

[5.1.15] Agency Workers

Reviewed December 2016

1. Taxation of individuals employed through agencies

1.1 Background

There can be a perception that workers employed through an employment agency cannot be regarded as employees for taxation purposes. Revenue does not regard the taxation of workers employed through agencies any differently to the taxation of workers employed by any other means. Over the years, PAYE/PRSI/USC has been operated by agencies where the agencies are obliged to pay the person placed with a client. In contrast, PAYE/PRSI/USC has been operated by the client where the client is obliged to make the payment to the person placed with them.

1.2 Employee/Self-Employed

Where there is a doubt or a disagreement as to the status of an agency worker, it is necessary to examine each case by reference to the “[Code of Practice](#) for Determining Employment or Self-Employment Status of Individuals”, prepared by the Employment Status Group and updated in 2007 by the Hidden Economy Monitoring Group.

The written terms of the employment contract need to be considered, including any oral, implied or inferred terms (the written terms may not necessarily describe the full relationship between the parties) and any other relevant information deemed necessary to assist in forming an opinion as to the status of the worker.

2. Operation of PAYE/PRSI/USC

Where the agency worker is regarded as an employed person, there can be a perception that there is difficulty in determining who the employer is for the purpose of operating PAYE/PRSI/USC. The PAYE system has always recognised the uniqueness of a “paying employer”, who may not be an employer in the strict sense. For example, a pensioner can be an “employee” and the body paying the pension can be an “employer” for the purpose of operating the PAYE system.

Chapter 4, Part 42 of the Taxes Consolidation Act (TCA) 1997 and the Income Tax (Employments) (Consolidated) Regulations 2001 deal with the administration of the PAYE system. Section 983 TCA 1997 contains the following definitions:

- *Employer* means any person paying emoluments
- *Employee* means any person in receipt of emoluments

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- *Emoluments* means anything assessable to income tax under Schedule E, and references to payments of emoluments include references to payments on account of emoluments.

Therefore, the person who is contractually obliged to make the payment to an employed agency worker is the employer for the purpose of collecting income tax, USC and PRSI through the PAYE system.

The VAT treatment of employment agencies is dealt with in [Revenue's Tax and Duty Manual 5.68](#)