



Tax legislation is constantly evolving, bringing both risks and opportunities. The Revenue's remit is to ensure that the correct amount of tax is collected each year and as a result, they have significant powers to review a taxpayer's affairs.

Revenue audits generally focus on fiduciary taxes for example PAYE and VAT which are areas where even small mistakes can grow into substantial liabilities as such errors tend to be repeated.

We have outlined below the common PAYE and VAT pitfalls which are frequently identified during Revenue Audits:

## PAYE PITFALLS:

- **PRSI** : Employees/directors are often placed on the wrong PRSI rate, the cost of the error for the employer can be significant as the rate of employers PRSI is 10.75%.
- **The Universal Social Charge (USC)** : The introduction of complex legislation in this area has led to confusion as to what income is liable to this charge and what items are deductible. The Revenue are aware of the confusion caused and have been carrying out current year payroll audits.
- **Benefits in Kind (BIKs)** : Common errors in this area relate to BIK on company cars, medical insurance premiums, employee/director's loans .
- **Ex-gratia redundancy payments:** One of the common errors in calculation of ex-gratia payments is the inclusion of contractual pay in lieu of notice in the ex-gratia payment.
- **Employed v self employed:** The question of whether an employee/employer relationship exists between two parties can sometimes be difficult to ascertain. Over the past number of years there has been an increase in Revenue audits targeting this area, failure to account correctly for the appropriate taxes can prove costly.
- **Third party benefits:** Where a benefit provided to an employee by a third party (who is not that employee's employer) gives rise to a charge to income tax, the provider of the benefit is responsible for accounting for the PAYE/PRSI.
- **Salary sacrifice** : If an employee forgoes any remuneration (there are specific exemptions) in return for any benefit, then the legislation in relation to salary sacrifice applies and the remuneration sacrificed is taxable in full and so subject to payroll taxes.

- **Expenses:** A common error in calculating motor expenses is where a journey commences from the employee/director's home the journey is not restricted if the journey from home to temporary place of work is shorter than normal place of work to temporary place of work.
- **Calculation of tax free element of cessation payments :** A typical error made in this area is the inclusion of total years service rather than the number of whole years service

## **PAYE Opportunities:**

- **Travel pass/bike scheme :** A tax efficient method of increasing an individual's remuneration is through the provision of a monthly or annual travel pass under the "TaxSaver Commuter Ticket Scheme" or the bike scheme. A taxable benefit in kind does not arise nor are they affected by the salary sacrifice provisions.
- **Subsistence and mileage:** Where qualifying expenses are paid within published civil service rates, payments to employees can be made without the deduction of payroll taxes.
- **Professional subscriptions:** Professional subscriptions paid by an employer on behalf of employees in specific circumstances will not give rise to a taxable benefit in kind
- **Course or exam fees:** Course or exam fees paid by an employer will not give rise to a taxable benefit in kind if the course undertaken by the employee is relevant to the employer.
- **Small benefits:** Where an employer provides an employee with a small non cash benefit (that is, a benefit with a value not exceeding €250), PAYE and PRSI need not be applied to that benefit.
- **Payments to directors:** Payroll taxes must be operated on all payments to directors (including non executive directors) of Irish companies. For non-executive directorships, class S PRSI should apply. This means a liability to employer PRSI should not arise. Under Irish tax legislation a director is an office holder and an employer must operate payroll taxes on any remuneration or benefits received. This is also the case for individuals who invoice their fees through a corporate as the Revenue's view is the individual is merely mandating their fees as a company cannot hold a directorship. The obligation to withhold payroll taxes rests with the employer.
- **Long service awards:** A taxable benefit in kind will not arise in respect of an award made to mark long service where specific conditions are met.
- **New employees – FÁS schemes:** If as an employer you are taking on employees, it is worth considering the various funding provided by FÁS for employing certain individuals such as Revenue Job Assist scheme and Employers PRSI exemption scheme.
- **Relocation expenses :** Employers often assist employees with some relocation expenses where an employee is moving abroad, it is possible to pay certain expenses to employees without deduction of payroll taxes.

## VAT PITFALLS:

VAT cannot generally be reclaimed on the following items:

- entertainment for clients, staff, personal use of assets ;
- food and drink (unless acquired as stock-in-trade for resale);
- accommodation (unless at a 'qualifying' conference);
- passenger cars (20% of VAT is recoverable on purchase, lease or hire of certain new passenger vehicles used for business purposes); and
- goods/expenses incurred that relate to a VAT exempt activity carried on by the business.

Valid invoices must be received in order to reclaim VAT. Invoices should include:

- date of issue and a sequential number;
- VAT number of supplier;
- details of goods/services supplied;
- full name and address of supplier and customer;
- invoice amount, VAT rate and VAT amount; and
- VAT in question must be Irish VAT expressed in euros.

**Property transactions:** Errors in VAT frequently occur where properties are bought or sold or where leases are being granted, assigned or surrendered. It is important that VAT advice is taken prior to entering into any such transactions.

**International transactions** Businesses who purchase services from abroad or purchase goods from suppliers in other EU Member States must account for Irish VAT on the value of services/goods through their Irish VAT return on a reverse charge basis. For traders with an entitlement to 100% VAT recovery, they are entitled to a matching deduction for this VAT, resulting in no additional tax due to Revenue. For other businesses who are not entitled to reclaim all of the VAT incurred (including VAT-exempt businesses), the self accounting for VAT represents a real VAT cost.

## VAT OPPORTUNITIES:

**Bad debt relief:** It is possible to claim a refund of VAT already paid to Revenue where a customer has defaulted on payment. Many businesses have utilised this relief as debts have become increasingly difficult to collect.

**Cash receipts basis:** You account for VAT when paid by your customers rather than when the invoice is raised. Large asset purchases/ unprocessed supplier invoices are you reclaiming VAT at the earliest opportunity?

**VAT groups:** Cash-flow or real VAT saving can be generated by using a VAT group. Real savings can be made where one of the parties is involved in exempt activities and the parties make supplies to each other.

**Retained deposits/cancellation fees:** can you claim a refund of VAT where a deposit or advanced payment from a customer has been retained but no supply has taken place? VAT 13B certificates – is 75% or more of your turnover generated from selling goods to customers established overseas? If so, you may be able to have your suppliers invoice you without charging VAT

**If you would like more information or would like to discuss any other areas of interest,**

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### ***About Lyons & Calzo Accountants:***

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*Please note that the above is intended to be a general guide to the various issues only and further advice should be obtained before taking, or refraining from taking, any action. This leaflet is intended to be informative and issues are condensed in the interest of clarity and brevity, and a more comprehensive examination of the issues is outside the scope*