



# Taxation of Locums ...Revenue's last word

### Payments to Locums

Over the last 2 years Revenue have been reviewing the tax treatment of payments to locums in the medical sector, and over this time the tax treatment has evolved from the fragmented approach adopted by the various districts following the Appeal Commissioner's decision in favour of Revenue in the MIDOC case to the current more unified (and fairly hardline) approach.

### Final Revenue View on Correct Tax Treatment

Revenue have published guidance on when a locum will be regarded as an employee in [Tax Briefing 82](#), and in the examples given in that article Revenue conclude that a locum will generally be an employee. In correspondence with the IMO Revenue indicated that the PAYE system should routinely be operated by GPs on payments to locum doctors, although any cases of genuine doubt could be referred to the local tax District.

Revenue have been liaising directly with the 9 Irish Out of Hours service providers in relation to outstanding tax for locums. MIDOC settled with Revenue following the adverse finding of the Appeal Commissioners, and it was reported that Shannondoc made a €350,000 settlement with Revenue in 2010.

Based on Revenue guidance, where a locum is taken on by a GP to cover holiday periods he is to be treated as an employee and his income is to be subject to PAYE even if the cover period is quite short.

### Revenue 2010 Letter to IMO: GP Audits & Locums

*"In the context of a Revenue audit, a decision to open earlier years will be taken in accordance with the Revenue Code of Practice for Auditors.... Some cases may already be under audit, others may be selected in the future. Revenue will take a pragmatic approach where it can be shown that the income has already been declared by the "locum" doctor under self-assessment.. Revenue has already instigated enquiries with all GPs in one region regarding the engagement of doctors by GP practices. These enquiries may be extended to other regions over time. In the meantime, Revenue advises that all GPs should seek to regularise the tax situation with regard to doctors engaged by them immediately."*

### Revenue 2010 Letter to IMO: Taxation of Locums

*Where the PAYE system was not applied in 2009 to payments, this can be rectified immediately provided the case is not already under audit or investigation. "The GP should submit a Supplementary Form P35 ... by 15th February 2011 with any tax due. They should include a computation of the correct tax, PRSI, levies and statutory interest. For 2010, any additional tax, PRSI and levies ...should also be remitted to Revenue through the monthly/quarterly P30".*

In relation to locums aged over 66 years there is an exemption from employee PRSI. Employer PRSI is charged at a rate of 0.5% resulting in a 10.25% saving for the employer.

Employer PRSI can be deducted as an expense for income tax purposes. Therefore where an individual is paying tax at the top rate of tax (currently 55% for self employed individuals earning over €100,000) the effective cost will be 4.84% (45% of the 10.75% employer PRSI). Any interest or penalties paid will not be allowed as an expense.

### Corrections in Employer Returns

The Revenue IMO letter suggests that those employing locum doctors should consider the tax position when filing their P35. A Form P35 is the form an employer files to show the income paid to, and taxes deducted from, employees during the tax year. The filing deadline for the 2010 P35 is 15 February 2011.

The Revenue Audit Code of Practice 2010 ("the Code") provides a facility for taxpayers to "self-correct" returns without incurring penalties in certain circumstances, but related tax and statutory interest must be paid.

Revenue issued an [eBrief \(08/11\)](#) on February 2011 directing GPs to send in a Supplementary Form P35 for 2009 by 15 February 2011 to avail of self correction.

A computation of the correct tax, PRSI and levies and statutory interest together with the full payment must accompany the submission. The rules in relation to self-correction are set out in paragraph 2.2 of the Code.



*Caveat: These notes are an informal general guide. Formal tax advice should be obtained if required.*