

Tax treatment of remuneration of Members of State Bodies

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1. Introduction

The purpose of this Tax and Duty Manual is to set out the tax treatment of payments made to individuals in their capacity as members of State and State Sponsored Committees, Boards, Commissions and other Bodies (hereinafter referred to as members of State Bodies).

2. Status of Members of State Bodies

2.1 Overview

Members of State Bodies may fall into two categories in that they are either: –

- (i) State Body members created by statute i.e. statutory office holders, or
- (ii) Members of non-statutory State Bodies, i.e. members of what are known as ‘ad hoc’ State Bodies.

In addition to membership of such State Body, members may also hold other occupations, either in an employed or a self-employed capacity, and/or have other income e.g. a pension.

While Revenue accepts that each case must be examined on its merits, the Revenue position is that, in general –

- (i) the duties relating to such membership and the remuneration therefrom can usually be distinguished as being separate and distinct from the duties of, and the income from, such members’ other occupation(s) and
- (ii) because of such distinction, the status of an individual in his or her other occupation or employment (e.g. as a farmer, teacher, doctor, solicitor, barrister or publican) is not a factor as regards determining his/her status as a member of a State Body.

2.2 Members of State Bodies created by statute i.e. Statutory Office Holders

Some individuals are appointed under statute, usually by the relevant Government Minister to hold office. Wording in the relevant statute will generally be sufficient to

indicate the existence of an 'office'. For example, the following wording clearly indicates the existence of an 'office' and that the member holds such 'office' -
"The member shall be appointed by the Minister to the office...."
"The member shall hold office upon such terms as the Minister may determine".

2.3 Members of non-statutory State Bodies

While each case must be examined on its merits, Revenue's position, based on experience, is that members of non-statutory State Bodies are either office holders and/or employees. Factors that will influence Revenue's view include –

- the content of documents relating to the appointment of members to the State Body indicating the existence of an office or employment,
- the availability to members of such Bodies of the use of Departmental or State Body facilities, including support staff,
- the fact that members are generally appointed as individuals and cannot sub-contract the work assigned to them,
- members are generally reimbursed for expenses on the same basis as Civil Servants.

2.4 Members of a Commission of Investigation

An individual appointed as a member of a Commission of Investigation created under the Commission of Investigation Act 2004 holds a public office or an employment.

2.5 Members of more than one State Body

Where an individual is a member of more than one State Body, his/her status in respect of each State Body is determined separately.

3. Tax treatment of payments made to office holders and employees

Payments to office holders and employees in their capacity as office holders or employees are chargeable to tax under Schedule E and subject to deductions (i.e. income tax, Pay Related Social Insurance and Universal Social Charge as appropriate) at source under the PAYE system.

4. Tax treatment of payments mandated by a Member of a State Body to a business/company owned by him/her

Where a member of a State Body mandates his/her remuneration arising from membership of such a Body to a business or company owned, in whole or in part, by him/her, the Revenue position is that the payment belongs to the member in his/her capacity as a member of such State Body and, as such, must be taxed as if the payment is made directly to him or her.

5. Tax treatment of the reimbursement of expenses of travel and subsistence

Tax and Duty Manual 05-01-06 outlines the tax treatment of the reimbursement of expenses of travel and subsistence to office holders and employees”

6. Pay Related Social Insurance

Pay Related Social Insurance at Class K should be deducted from the income of Members of State Bodies. Queries on PRSI matters should be addressed to the Department of Social Protection, PRSI Scope (Insurability of Employment), Gandon House, Amiens Street, Dublin 1 (telephone 01-673 2585).

7. Further Information

Government Departments and State Bodies seeking information or clarification on matters relating to payments to members of State Bodies should contact their local Revenue office.