

Tax Residency - Force Majeure in the context of COVID-19

Revenue are continually updating their eBriefs during the Covid-19 crisis and, therefore, this summary is intended as a general guide. No action should be taken without obtaining professional taxation advice.

If you have any queries, please do not hesitate to contact Purcell McQuillan Tax Partners Ltd on 01 668 2700 or email your usual PMQ contact.

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Following recommendations by the OECD in the context of tax residency and Covid 19, Revenue issued an ebrief last March stating the circumstances in which days spent in Ireland in 2020 could be ignored for tax residency purposes. Shortly before Christmas, Revenue issued further guidance as to when the force majeure Covid 19 concession applies on residency, cross border relief, SARP and PAYE Exclusion Orders.

Residency

Revenue will only accept, in limited circumstances, that days spent in Ireland during the pandemic may be ignored for the purposes of the residency days tests. Whether the concession applies and how many days can be ignored will depend on a number of factors. These include the non-availability of commercial flights, whether the person was self isolating, date of arrival in the State and whether the person left the State as soon as they reasonably could which is usually taken to be by 1 June at the latest.

Cross-Border Relief

Days working from home in Ireland as a result of Covid-19 will not preclude you from claiming transborder relief, provided all other conditions are met. This concession will continue to apply for the tax year 2021.

Special Assignee Relief Programme (SARP)

Last March, Revenue extended the 90 days period to submit a SARP application to Revenue to 150 days from the date the employee arrived in the country. This concession ended on 31 December 2020 and from 1 January 2021 the SARP 1A must be submitted within 90 days of arrival to the State.

PAYE Exclusion Order

Revenue advised last March, if an individual had to return to Ireland for more than 30 days as a result of Covid-19, their PAYE exclusion order should not be rescinded. However, this concession expired on 31 December 2020 and, therefore, if an individual who has a PAYE exclusion order spends greater than 30 days in Ireland in 2021, there will be an Irish payroll obligation.