



Dublin Chamber Policy Statement re Tax Treatment of Professional Subscriptions

May 2018

Background

The Finance Act 2011 abolished the general exemption from Benefit-In-Kind for professional subscriptions paid by employers on behalf of their employees. Since then, the administrative practice setting out Revenue's interpretation of the general rule for deductibility of professional subscriptions as a Schedule E deduction has largely followed the examples published in Revenue eBrief No. 19/11. This guidance has now been superseded.

Revised guidance issued in January 2018 as part of the Tax & Duty Manual Part 05-02-18 suggests that Revenue's interpretation of the tax deduction rules has tightened, significantly narrowing the circumstances in which professional subscriptions can be paid by an employer without giving rise to a BIK charge for an employee.

Concerns regarding the current Revenue approach

While the new Revenue guidance still states that BIK need not be operated where the expense has been incurred "*wholly, exclusively and necessarily*" for the purposes of an individual's duties of employment, the practical examples that are given imply that Revenue now takes an extremely narrow interpretation of the application of these provisions.

The new guidance effectively restricts a tax deduction to professional subscriptions that are statutorily required for the exercise of the employee's duties. It now appears that an employee can hold a qualification that is relevant to his or her role, but still be subject to BIK taxation on that expense.

Implications for Business

This change has caused concern among employers, and particular alarm in the professional services sector. It also has wider implications. For commercial reasons, many employers will have no choice but to incur higher costs. In other cases, it will create an increased tax burden for employees, and could likely lead to a reduction in professional qualifications and memberships in Dublin's labour force. In a country that strives to promote a knowledge and skills based economy, the restriction is very inappropriate.

The world of work has changed considerably since the words “wholly, exclusively and necessarily in the performance of the duties of the employment” were first introduced into tax legislation. Today employees, particularly senior employees, are engaged in work at any waking time in their day. They access services online from the professional bodies of which they are members, using the information so accessed for their employment. They operate in a knowledge economy where they are unable to perform the duties of their employment without access to information. Much of the case law providing a narrow interpretation of the above words was decided at a time when access to information of a professional nature and membership of professional bodies was not as necessary a requirement, on a continuous basis, of the performance of the duties of an employment as it is today.

Paschal Donohoe T.D., Minister for Finance identified investment in human capital so that workers have the skills and knowledge to succeed in the new economy as one of the key policies for the future success of Ireland’s economy earlier this year. The change of interpretation seems to run counter to that stated policy.

Dublin Chamber Policy

Our tax system should help, rather than hinder, the development of an educated and skilled workforce in order to continue to attract mobile foreign direct investment to Ireland and to continue growing the domestic economy.

Dublin Chamber believes that serious consideration be given to reinstating the pre-2018 guidance with respect to qualifying criteria for the exemption of professional membership fees from BIK taxation.

Alternatively, the new guidance could be amended to make provision for the exemption of professional memberships that are commercially necessary but not statutorily required.