



Tax relief for inbound employees coming to work in Ireland

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A Special Assignee Relief Programme (SARP) was introduced in 2012 to try to boost Ireland's attractiveness as a jurisdiction for multinational companies to relocate their key talent to. Successive Finance Acts since 2012 have sought to enhance the relief to help Irish companies and multinational companies, with a presence in Ireland in attracting key employees to Ireland.

Within the income tax section of the 2015 syllabus for the Professional 2 Advanced Taxation paper, it is stated that candidates are required to have knowledge and understanding of the SARP. This article outlines the main provisions of the SARP and should be read in conjunction with a previous article entitled 'Residency and Tax Exposure – An Individual and Corporate Tax Update' which was published on 31 March 2014.

As with all reliefs, there are a number of conditions attaching. Details of the relief can be found in Section 825C Tax Consolidation Act 1997.

What does SARP offer?

The SARP provides income tax relief on a proportion of the income earned by a relevant employee who, having worked with a relevant employer for a minimum period of 12 months, is assigned by the employer to work in Ireland. It is important to note that income which is disregarded income for income tax purposes as a result of SARP is not exempt from the Universal Social Charge or PRSI.

Example 1

Mr America has lived in the USA for many years and has been employed by USA Inc. since 2010. USA Inc. has decided to set up an Irish branch. In 2013, Mr America is seconded to USA Inc.'s Irish branch for 3 years.

Depending on his residency position, level of salary and the terms of his secondment, Mr America may be entitled to income tax relief on his Irish salary under SARP.

Who can avail of SARP?

SARP can only apply to a **relevant employee**. A relevant employee is defined as an individual who:

- was a full time employee of a relevant employer and exercised the duties of his/her employment with that relevant employer outside Ireland for the whole of the 12 months immediately prior to arrival in Ireland;
- arrives in Ireland in any of the tax years 2012, 2013 or 2014 at the request of his/her relevant employer to;
 - perform the duties of his/her employment in Ireland for that relevant employer or;
 - take up employment in Ireland with an associated company of the relevant employer;
- performs the duties of his/her employment in Ireland for that relevant employer (or that associated company) for a minimum period of 12 consecutive months from the date of arrival in Ireland. Any duties performed outside of Ireland that are merely incidental to the performance of the duties in Ireland are treated as performed in Ireland, and
- was not tax resident in Ireland for the 5 tax years immediately preceding the tax year in which he/she first arrives in Ireland for the purpose of performing those duties.

To be able to claim income tax relief under SARP, the relevant employee must for the tax year:

- be resident in Ireland for tax purposes and not resident elsewhere;
- perform the duties of his/her employment with a relevant employer (or associated company) in Ireland, and
- have relevant income from his/her relevant employer (or associated company) which is not less than €75,000 excluding all bonuses, commissions or other similar payments, benefits, or share based remuneration.

For the years 2012, 2013 and 2014, in determining whether the duties of an employment are performed in Ireland, any incidental duties performed outside Ireland that relate to the employment can be ignored.

The relief can be claimed for a maximum period of 5 consecutive tax years.

Example 1 (continued)

Mr America arrived in Ireland on 1 October 2013 on a 3 year contract. He is not tax resident in Ireland in 2013. Therefore, SARP will not be available to him in 2013.

However, as Mr America will become tax resident in Ireland in 2014 he is entitled to claim relief under SARP and his first year of claim will be 2014. He can continue to claim the relief up to and including 2018 (i.e. 5 consecutive tax years) provided he satisfies the relevant conditions in those years.

A **relevant employer** means a company that is incorporated and tax resident in a country with which Ireland has a double taxation agreement or a tax information exchange agreement. As stated above, the relevant employee can also perform duties for an associated company. This covers the situation where the Irish company to whom the employee is seconded is under the control of the relevant employer company or both companies are under common control.

Example 2

Mr French has lived in France for many years and has been employed by France SARL since 2010. France SARL has subsidiaries throughout the world. Their main manufacturing plant is located in Ireland. In 2014, Mr French is seconded to France SARL's Irish subsidiary, ROI Ltd for 3 years.

This is an example of an employee working for an associated company of the relevant employer.

Calculation of SARP relief available

Where a relevant employee satisfies the necessary conditions he/she will be entitled to have a specified amount of income from his/her relevant employment disregarded for income tax purposes.

The tax relief is granted by way of calculating the "specified amount" and relieving that specified amount from the charge to income tax.

The specified amount is determined by the following formula:

$$(A-B) \times 30\%$$

- A the amount of the relevant employee's income, profits or gains from his/her employment in Ireland with a relevant employer or associated company, excluding expenses and amounts not assessed to tax in Ireland and net of any superannuation contributions. In addition, where the relevant employee is entitled to double taxation relief in relation to part of the income, profits or gains from the employment, that part of the income is also excluded from 'A'. For the years 2012, 2013 and 2014, where this amount exceeds €500,000, 'A' is capped at €500,000 (the "upper threshold").
- B is €75,000

Example 3

Sam is a relevant employee who earns €650,000 in 2014.

Specified amount: $(€500,000 - €75,000) \times 30\% = €127,500$

A = €500,000 (income restricted to the 'upper threshold' in 2014)

B = €75,000

Under SARP €127,500 of Sam's income is disregarded for income tax purposes and he is entitled to tax relief of €52,275 ($€127,500 @ 41\%$).

Where, in the year of arrival or year of departure, a relevant employee holds an employment for less than an entire tax year, the tax relief will be reduced proportionately. The reduction in tax relief is achieved by adjusting the upper and lower thresholds based on the time spent in Ireland.

Example 4

Kylie is a relevant employee who arrived in Ireland on 31 May 2013. In 2013 she earns €675,000. Kylie's relief is calculated as follows:

A = (€500,000 (max) * 7/12) = €291,667

B = (€75,000 x 7/12) = €43,750

Specified amount: (€291,667 – 43,750) x 30% = €74,375

Travel Costs and tuition fees

In any tax year in which a relevant employee is entitled to claim relief under the SARP, the following payments or reimbursements by the relevant employer, or associated company of the relevant employer will not be chargeable to tax:

- the reasonable costs associated with 1 return trip from Ireland for the relevant employee and his/her family (i.e. spouse/civil partner and children)
- the cost of school fees, not exceeding €5,000 per annum for each child of the relevant employee or for each child of his/her spouse/civil partner, paid to a school established in the State which has the approval of the Minister for Education and Skills for the purposes of providing primary or post-primary education to students.

Although not examinable in the 2015 exam cycle, it is important to note that Finance Act 2014 extended the SARP to include individuals assigned to work in Ireland during 2015, 2016 and 2017. In addition, the €500,000 cap has been removed for tax years 2015, 2016 and 2017. That is, for employees who currently qualify for SARP as well as new arrivals in 2015 to 2017.