

Schedule E expense deductions for employed consultants and non-consultant hospital doctors (NCHDs)

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1 Introduction

The purpose of this manual is to set out the types of expense payments made by Consultants and Non-Consultant Hospital Doctors (NCHDs) in employment that can be deducted from emoluments as expenses under section 114 Taxes Consolidation Act 1997 (TCA) or that are covered by the flat rate expense available. To be eligible for a tax deduction under section 114 TCA 1997, an expense must be expended wholly, exclusively and necessarily in the performance of the duties of the employment.

Consultants and NCHDs may be engaged in a variety of employment and practice positions. NCHDs may be employed in public or private hospitals. Consultants may work in public hospitals or private hospitals or a combination of both, which may give rise to both employment income and practice income. Practice income will be subject to self-employed rules and expenses incurred in the practice will be required to meet the wholly and exclusively test in section 81 TCA 1997 in order to qualify for a tax deduction against practice income. For employment income, however, expenses must meet the requirement under section 114 TCA 1997 of being incurred wholly, exclusively and necessarily in the performance of the duties of the employment.

NCHDs can be identified into two categories: NCHDs with Health Service Executive (HSE) contracts and NCHDs employed by private hospitals. Doctors in other employments will be subject to the same rules as NCHDs in private hospitals.

Consultants can be identified in three broad categories: consultants with a HSE contract which does not allow private practice, consultants with a HSE contract which does allow private practice and consultants in private practice. This manual is not concerned with consultants or GPs where private practice income is their sole source of income. It is aimed at consultants, NCHDs and doctors with employment income.

The taxation treatment of medical locums is dealt with in a separate Tax and Duty Manual [Part 05-01-20](#), which sets out Revenue's position as regards the status

(employed or self-employed) of individuals described, correctly or otherwise, as 'locums' in the fields of medicine, health care and pharmacy.

2 Flat Rate Deduction

For ease of administration, where a large number of employees in a sector incur broadly identical qualifying expenses which are not reimbursed by their employer, Revenue has provided a facility whereby a flat rate expense allowance may be claimed to cover the expenses concerned. The flat rate regime is appropriate where a specific commonality of expenditure exists. The expense should apply to all

employees in that category and should not be discretionary. The amount of the deduction is agreed between Revenue and representatives of groups or classes of employees, which is the Irish Medical Organisation (IMO) in the case of doctors and consultants. All employees of the class or group in question who are employed in the discipline can then claim the agreed deduction as part of their annual tax credits.

A flat rate expense deduction is agreed with Revenue for consultants and NCHDs employed under the PAYE system. The flat rate deduction includes the Irish Medical Council statutory registration fee (See paragraph 3 below).

The employee must incur these costs in performing the duties of his or her employment, and the costs must be directly related to the nature of the employment. Flat rate expenses are available to a wide range of employments. Details on the flat rate expense for doctors and consultants can be found on Revenue's [flat rate expense list](#). Flat rate expenses can be claimed by completing a Form 12 online. This form can be found in PAYE Services in [myAccount](#).

3 Statutory Registration Fees

A tax deduction may be granted in respect of costs incurred on the annual statutory registration fee paid to Irish Medical Council and it is provided for by way of a flat rate expense for employed practitioners. If a practitioner has claimed the flat rate expense deduction, then no separate deduction will be allowed for the Irish Medical Council fee against private practice income.

4 Professional Medical Indemnity

The professional medical indemnity required under statute will depend on the nature of the doctor's or consultant's engagement.

Consultants and NCHDs who are employed in the public health service, whether permanent, locum or temporary, have had their professional indemnity covered by the State's Clinical Indemnity Scheme (CIS) since 2004. This provides an indemnity against the cost of meeting claims for personal injury arising out of bona fide actions taken in the course of the employment. A list of the publicly funded hospitals is available at [APPENDIX 1](#). All doctors (consultants and NCHDs) who work wholly under a contract of employment with the Health Service Executive (HSE) are covered by the CIS and do not need to put in place any professional indemnity arrangements.

Consultants engaging in private practice may require separate arrangements for indemnity insurance. This expense should be deducted from private income in calculating profits to be taxed. It would not be appropriate as a deduction from the practitioner's employment income, as it would not be incurred wholly, exclusively and necessarily in the performance of the duties of the employment.

Notwithstanding the above, the HSE consultant and NCHD contracts strongly advise and encourage the employee to take out "supplementary membership" with a defence organisation or insurer of choice, so that the practitioner has adequate

cover for matters not covered by the CIS indemnity, for example, representation at disciplinary and fitness to practice hearings or “Good Samaritan” acts outside of the jurisdiction of Ireland. This additional cover does not meet test of being “wholly, exclusively and necessarily incurred in the performance of the duties of the employment” and should not be deducted from HSE employment income. Supplementary membership may be deductible against private practice income, where it is incurred wholly and exclusively for the purpose of the profession.

Doctors taking up employment posts at senior house officer/registrar level in a private hospital will generally be covered by the hospital’s own indemnity policy. If a doctor is required to put her/his own cover in place, a deduction is available against employment income to the extent that the cover meets the statutory minimum requirements. If it is not possible to determine the level of premium which refers to the non-allowable items mentioned, Revenue will accept the historically agreed figure of 90% of the premium as allowable.

The State Claims Agency, which is a division of the National Treasury Management Agency, sets down minimum levels of professional indemnity which must be maintained. Practitioners who purchase professional indemnity insurance are entitled to claim a deduction against their employment income to the extent that they have purchased insurance to meet the minimum levels set down by the State Claims Agency, where cover is not provided by their employer. This minimum cover would meet with the test of being “wholly, exclusively and necessarily incurred in the performance of the duties of the employment” for those employed practitioners.

5 Competence Scheme Registration

It is an accepted principle in tax law that expenditure which merely puts an individual in a position to perform his or her duties, or perform those duties more efficiently, is not expenditure incurred **in the performance of** the duties and, consequently, no deduction is due in respect of such expenditure. As such, costs associated with the Competence Scheme Registration do not qualify for relief under section 114 TCA 1997.

The cost of, and costs associated with, courses attended during office hours and extra-curricular courses have featured in many tax cases over the years. It was generally found that the costs were either not necessarily incurred (individuals undertaking voluntary courses after office hours)¹ or not incurred in the performance of the duties of the office or employment².

Consultants in the HSE are provided with appropriate professional competence supports as set out in the “Guidance on Continuing Medical Education Supports for Consultants” issued by the HSE Medical Education and Training Unit. This provides for a vouched annual allowance of circa €3,000, which may not be carried over other

¹ *Humbles v Brooks* 40 TC 500

² *Blackwell v Mills* 26 TC 468

than in specified exceptional circumstances. It also provides for supports that enable the Consultants to access continuing medical education internationally, including attendance at international meetings and other activities as appropriate.

In the circumstances where an employer pays or refunds the cost of continuing professional development, which is wholly and exclusively for the purposes of the trade or profession, Revenue accepts that such payment or refund comes within the scope of their published practice. Courses relevant to the business of an employer are not regarded as a taxable benefit. The Revenue published practice on the payment or reimbursement by an employer of course or exam fees is detailed in Tax and Duty Manual [Part 05-01-09](#) on Examination Awards.

6 Membership fees for Postgraduate Training Bodies

Consultants are not required to become members of any postgraduate medical training body. Consultant qualifications for the public health service are set out by the Health Service Executive as a statutory function under the Health Acts and require as a base qualification registration as a specialist in the relevant speciality on the Specialist Division of the Medical Council's Register of Medical Practitioners. For example, The Royal College of Surgeons in Ireland is one of a number of Postgraduate Training bodies. These membership fees do **not** meet the test of being "wholly, exclusively and necessarily incurred in the performance of the duties" for employed practitioners.

7 Textbooks and academic materials

Generally, a distinction is made between expenditure incurred in the performance of duties (which is deductible) and expenditure incurred to put the taxpayer in a position to perform the duties (which is not).³

As mentioned in paragraph 5, it is an accepted principle in tax law that expenditure which merely puts an individual in a position to perform his or her duties, or to perform the duties more efficiently, is not expenditure incurred in the performance of the duties and, consequently, no deduction is due in respect of such expenditure. As such, costs associated with the purchase of textbooks and academic materials are outside the scope of relief under section 114 TCA 1997.

The requirement that expenditure be incurred in the performance of the duties of an employment featured in a tax case to deny a claim for the cost of journals by a medical officer who had to keep up to date with developments in his specialisation⁴.

³ *Snowdon v Charnock* [2001] STC (SCD) 152

⁴ *Simpson v Tate* 9 TC 314

8 Equipment

Deductible expenses for doctors and consultants in employment are those that are incurred in the performance of the duties of employment and may cover the cost of equipment which an employee requires wholly, exclusively and necessarily in carrying out their work. As mentioned, the flat rate expense is designed to cover a specific commonality of expense that may arise in an employment category. The flat rate expense for doctors includes an amount of €155 per annum for equipment. This is included to cover the cost of small and miscellaneous items of equipment that may arise, e.g. a stethoscope, otoscope, etc. This amount of deduction is agreed between Revenue and representatives of groups or classes of employees (the IMO in the case of doctors and consultants). If an employed practitioner was required to provide other specialised equipment, a wear and tear allowance against employment income may be allowed if the cost of the equipment was incurred wholly, exclusively and necessarily in the performance of the duties of the employment. This would be considered on a case by case basis and care should be taken that a duplicate claim is not made where a taxpayer has private practice income in addition to employment income.

9 Self-Employed Consultants and General Practitioners

General Practitioners are independent contractors who provide services to patients, including those who are covered by the General Medical Service (GMS). General Practitioners are not included in the State's Clinical Indemnity Scheme and make their self-employed returns on the basis of accounts prepared, with relevant deductions in accordance with section 81 TCA.

Consultants who have contracts that enable them to engage in off-site private practice and consultants working full time in private practice must make their own arrangements for indemnity cover and, thus, must obtain indemnity cover from medical defence organisations or purchase a policy of insurance providing such cover from a commercial insurer. Similar to GPs, any indemnity cover would be included as a deduction in their self-employed returns on the basis of accounts prepared.

Appendix 1

Publicly funded hospitals are organised into seven hospital groups.

1. Ireland East Hospital Group: (Academic partner: UCD)

Mater Misericordiae University Hospital
St. Vincent's University Hospital
Midland Regional Hospital Mullingar
St. Luke's General Hospital Kilkenny City
Wexford General Hospital
National Maternity Hospital
Our Lady's Hospital Navan
St. Columcille's Hospital Loughlinstown
St. Michael's Hospital Dun Laoghaire
Cappagh National Orthopaedic Hospital
Royal Victoria Eye and Ear Hospital

2. RCSI Hospitals Dublin North East: (Academic Partner: RCSI)

Beaumont Hospital
Our Lady of Lourdes Hospital (OLOL) Drogheda
James Connolly Hospital, Blanchardstown
Cavan General Hospital
Rotunda Hospital
Louth County Hospital
Monaghan Hospital

3. Dublin Midlands Hospital Group: (Academic Partner: TCD)

St. James's Hospital
St. Luke's Radiation Oncology Network
The Adelaide and Meath Hospital, Tallaght Dublin
Midlands Regional Hospital Tullamore
Naas General Hospital
Midlands Regional Hospital Portlaoise
The Coombe Women and Infant University Hospital

4. University of Limerick Hospitals: (Academic Partner: UL)

University Hospital Limerick
University Maternity Hospital Limerick
Ennis Hospital
Neagh Hospital
Croom Hospital
St. John's Hospital

5. South/South West Hospitals Group (Academic Partner: UCC)

Cork University Hospital/Cork University Hospital Maternity Hospital
University Hospital Waterford
Kerry General Hospital Tralee
Mercy University Hospital Cork City
South Tipperary General Hospital Clonmel
South Infirmary Victoria University Hospital Cork City
Bantry General Hospital
Mallow General Hospital
Lourdes Orthopaedic Hospital Kilcreene Co. Kilkenny

6. West/North West Hospital Group (Academic Partner: NUIG)

University Hospital Galway
Merlin Park University Hospital Galway City
Sligo Regional Hospital
Letterkenny General Hospital
Mayo General Hospital Castlebar
Portiuncula Hospital Ballinasloe
Roscommon County Hospital

7. Children's Hospital Group

Temple Street Children's University Hospital Dublin 1
Our Lady's Children's Hospital Crumlin Dublin 8
National Children's Hospital Tallaght