

## **Deduction for expenses in respect of annual membership fees paid to a professional body**

### **Part 05-02-18**

This document should be read in conjunction with sections 114 and 118(5E) of the Taxes Consolidation Act 1997

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**A more recent version of this manual is available.**

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## 1. Tax deductibility of employee expenses – Section 114 TCA 1997

### 1.1 General Position

In addition to expenses of travel, section 114 TCA 1997 provides for a tax deduction in respect of expenses incurred wholly, exclusively and necessarily by an individual in the performance of the duties of his or her employment.

### 1.2 Professional Memberships

For the tax years 2004 to 2010, section 118(5E) TCA 1997 provided that expenses incurred by an employer on behalf of an employee in connection with the payment (or reimbursement) of annual membership fees of a professional body were exempt from tax where such membership was regarded as “relevant to the business” of the employer. This section was repealed in Finance Act 2011 and ceased to apply from the tax year 2011.

Therefore, from 2011 onwards, professional membership fees will only be deductible under section 114 TCA where incurred **wholly, exclusively and necessarily** by an individual in the performance of the duties of his or her employment.

This manual sets out guidance for the interpretation of section 114 in relation to professional membership fees and advises where Revenue considers an expense has been incurred wholly, exclusively and necessarily for the purposes of an individual’s employment.

Additionally, fees payable in respect of courses of study, examinations etc. necessary to become a member of a relevant professional body may be refunded without deduction of tax where they are relevant to the business of the employer – See the [Examinations, courses and subscriptions](#) section of the Revenue website for further information.

The following guidance as regards annual membership fees applies to office holders in like manner as it applies to employees.

## 2. Operation of payroll deduction

Where an employer pays a professional membership fee or registration fee on behalf of his or her employees, deductions of Income Tax, PRSI and the Universal Social Charge (USC) must be made from pay in respect of the value of the membership fee paid by the employer on behalf of an employee.

However, for ease of administration and to avoid unnecessary claims under section 114 TCA 1997, where –

- an employer pays a membership fee to a professional body on behalf of an employee or reimburses such a fee to an employee; and
- a deduction under section 114 TCA 1997 would be available,

deductions of Income Tax, PRSI and USC need not be made from pay in respect of the amount reimbursed or the notional income amount attributable to the cost of such annual membership or registration fee.

As this taxing treatment incorporates the value of the deduction that would have been available under section 114 TCA 1997, the employee cannot claim an expense deduction in respect of the cost of the annual membership.

### Example 2.1

Paul has a professional membership which his employer pays for. The membership is wholly, exclusively and necessarily for the purpose of his employment.

As the membership meets the criteria of section 114, Paul's employer does not need to deduct Income Tax, PRSI and USC in respect of the cost of the annual membership fee for Paul.

Paul cannot subsequently claim an expense deduction for the cost of the membership using myAccount or by completing a Form 12 as he has not suffered tax on this amount.

### **3. Circumstances in which professional fees are incurred wholly, exclusively and necessarily in the carrying on of an office or employment**

#### **3.1 Statutory requirement for membership of a professional body or to hold a practising certificate**

Where it is a statutory requirement to be a registered member of a designated professional body, association, society, council, etc. in order to exercise a particular profession and an individual is employed in that professional capacity, a deduction under section 114 TCA 1997 is allowed in respect of the annual registration or membership fees in such instances.

In addition to membership of a professional body, association, council, etc., an employee may also be statutorily required to hold a current practising certificate before they can carry out the duties of their employment.

A deduction under section 114 TCA 1997 is allowed in respect of both the annual membership fees payable to such body, association, etc. and in respect of the cost of the practising certificate or licence where there is a statutory requirement that an individual must hold a current practising certificate or licence issued by it before that individual can carry out the duties of his/her employment.

##### **Example 3.1.1**

Pauline is a health professional and is employed in that capacity. Under the Health and Social Care professionals Act 2005, Pauline is obliged to be registered with the Health and Social Care Professionals Council set up under that Act in order to perform the duties of her employment. Her employer pays her annual registration fee.

As Pauline cannot legally practice without this membership, the expense incurred by her employer is a qualifying expense for the purposes of section 114 as it was incurred wholly, exclusively and necessarily for the purposes of her employment. In this instance, the employer does not need to deduct Income Tax, USC and PRSI from Pauline's salary in respect of the cost of the annual membership fee.

### Example 3.1.2

Lisa is an architect and is employed in that capacity. However, before Lisa can practice as an architect, there is a statutory requirement (under the Building Control Act 2007) to be registered with the Royal Institute of the Architects of Ireland in order to perform the duties of her employment and her employer pays her annual registration fee.

As Lisa cannot legally practice without this membership, the expense incurred by her employer is a qualifying expense for the purposes of section 114 as it was incurred wholly, exclusively and necessarily for the purposes of her employment. In this instance, the employer does not need to deduct Income Tax, USC and PRSI from Lisa's salary in respect of the cost of the annual membership fee.

### Example 3.1.3

A legal practice employs Olive, a solicitor, in that capacity. Olive legally cannot practice as a solicitor unless she is a member of the Law Society with an up to date practising certificate. Her employer pays her annual membership fee.

The expense is a qualifying expense for the purposes of section 114 as it was incurred wholly, exclusively and necessarily for the purposes of her employment as she cannot practice as a solicitor without being a member of the Law Society.

In this instance, the employer does not need to deduct Income Tax, USC and PRSI from Olive's salary in respect of the cost of the annual membership fee or the cost of the practicing certificate.

### Example 3.1.4

Pamela is a solicitor but is employed as a commentator by a radio station. Her employer pays Pamela's relevant annual fees to the Law Society.

It is not necessary for Pamela to be a solicitor in order to be a radio commentator.

In this instance, the appropriate deductions must be made from her salary in respect of the notional income amount attributable to such annual membership fee.

### Example 3.1.5

Audrey is a solicitor and is employed in that capacity in the public sector. She works in a legal research area, but does not practice as a solicitor. There are other

employees in her role who are not solicitors. Her employer pays her annual subscription to the Law Society.

In this instance, the employer must deduct Income Tax, USC and PRSI from Audrey's salary in respect of the cost of the annual membership fee. This is because although Audrey works in a legal research role, she is not working as a practising solicitor and her duties do not require her to be a member of the Law Society.

### **3.2 Other situations where fee for membership of a professional body or to hold a practising certificate may be deductible**

In other instances, while there is no statutory requirement for membership of a professional body, certain statutory provisions may restrict the ability of an individual to fulfil the full duties of an office or employment unless they are members of a relevant professional body.

In these circumstances Revenue is prepared to recognise expenses incurred on membership of the relevant professional body as meeting the requirements of section 114 TCA.

For example, an individual registered with, or a member of, a professional body, association, society, council, etc., may have a right, by virtue of such registration or membership, to plead or be heard in representing a client of his or her employer before a particular appellate body or tribunal.

A deduction under section 114 TCA 1997 is allowed in respect of the annual registration or membership fees in such instances where the duties of the employment require the individual to appear and plead before such a tribunal.

#### **Example 3.2.1**

Fred is employed as a tax consultant. He is a member of a recognised taxation body and his duties require him to appear and plead on behalf of the firm's clients before the Tax Appeals Commission.

Fred's employer pays his annual membership fee to his taxation body - this body is recognised by statute as allowing its members a right to be heard before the Tax Appeals Commission.

In this instance, Fred's employer will not need to deduct Income Tax, USC and PRSI from his salary in respect of the cost his annual membership fee.

### Example 3.2.2

Patrick is an accountant and a tax consultant employed by an accounting firm. It is a condition of Patrick's employment that he may be required to appear and plead on behalf of the firm's clients before the Tax Appeals Commission.

Patrick's employer pays his annual membership fees to his accountancy body and his taxation body - both bodies are recognised by statute as allowing their members a right to be heard before the Tax Appeals Commission.

Although both bodies allow Patrick the right to be heard before the Tax Appeals Commission, it is not necessary for him to have both memberships in order to be heard. The expense of only one of these membership fees has been incurred wholly and exclusively and necessarily for the purposes of his employment.

In this instance, Patrick's employer will not need to deduct Income Tax, USC and PRSI from his salary in respect of the cost of one annual membership fee only. His employer must deduct Income Tax, USC and PRSI from his salary in respect of the cost of the second membership fee.