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GES NewsFlash

Ireland — New Guidance Issued on the Universal Social Charge (USC) and Cross-Border EU/EEA Workers

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The Irish Revenue issued welcome guidance on 22 December 2011 (e-brief 81/11), which outlines the documentation required to prove eligibility for a full medical card and avail of favourable treatment with regard to the Universal Social Charge (USC).

Background

Under EU regulations, where an individual is posted by his or her EEA employer to work in another EEA country for a period of up to 24 months or longer, the individual will continue to be subject to the social security system in his or her home country. An A1 certificate (formerly, an E101 certificate) is obtained from the relevant public body in the individual's home country in this regard.

During their assignment, such posted workers retain the benefits acquired from social insurance in their home country, which includes health care services. An S1 certificate (formerly, an E106 certificate) can be obtained from the relevant public body in the home country in this regard.

On receipt of an A1 and S1 certificate, the Health Service Executive (HSE) in Ireland will provide individuals who are posted to work in Ireland with a medical card as evidence of eligibility to state-provided health care services in Ireland. The health care services include a range of family doctor or GP (general practitioner) services; the supply of prescribed approved medicines; certain dental, ophthalmic, and aural health services; hospital care and hospital visits in public hospitals; a maternity cash grant on the birth of each child; medical and midwifery care for mothers; and some other personal and social care services.

Posted workers and the USC

The USC replaced the income levy (and the health levy) with effect from 01 January 2011. The USC is due on gross income before pension contributions.

The USC rates for 2012 are as follows:

- 2% on the first €10,036
- 4% on the next €5,980
- 7% on the balance

Posted workers who are *entitled* to a full medical card in Ireland (as provided by the HSE) are chargeable to the USC at a maximum rate of 4% irrespective of the level of their income. Prior to this e-brief, it was Revenue's view that the posted worker had to *hold* a full medical card in order to apply the lower 4% rate of the USC.

This e-brief confirms that the Revenue will accept an A1 certificate *and* S1 certificate as evidence of entitlement to a full medical card for the purposes of determining the rate at which the USC is to be charged. Please note that *both* certificates must be available for production in order to apply the lower 4% rate of the USC.

For 2011, posted workers who were entitled to a full medical card, who held A1 and S1 certificates, and who were subject to the higher rate of the USC are advised to make an application to Revenue for a refund.

For years prior to 2011, posted workers who were entitled to a full medical card in Ireland were fully exempt from the income levy (i.e., for 2009 and 2010, while the income levy was in force). But, as it was for the USC, it was Revenue's view that the posted worker had to *hold* a full Medical Card in order to be exempt from the income levy.

For 2009 and 2010, posted workers who were entitled to a full Medical Card, who held A1 *and* S1 certificates, and who paid income levy are advised to make an application to Revenue for a refund.

Frontier workers and the USC

A "frontier worker" is an individual who is resident in one EU member state and who commutes to work in another EU member state. For 2009 and 2010, with respect to the income levy and, for 2011, with respect to the USC, Revenue had treated frontier workers who commuted to work in Ireland from another member state as being automatically eligible for a full medical card in Ireland. However, Revenue has now confirmed that frontier workers are only eligible for a full medical card if they are regarded as ordinarily resident in Ireland and if they pass a means test carried out by the HSE.

Therefore, in effect from 1 January 2012, frontier workers commuting to work in Ireland from another member state who do not obtain a full medical card from the HSE are subject to the higher rate of the USC as normal (assuming sufficient income).

Revenue notes that, while the higher rate of the USC may apply, relief for the USC paid in Ireland may be available where Ireland has entered into a double-taxation treaty with the country in which the individual remains resident for tax purposes and where that treaty contains an article that states the treaty will apply to any tax imposed by either state (which is identical or substantially similar to income tax).

Revenue has confirmed that it has written to these treaty partners to confirm that the USC is substantially similar to income tax and is therefore covered by treaty provisions, including relieving provisions.

Deloitte's view

This is welcome clarification from the Revenue in relation to the documentation required to avail of favourable treatment with regard to the USC. It will help to reduce the cost of sending certain expatriate assignees to work in Ireland and will benefit indigenous and multi-national companies situated in Ireland.

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People to contact

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