



Leigh, an AITI Chartered Tax Adviser, is the Principal of Cullen Tax Advisers, a specialist tax practice that provides tax advisory services mainly to other accountancy and law firms. Leigh provides private client, corporate, VAT, capital tax consulting services in addition to assistance on Revenue Audits and Investigations.

Introduction

Other taxes have moved to a real time basis in the past. However, the change occurring from January 2019 will impact over 2.7 million taxpayers and their employers and the impact of this change will be widely felt across all industries.

The Revenue PAYE Modernisation group have been working closely with all stakeholders, including the various payroll software providers, since the Budget 2017 announcement of the proposed changes to ensure the launch date of 1 January 2019 is achieved.

In the coming months, Revenue will continue to work with stakeholders, reaching out to employers to provide a Register of Employees as Revenue undertake their own data alignment exercise. The requirement to maintain a Register of Employees has existed for many years and to not maintain one can lead to penalties.

Before outlining the expected risks associated with the changeover to the new system and the planning that should be done now to ensure employers are ready, it is useful to outline a short summary of how the new RTR system will operate, which is as follows:

PAYE Modernisation – Risks, Challenges and Planning

Mary Shelley wrote in *Frankenstein* that “Nothing is so painful to the human mind as a great and sudden change”. Given we are now less than seven months away from PAYE Modernisation going live, with payroll information for employees becoming available in real time under the Real Time Reporting (“RTR”) regime, great and sudden change and its consequences are very near for people involved in the payroll process if they are not adequately prepared.

1. Employers will calculate and deduct tax from employees’ pay and benefits based on the latest Revenue Payroll Notification (“RPN”) from Revenue. Employers will request the most up to date RPN before making payment to that employee.
2. Employers must notify Revenue on or before the making of a payment to an employee in respect of each employee the amount of pay and benefits, date of payment and the taxes deductible (PAYE, USC, PRSI and LPT).
3. After month end, Revenue will issue a monthly statement summarising all “Payroll Submission Requests” made during the previous month. This monthly statement is deemed to be the employer monthly return if no action is taken. If the details are incorrect the employer must amend or correct the underlying payroll data prior to the 14th of the following month.
4. Taxes operated must be paid by the 14th of the following month also (or 23rd for those who pay and file, which is most employers).

As is the current position for filing other tax returns and reporting information, e.g. eRCT system, the Revenue Online Service (“ROS”) will allow employers (and their payroll agent) to file the information.

Under the new process, the December monthly statement will be ready in early January and that statement will be deemed as the end of year payroll return if no corrections are made by the return due date which is 14 January 2020. It should therefore follow that Revenue will have complete payroll information from most employers and more importantly for tax advisers, by the end of January following the end of the tax year.

Smaller employers will be able to make payments on a less frequent basis and the direct debit facility will also continue to be available for all employers. However, all employers still must make information submissions on a real time basis and based on the real time information provided to Revenue the risk of interest charges for late payment is likely to increase when payments are not sufficient.

The main benefit of the changeover will be the end of the obligation to have to submit the current range of payroll forms, i.e. forms P30, P45, P46, P60 and P35 and post year end routines around the final filing of the form P35.

Risks and challenges

The new system will give Revenue visibility on payments and tax deductions as they are made, which is a significant departure from the current situation of Revenue receiving the information nearly two months after the end of the tax year. This new system presents both a practical and philosophical change for employers.

The main risk that arises for employers is that due to the nature of the real time information provided, the level of Revenue’s oversight and interaction with all RTR submissions will increase. This in turn will increase the likelihood of faster and more meaningful compliance interventions by Revenue, which for an employer means a higher likelihood of interest and penalties.

It is worth mentioning that the existing penalty that applies for failure to operate PAYE correctly is €4,000, although this penalty has historically rarely been imposed. The way in which Revenue will

receive information going forward could change this approach. The information will enable Revenue to identify more accurately whether the “right tax is paid at the right time” when reviewing employer RTR submissions during a Revenue audit or compliance intervention.

Similarly, under Section 986A TCA 1997 employers can also be liable to pay the taxes that should have been withheld on a grossed-up basis from 1 January 2018.

The main challenge for employers is moving away from the balancing up at the end of the year approach to a more precise and accurate approach for non-core pay each time a payment is made to employees. Such challenges will include:

1. Globally mobile employees

It is expected that running a shadow payroll for employees under RTR will become more problematic. Revenue have indicated that employers must report and pay shadow payroll taxes within four weeks following the pay period in which duties are performed in Ireland. It will also be mandatory for employers to indicate when employees are on shadow pay arrangements.

Given the many variables that can input into a shadow payroll for an employee, this approach by Revenue will present challenges for such employers and amendments outside any allowable timeframe may give rise to penalties and interest.

2. Benefit in kind and expenses

Given that at times the taxing of benefit in kind and expenses on employees can be complex certain employers would rectify any adjustments and shortfall after the end of the tax year when completing the form P35.

Revenue has stated that it expects employers to have in place processes to ensure real time tracking of benefits and processing of same through payroll. This will be difficult for certain employers who provide complicated benefit structures. Given that Revenue identified during the initial consultation process that certain employers focused on end of year reporting when dealing with certain benefits in kind and not during the year, it is likely this is an area they will keep a watching brief on.

What action and planning should be done?

We would therefore recommend the following action and planning is undertaken by employers (or their payroll agent) prior to (and shortly after) the changeover to RTR:

1. Carry out a data cleansing and matching exercise for all employees to check:
 - a. They are registered with Revenue as employer for all employees;
 - b. They have the correct PPS number for that employee (a PPS number checker is available on ROS from 12 April 2018);
 - c. They have a current “Certificate of Tax Credits and Standard Rate Cut-off Point” (form P2C) for each employee and that certificate is the one currently being used; and
 - d. They have issued a form P45 for all former employees.
2. Employers should review their payroll system and overall process, including how benefits in kind, expense reimbursements and shadow payrolls are run and map out how that data will look to Revenue under the RTR system. This review will give a good idea of what action is required to get the RTR payroll system ready.
3. Where payroll bureau agency services are offered to clients your client letter of engagement should be amended for the extended scope of any work required to assist those clients in complying with RTR obligations from 1 January 2019 onwards. As practitioners are currently reviewing their letters of engagement for payroll bureau services offerings under General Data Protection Regulation (“GDPR”), now would be a good time to let those clients know that additional amendments to your terms of business and increased costs may arise under RTR.
4. Communicate with employees to make them aware of changes coming under RTR (e.g. they can view their information in real time, register for MyAccount, they will no longer receive a form P60) particularly those that may have a change to their pay due to the cessation of practices no longer allowed under RTR.
5. Revenue are due to hold regional seminars on RTR from September 2018 onwards, so these should be attended to understand the changeover process, see a dimension of the new technology interface and related issues. Even if the previous seminars have been attended it would be useful to attend any such seminars closer to changeover, given that technological and other implementation issues will arise.
6. Undertake to reach out to Revenue and payroll software providers to obtain any test system available later in the year so all persons involved in the process can get familiar with the new system prior to going live.
7. Deploy adequate recourses in late December 2018 and early January 2019 to ensure the (final) form P35 for 2018 is prepared and the first RTR submissions can be prepared and made in advance of payment. During early January 2019, for practical considerations, it may be worth considering running a couple of paydays for certain employees normally paid monthly for nominal amounts ahead of the main batch, just to ensure those persons using the new RTR system get experience early on.
8. Employers will need to regularise their payroll function to ensure subsequent payrolls are processed in real time, whether dealt with internally or outsourced to a payroll agent.

It is Revenue’s view that once the new RTR system has bedded down it should be the position for most employers that the overall time dealing with their PAYE compliance obligations is reduced, even if more time is required to be spent on each payroll due to the accuracy and quality of information required for each pay day. Following the introduction of Real Time Information (“RTI”) in the UK during 2014 it was reported that compliance costs increased due to more demanding reporting requirements and dealing with system errors. Only time will tell whether the same position will arise post 1 January 2019 operating RTR.

Given the increased risks of getting the payroll process wrong in the future this is a good opportunity for practitioners to provide support services to employers that are seen to have more value than previously when payroll services can be viewed as ancillary to other sources of work.