own annual registration or professional membership fee, it is deemed an expense which is wholly, exclusively and necessarily incurred by an individual in the performance of the duties of their employment.

In addition, where an employee has a right, by virtue of a registration or membership of a professional body to plead or be heard in representing a client of his employer before a court or tribunal, tax relief is also available.

Where there is a requirement for a practising certificate or licence

Where an employee is obliged to have a current practising certificate or licence issued by a professional body, association, society, council etc. before they can carry out the duties of their employment, tax relief is also available in respect of both the annual membership fees and the cost of the practising certificate or licence payable.

Other situations where membership fees of a professional body may be deductible

Revenue have also confirmed that tax relief is also available in respect of an annual membership fee payable to a professional body, association, society, council etc. where:

- the duties of the employee and the duties of the employment require the exercise or practice of the occupation or profession in respect of which the annual membership fee refers;
- the employee exercises or practices the occupation or profession in respect of which the annual membership fee refers; and

- membership of the professional body is an indispensable condition of the tenure of the employment.

Operation of payroll deduction

Finally, where an employer pays or reimburses a membership fee to a professional body on behalf of or to an employee; and tax relief would be available as outlined above, PAYE, PRSI and USC is not required to be deducted.

What now?

Employers should review any professional subscriptions paid since 1 January 2011 to ensure that the correct tax treatment is applied to such payments in accordance with Revenue's new position.

If you require any further information or assistance in relation to the above, please contact us.

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