



14 January 2022

Your refs: S0656 PAC 33
S0707 PAC33
S0679 PAC33

Ref: 100014-22

Ms. Sarah Cremin,
Committee Secretariat,
Committee of Public Accounts,
Leinster House,
Dublin 2.
PAC@oireachtas.ie

Dear Ms. Cremin,

I refer to the correspondence, on behalf of the Committee, of 13 December, 2021 in relation to information available to Revenue on the taxation of couriers, of 22 December 2021 following the meeting with Revenue on 2 December, and of 10 January, 2022 in relation to a settlement between Revenue and Perrigo.

The additional information which was requested in the correspondence referred to above is now enclosed as follows:

Appendix 1: Taxation of couriers.

Appendix 2: A note outlining Revenue's position on the employment status and PRSI classification of home tuition providers.

Appendix 3: A detailed breakdown of the number of, and associated value of, seizures of drugs and cigarettes from 2019 to 2021.

Appendix 4: Confirmation as to which year a X-ray scanning van was purchased by Revenue with the aid of a grant from the European Anti-Fraud Office of the European Commission, and whether a number of seizures by Irish customs have resulted from the purchase of the van.

Appendix 5: The cost, in each case, to Revenue per annum for its new facilities relating to functions arising from Brexit at Dublin Port and Rosslare Europort.

Appendix 6: An update to be provided on the potential for a parking facility to be made available at the Revenue facility at Rosslare Europort, to resolve road safety issues in the area.

Appendix 7: A monthly analysis of the support Revenue has provided to each sector during the COVID-19 pandemic.

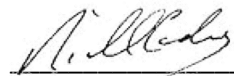
Appendix 8: A breakdown of Revenue's expenditure, from when the organisation started preparing for Brexit to present.

Appendix 9: A detailed note providing information on the taxation treatment of artists from outside the State that perform in Ireland.

Appendix 10: Perrigo case.

If you have any queries please do not hesitate to contact Angela O'Gorman at (01) 8589181 or angelaogorman@revenue.ie

Yours sincerely,



Niall Cody,
Chairman.

Appendix 1

Taxation of Couriers

1. *Statutory reporting information available to Revenue.*
2. *A copy of each of the documents contained in Revenue eBrief 198/18 that refer to the taxation of couriers. (pg. 10)*
3. *Recent Case law*

1. Statutory reporting information available to Revenue

Revenue holds records of P35 end of year returns, which are statutory returns, made by various courier businesses that were filed in the years prior to 2019. P35 records for the years 1997 to 2003 have been transferred to microfiche and are only available on an individual courier by courier basis rather than at the level of the courier businesses, and thus, it is not possible to carry out analysis of the data for that period. The file of records from the time of the agreement with courier businesses in 1997 as well as available historic P35 records have been retrieved and have been examined in detail in recent weeks. The table below indicates use of the 'voluntary' PAYE scheme over a 15-year period from 2004 to 2018.

The data results below are indicative of the number of employers using the voluntary PAYE scheme for couriers. As part of the analysis of the P35s, to avoid including company directors who would also have Class S PRSI, employers with two or less individuals listed were excluded from the analysis. Furthermore, the data reflects the end of year position for each employer and is based at a point in time as adjustments can be made to records after the return is filed. In the interests of taxpayer confidentiality, it is Revenue policy where numbers are very low to use "<10" as the result. For the period from 2004 to 2018 less than 10 employers used the scheme in any one year.

Table 1: Use of the voluntary PAYE scheme over a 15-year period from 2004 to 2018

YEAR	GROSS PAY	TAX	NO OF EMPLOYEES	NO OF EMPLOYERS
2018	€1,524,970	€22,329	154	<10
2017	€1,470,119	€15,216	154	<10
2016	€1,511,469	€13,565	209	<10
2015	€1,408,701	€13,367	210	<10
2014	€1,524,970	€22,329	154	<10
2013	€1,230,250	€3,949	147	<10
2012	€1,204,814	€10,523	154	<10
2011	€1,333,646	€10,084	165	<10
2010	€1,538,140	€8,059	173	<10
2009	€2,119,337	€14,155	248	<10
2008	€3,076,638	€46,391	380	<10
2007	€2,366,513	€29,744	328	<10
2006	€2,245,676	€44,402	341	<10
2005	€1,627,437	€56,058	262	<10
2004	€1,301,380	€42,668	264	<10

With the introduction of real time PAYE data through the PAYE Modernisation project in 2019, Revenue now has access to a richer dataset relating to PAYE returns. Revenue can conclude from that data that there continued to be limited use of the 'voluntary' PAYE system in recent years. In 2019, less than ten courier companies were using the system with 'voluntary' PAYE applied to 146 employees with total gross pay of c. €553k; in 2020, less than ten courier companies were using the system in respect of 117 individual couriers and a total gross 'pay' figure for those individuals of c.€268,000; in 2021, again less than ten courier companies were using the system in respect of less than ten individual couriers and a total gross 'pay' figure for those individuals of c.€ 152,000.

Furthermore, it should be restated that there was no financial cost to the couriers or the Exchequer as the individuals included in the 'voluntary' regime had to be bona fide self-employed. However, it should be noted that under the terms of the 1997 agreement, individual motor couriers received the benefit of an annual 45% 'flat deduction' against their pay in recognition of the expenses they incurred in the performance of their duties.

2. Details of documents contained in Revenue eBrief 198/18 referring to the taxation of couriers

The operation of PAYE on bona fide self-employed couriers involved the application of a withholding tax on an administrative basis, which facilitated collection of tax on account from a small cohort of self-employed individuals and made it easier for those individuals to meet their payment compliance obligations. The application of this withholding tax did not confer any social insurance or employment rights on the couriers in question. It would not be correct to confer an employee status on this cohort of workers by virtue of the voluntary PAYE system being applied to them individually or the number of courier firms that an individual courier engaged with.

There are a number of factors which lead to a conclusion of self-employment or employment, as the case may be. Any determination needs to be considered in the round with regard to contracts, tests and settled case law. It would be inappropriate to pick any one test as determinative or to give weight to any particular factor. To do so would be to misunderstand how determinations should be reached. On balance, a courier supplying services who provides their own vehicle and suffers running costs will likely be considered self-employed when the nature of the services and payment terms suggest that to be the case. The tests are set out in the Code of Practice on Determining Employment Status.

The full circumstances of each engagement would need to be considered and provision of own equipment and payment of insurance and other expenses would be a strong indicator of self-employment in the case of a courier. The Department of Social Protection had found couriers to be self-employed for the purposes of PRSI and the Workplace Relations Commission had also found couriers examined to be self-employed. In 2003, a Circuit Court judge found a motorcycle courier to be self-employed, mainly on the basis that the courier had supplied his own equipment and paid his own expenses. In a letter to the PAC on 4 August of 2000, Revenue had confirmed with our UK counterparts that the UK authorities also considered motorcycle couriers as self-employed for tax and social insurance purposes.

There are three separate agencies responsible for making determinations for employment status, each with its own legislative framework and appeals process.

- Scope Section in the Department of Social Protection determines employment status with a view to deciding the appropriate class of PRSI for an individual.
- Revenue decides on employment status which determines the appropriate tax treatment.

- The Adjudication service of the Workplace Relations Commission (WRC) determines employment status as a preliminary issue when adjudicating on employment rights complaints.

Decisions of the individual agencies are not binding on each other.

It should also be noted that the determinations made back in 1997 that the individuals concerned were genuinely self-employed are still valid today and, if the same facts and circumstances applied today as applied at the time of the agreement, would still meet the necessary criteria in the updated Code of Practice on Determining Employment Status that was published in July 2021 by the Minister for Social Protection. The Code can be found at:

www.gov.ie/pdf/?file=https://assets.gov.ie/34185/fcfac49276914907b939f64fad110ae8.pdf#page=null.

It is, of course, open to individual couriers to seek a review of their PRSI status from Scope Section in the DSP or to engage with the WRC on their employment rights. Revenue would also consider any requests for its view on the employment status for tax purposes of a particular individual and would conduct such a review based on existing tax legislation and criteria contained in the Code of Practice.

Revenue has been fully transparent and open in all matters relating to the 'voluntary PAYE' scheme that applied to self-employed couriers. Following the March 1997 letter of agreement with the courier businesses, Revenue published details of the agreement in Tax Briefing 28 of 1997 in October of that year. In 2007, a Tax and Duty Manual (TDM) was issued incorporating the detail of the agreement. The agreement provided for a standard expense 'flat deduction' against gross income of 45% for motorcycle couriers and 20% for bicycle couriers. The TDM was reviewed in 2016 with no changes made. The TDM was again reviewed in November 2018 and, with the introduction of real time PAYE data from PMOD, the 'flat deduction' element of the 'voluntary' PAYE scheme was withdrawn.

The changes to the TDM were highlighted in e-brief 198/18 which issued on 13 November 2018. While the 'flat deduction' for expenses is no longer valid since the start of 2019, couriers can continue to claim for any actual expenses incurred wholly and exclusively for business purposes on their tax return, in the same manner as all other self-employed taxpayers.

Revenue policy is that TDMs are periodically reviewed after a set period of time to ensure they are still relevant and up to date. Where a TDM has not been subject to a thorough review within the timeframe, mostly due to other work priorities, the TDM is withdrawn from the Revenue website. Because TDM 04-01-07 had not had a recent review, it became unavailable on the Revenue website on 4 December 2020. The TDM has since been fully reviewed and will be re-published shortly.

Apart from TDM 04-01-07, all the other published material can still be accessed on the Revenue website i.e. Tax Briefing 28 of 1997 and e-Brief 198/18. Copies of the above documents are attached at Schedule A in a separate attachment for the information of the Committee. [Schedule of Records].

3. Recent Case law

Revenue challenges issues relating to misclassification of workers as self-employed where they are discovered. The issues involved can be complex and take significant time to finally resolve. This can best be illustrated by the case of *Karshan (Midlands) Ltd. t/a Domino's Pizza v Revenue Commissioners* which centred on whether Domino's Pizza van drivers were employees, Revenue's case working in this case started in 2011 and interviews with staff were conducted in 2012. A Revenue Audit notification letter issued in March 2012. Appeal proceedings were heard before the Tax Appeals Commission (TAC) in July 2016 and the TAC determined that the drivers worked under

multiple contracts of service and were taxable in relation to the emoluments arising therefrom in accordance with Section 112 TCA 1997 – PAYE employees. The company appealed this decision to the High Court on a point of law. The High Court upheld the determination of the TAC in its decision on 20 December 2019. The High Court decision has been appealed to the Court of Appeal which was held in July 2021 and a decision is expected shortly.

The examination of employment status is always a feature of Revenue’s compliance programmes in high risk sectors, including construction, logistics. Revenue continually monitors outcomes of employment status cases both nationally, where the WRC and SCOPE Section in DSP make rulings, and internationally following developments in treatment of “gig economy” workers and treatment of “IT platform” workers in different jurisdictions.

Appendix 2

Home Tuition

A note outlining Revenue's position on the employment status and PRSI classification of home tuition providers. (pg. 13)

By way of background, the purpose of the Home Tuition Grant Scheme is to provide funding towards the provision of a compensatory educational service for children who, for a number of specific reasons, are unable to attend school. It is a condition of the scheme that parents or guardians must source a qualified tutor who is registered with the Teaching Council of Ireland for the duration of the approved tuition.

Since September 2015, Revenue's position on the tax treatment of emoluments paid to home tutors under the Home Tuition Grant Scheme run by the Department of Education is that home tutors are employed under a contract of service by the family which means they are employees of the family and subject to PAYE deductions by the Department of Education on any such emoluments. For tax purposes, therefore, home tutors are subject to the expense regime that applies to employees and are entitled to the employee tax credit.

Where the parent employed the tutor directly, the Department of Education agreed to operate the PAYE system on payments made to the home tutors. This was an agreed position for ease of administration as the payments initiated from the Department of Education originally. Furthermore, it avoids placing the obligation on each individual parent to register as an employer and administer the PAYE system.

Prior to September 2015, home tutors were paid by the parent(s) from grants paid to them by the Department of Education. The parents of the children passed on the payments to the home tutors without deduction of PAYE. In the circumstances, the tutors were chargeable persons for income tax purposes in respect of the gross payments received prior to September 2015 and their income as home tutors should have been returned under the self-assessed income tax 'Pay and File' system.

The change in treatment in 2015 regarding home tuition payments came about following a Revenue compliance intervention into the then Department of Education and Skills, and was the subject of a review by the Comptroller & Auditor General in his 2015 Report www.audit.gov.ie/en/find-report/publications/2015/chapter-12-tax-settlements-on-certain-payments-to-teachers-and-others.pdf. Taxes are now deducted at source from home tuition payments.

Tax and Duty Manual (TDM) 05-01-26 Taxation of payments made to Home Tutors by the Department of Education www.revenue.ie/en/tax-professionals/tdm/income-tax-capital-gains-tax-corporation-tax/part-05/05-01-26.pdf, clarifies the taxation treatment of emoluments paid to home tutors.

The determination of the social insurance contribution an individual pays is not a matter for Revenue. The Department of Social Protection (DSP) determined that class S (self-employed status) was the appropriate rate of PRSI applicable to the emoluments paid to home tutors governed by the Home Tuition Grant Scheme.

The DSP is responsible for determining PRSI classes and any impact on the Social Insurance Fund is a matter for that Department. Decisions made by the DSP as to the employed/self-employed status of any engagement contract are not binding on Revenue. When required, Revenue makes its own determinations on such matters, having regard to tax legislation and the 'Code of Practice on Determining Employment Status'.

Appendix 3

Drugs, Cigarettes and Tobacco Seizures

A detailed breakdown of the number of, and associated value of, seizures of drugs and cigarettes from 2019 to 2021. (pg. 16)

The following three tables provide details of numbers, quantities and values of drug, cigarette and tobacco seizures from 2019 to 2021 by Revenue.

Overall Drug Seizures			
Year	No. Seizures	Quantity (kg)	Value
2019	10,279	3,229	€23.6m
2020	15,714	4,621	€44.8m
2021	21,163	5,741	€114.8m

Cigarette Seizures			
Year	No. Seizures	Quantity	Value
2019	3,263	13.4m	€8.6m
2020	3,132	48.2m	€32.8m
2021	4,876	60.6m	€43.5m

Tobacco Seizures			
Year	No. Seizures	Quantity (kg)	Value
2019	1,474	3,564	€2m
2020	1,304	7,189	€4.2m
2021	1,688	38,237	€24.1m

Appendix 4**X-Ray Scanning Van and associated seizures**

Confirmation as to which year a X-ray scanning van was purchased by Revenue with the aid of a grant from the European Anti-Fraud Office of the European Commission, and whether a number of seizures by Irish customs have resulted from the purchase of the van. (pg. 17)

Revenue currently has three x-ray container scanners; all of these scanners are mobile and can be deployed to both frontier (e.g. ports, airports, mail centres) and inland operations. Revenue also has a 'backscatter van' scanner, and a specialist vehicle that contains an x-ray system to scan parcels and other baggage.

The x-ray scanning equipment referred to by Deputy Devlin at the PAC on 2 December 2021 had an estimated cost of €1.8m with 80% funding from OLAF, equating to an estimated €1.4m grant. The contract for this scanner was signed on 15 November 2021 with a final cost of €1.4m and OLAF funding of €1.1m. €720,000 of this OLAF funding was received in December 2020. The scanner is due for delivery in Q3 2022. As it has not yet been deployed, it has not been involved in any seizures.

In 2021, the three operational x-ray container scanners were involved in the seizure of drugs valued at €83m and tobacco products and alcohol valued at €43m.

Appendix 5

Costs of new facilities at Dublin Port and Rosslare Europort arising from Brexit

The cost, in each case, to Revenue per annum for its new facilities relating to functions arising from Brexit at Dublin Port and Rosslare Europort. (pg. 23-24)

The following table provides a breakdown of the costs to Revenue of new facilities relating to functions arising from Brexit at Dublin Port and Rosslare Europort:

	2019	2020	2021
Capital Expenditure			
<i>Rosslare</i>	€2,118,593	€1,086,559	€138,802
<i>Dublin Port</i>	€1,183,079	€7,534,159	€11,623,979
Total Capital Expenditure	€3,301,672	€8,620,718	€11,762,781
Current Expenditure			
<i>Rents Rosslare</i>	€650	€46,475	€35,000
<i>Rents Dublin Port</i>	€89,749	€297,392	€970,388
<i>Facilities Management</i>	-	-	€3,057,711*
Total Current Expenditure	€90,399	€343,867	€4,063,099
Total	€3,392,071	€8,964,585	€15,825,880

* This amount is in respect of a Consignment Handling Contract and is in respect of functions carried out at both Dublin and Rosslare Ports.

Appendix 6

Parking facilities at Rosslare Europort

An update to be provided on the potential for a parking facility to be made available at the Revenue facility at Rosslare Europort, to resolve road safety issues in the area. (pg. 24-25)

As explained to the Committee at the meeting on 2 December 2021, this is a matter that is being addressed by the Department of Transport.

Appendix 7**Monthly analysis of Covid Schemes by Sector**

A monthly analysis of the support Revenue has provided to each sector during the COVID-19 pandemic. (pg. 27)

Since early April 2020, Revenue has published weekly statistical updates on the key COVID support schemes that we administer. These show the uptake and impact of the Temporary Wage Subsidy Scheme (TWSS) until its completion in August 2020, the Employment Wage Subsidy Scheme (EWSS), the COVID Restriction Support Scheme (CRSS) and the Business Resumption Support Scheme (BRSS). Monthly updates are also provided on Debt Warehousing and Temporary Acceleration of Loss Relief. As regards EWSS, while the detailed content in the statistics releases varies from week to week, each week's update includes the most recent breakdown of subsidies by sector and by county of the employers. The COVID support scheme statistics are available at <https://www.revenue.ie/en/corporate/information-about-revenue/statistics/number-of-taxpayers-and-returns/covid-19-support-schemes-statistics.aspx> and the updates are published at the same link weekly.

Appendix 8

Brexit Costs

A breakdown of Revenue's expenditure, from when the organisation started preparing for Brexit to present. (pg. 33-34)

The following table provides details of the estimated cost of Brexit related expenditure for each year from 2017 to 2021.

Brexit Expenditure	2017	2018	2019	2020	2021	Total
Category	€000	€000	€000	€000	€000	€000
Pay	600	1,326	19,808	26,768	39,482	87,984
ICT Developments	225	768	2,131	718	1,016	4,858
Infrastructure & Accommodation	-	-	3,486	9,624	15,865	28,975
Other Expenses*	-	-	1,112	1,545	1,570	4,227
Total	825	2,094	26,537	38,655	57,933	126,044

* Other Expenses includes costs related to uniforms, vehicles, and radio communications.

Appendix 9

Taxation treatment of artists from outside the State

A detailed note providing information on the taxation treatment of artists from outside the State that perform in Ireland. (pg. 34-35)

There are no specific tax exemptions available to international artists performing in the State. Artists who are not resident in the State for tax purposes have a liability to Irish tax on income arising from exercising their profession in the State. S18(1)(a)(iii) Taxes Consolidation Act (TCA) 1997 states that tax under Schedule D is chargeable in respect of “*any person, whether a citizen of Ireland or not, although not resident in the State, from any property whatever in the State, or from any trade, profession or employment exercised in the State*”.

Furthermore, the charge provided for by section 18(1)(a)(iii) TCA is not diluted by the provisions of Ireland’s tax treaty network. Article 17, Paragraph 1 of the OECD Model Tax Convention allows a treaty partner to tax foreign artists and sports people on income derived from their personal activities as such performed within that state. Additionally, Paragraph 2 of Article 17 provides that where such income accrues to another person such as an agent, a management body or a company, it may also be taxed in the State where the activities are carried out. Where the wording of Article 17 is included in Ireland’s tax treaty with another State, entertainers and sportspersons who are tax resident in that other State will be afforded relief from double taxation in that State for any Irish tax charged on their Irish source income in accordance with the terms of the treaty.

Non-resident artists have a liability to Irish tax on income arising from exercising their profession in the State. Self-assessment operates in the context of these foreign artists and they are required to complete an annual tax return to declare any such income earned from performances in the State. However, because non-resident artists are, generally speaking, only in the country for very brief periods, there is a range of practical difficulties associated with enforcing such a liability. Where non-resident entertainers do not file an Irish tax return, there is no effective mechanism to quantify the potential tax exposure of such entertainers on the income related to their Irish performances and to collect any tax owing. In addition, the difficulties in quantifying, and enforcing collection of, any Irish taxes in such circumstances can be further compounded by non-resident artists exercising their profession in the State via a complex structure of incorporated entities.

In relation to VAT, where an international performer is engaged by a promoter, it is the responsibility of the promoter to account for the VAT due on the performance fee. Where a concert takes place in Ireland and the artist’s performance fee is charged to an Irish VAT registered promoter, it is subject to Irish VAT at the standard rate, currently 23%. In circumstances where the artist and promoter are both established outside the State, the promoter is required to account for VAT on the performance fee where she/he is established, for example, where that promoter is established in the UK it would account for UK VAT on the performance fees of the artist regardless of the fact that the artist performed in another country.

In addition, where a premises provider allows a promoter who is not established in the State to hold a concert on their premises, the provider must report details of the event to Revenue. Failure to do so can make the premises provider jointly liable for any VAT arising. This seeks to ensure that the correct VAT is collected and paid in relation to any merchandise sold at the concert venue.

Perrigo case

Information in relation to the treatment of the transaction and the difference between the applied rate of 33% and the applicable rate of 12.5%, which does not account for the difference between the initial tax assessment of €1,636,047,645 and the settlement figure of €297 million.

As outlined at the Committee meeting on 2 December 2021, Revenue is statutorily bound to confidentiality in respect of taxpayer information under section 851A of the Taxes Consolidation Act 1997. Consequently, Revenue is legally precluded from providing any additional information other than that provided in our letter of 18 November 2021.

Schedule A - Documentation on the Taxation of Couriers

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1. Correspondence from Revenue to Kieran Ryan & Co., Accountants dated March 1997

Oifig an Ard-Chigire Cánach,
Uirlár 1, Ionad Setanta,
Sráid Thobair Phádraig,
Baile Átha Cliath 2.

Dear Mr. Ryan

1. Introduction

Uimh. Thag.
(Ref. No.) -



Office of the Chief Inspector of Taxes,
1st Floor, Setanta Centre,
Nassau St, Dublin 2

Tel. No. (01) 671 6777 Ext.4356

Fax No. (01) 671 6668

Kieran Ryan
Kieran Ryan & Co.
Chartered
Accountants 20 Upper
Mount St.
Dublin

7 March 1997

Re: Couriers

- 1.1 While this letter is addressed to you because of your professional involvement in discussions to date, it also has an immediate impact on courier firms and couriers engaged by the courier firms. To ensure that this letter reaches the courier firms and couriers please arrange, as discussed, to have it circulated to all known courier firms, particularly those represented at the meeting in the Burlington Hotel on Monday, 3 March 1997. The courier firms, in turn, should make the contents known to their couriers
- 1.2 For some time past the taxation and PRSI position of couriers has been under discussion.
- L3 It would appear that there is a generally held perception that certain return compliance and tax/PRSI obligations of courier firms and couriers were "put on hold" until the status of couriers for tax and PRSI purposes was concluded. This was not the case. Because the PAYE system for tax and PRSI purposes was not generally applied by courier firms on couriers earnings
- there was always an obligation on courier firms to make a return of all couriers who were paid in excess of (gross) and
 - there was always an obligation on couriers to make annual tax returns and pay their tax liability under self-assessment.

2. Couriers Status

- 2.1 As you are aware, the Department of Social Welfare Appeals Office have decided that a motorcycle courier who provided his own equipment (e.g. motor cycle, special gear etc.) and was engaged under the standard courier contract was insurable as a self-employed contractor under the Social Welfare Acts.

While the decision is not binding on Revenue I propose, as previously stated, in the interest of uniformity and with a view to bringing the matter to a conclusion, to treat couriers as self-employed for tax purposes, whether deliveries are made by van, motorcycle or bicycle • where the vehicle is owned by the courier and • all the outgoings in relation to the vehicle are paid by the courier and • they are engaged under the standard contract and • a basic wage is not paid in addition to a "mileage" rate.

This arrangement does not override the statutory rights of couriers, courier firms, Revenue or the Department of Social Welfare in this particular area for the future.

- 2.2 It should also be noted that any arrangement in relation to the status of couriers and the voluntary PAYE option referred to in paragraph 4 below is for tax purposes only, unless a change in status is warranted by a future change in circumstances (e.g. by an overriding decision made in another Tribunal or Court of Law). This arrangement should not be taken as a precedent in any other area of law where the status of couriers may be a factor. The matter, if relevant in the future, should be taken on its own merits.

3. Couriers Expenses:

Again, in the interest of uniformity, simplification reducing the compliance burden on courier companies and couriers, I agree the following standard expenses regime for the coming five years 1997/98 - 2001/2002 inclusive to allow for a reasonable period of stability for all concerned. The expenses position is without prejudice to either Revenue, the couriers or courier firms proposing that the matter be reviewed or withdrawn at the end of that period. It also does not override an individual's statutory right in relation to claiming appropriate expenses incurred "wholly and exclusively" for the purpose of the trade.

3.1 Motor Cycle Couriers

Motor Cycle couriers' expense allowance figure, to exclude wear and tear on the motorcycle, is agreed at 40% of a courier's gross earnings.

Wear and tear element on the motorcycle will be regarded as additional to the 40% expenses. To avoid couriers, courier firms and Revenue having to compute wear and tear on an ongoing basis, particularly each time a motorcycle is changed, I agree to allow 5% of the courier's gross earnings as an additional expense to cover wear and tear on the motorcycle. This will give a total expense allowance of 45% of gross earnings for motorcycle couriers.

3.2 Cycle Couriers

While cycle couriers would obviously not have a similar level of expenditure to that of motorcycle couriers, I propose to agree a composite flat-rate expenses figure of 20% to cover wear and tear, replacement of the bicycle and spare parts and the purchase, replacement and cleaning of specialist gear etc.

3.3 Van Owner/Driver Couriers

Because of the limited numbers and the particular circumstances of owner van driver couriers there is no point in agreeing a flat-rate expense for this category. They may claim expenses incurred "wholly and exclusively" for the purpose of the trade in the normal way.

4. PAYE

- 4.1 Because I propose to treat couriers as self-employed for tax purposes, courier firms will not be obliged to deduct tax and PRSI through the PAYE system.
- 4.2 However, as discussed, to avoid couriers having to comply with self-assessment procedures and courier firms having to comply with annual return filing for self-employed persons to whom they make payments over etc I would suggest that the option of operating PAYE and PRSI class S through the PAYE system on a voluntary basis for motorcycle and cycle couriers be seriously considered.
- 4.3 Operating the PAYE system voluntarily would not compromise the statutory rights of the courier firm or couriers in any way. The main advantages would be that
 - even though operating the PAYE system would be voluntary, the PAYE allowance of E800 will be given to the couriers,
 - approval can be given to courier firms to operate PAYE and PRSI Class S on the earnings of motorcycle or cycle couriers reduced by 45% or 20% expenses, as appropriate,
 - Income tax and PRSI is collected in a structured fashion. This will avoid the couriers having to comply with the provisions of the self-assessment system,

e.g. annual return form I I filing, payment of preliminary tax, exposure to surcharge provisions for late filing etc.

- a separate PAYE registration number could be allocated, if required, to operate PAYE on the couriers. This is obviously not a necessity - the existing PAYE registration number can be used and will avoid the delay of additional registration etc.

- 4.4 I would hope for a unified response from courier firms on the issue of voluntary registration for PAYE in order to bring the matter to a final conclusion shortly and with a view to introducing a voluntary PAYE system for the couriers from 6 April 1997.

I will require from each courier firm a list of couriers currently employed by them showing -

- Full name and address
- RSI number
- Date of birth and mother's maiden name
- Whether the courier is single or married, if that information is available to the courier firm.

The courier firm should also state their own PAYE registered number.

The start date of 6 April for the voluntary PAYE system is not negotiable as most courier firms would already be registered for PAYE purposes anyway.

- 4.5 The courier firm should indicate that the voluntary PAYE option is being taken up. From these lists the couriers will be set up on the PAYE system for the issue of PAYE documentation.

- 4.6 When the list of couriers is submitted under the PAYE option a Notice of Tax Free Allowances will be issued shortly afterwards to the courier and a Certificate of Tax Free Allowances or Tax Deduction Card (depending on whether the courier firm is computerised or not) will be issued to the courier at the same time in order to implement the PAYE system with effect from 6 April 1997.

- 4.7 If you do not hold a Certificate of Tax Free Allowances or Tax Deduction Card at 6 April 1997 for a courier a concessional temporary Tax Free Allowance may be used from 6 April 1997 until you receive the appropriate tax documentation.

- For a single courier the temporary concessional allowance is the personal allowance 2,900 + 800 PAYE allowance = 3,700 \times 1/52 = \pounds 72.
- For a married courier the temporary allowance is personal allowance 5,800 + PAYE allowance 800 = 6,600 \times 1/52 = \pounds 127.

- 4.8 The concessional temporary tax-free allowance or the subsequent official taxfree allowance may be used against the couriers earnings after allowing for expenses as outlined above in paragraph 3.
5. Non-PA
- 5.1 Some courier firms may not opt for the voluntary PAYE option.
- 5.2 As previously stated, return compliance and tax/PRSI obligation were never "put on hold". Consequently, courier firms which do not opt for the voluntary PAYE and who have not made a return of all couriers who were paid in excess of £3,000 gross will be visited shortly after 5 April 1997 to obtain that list for 1995/96 (1996/97 should be returned in due course on or before the appropriate return filing date).
- 5.3 On the basis of the list, appropriate assessments or preliminary tax charges will be raised on the couriers based on the 1995/96 position and other relevant information.
6. New Courier Firms
- 6.1 Because of the historic background and discussions surrounding the courier industry to date, new courier firms set up will be visited for the foreseeable future to make them aware of the voluntary PATH option and other tax/PRSI obligations

Yours sincerely

2. Tax Briefing 28 October 1997

https://www.taxfind.ie/binaryDocument/pdfs/http_www_revenue_ie_en_practitioner_tax_briefing_archive_tb28_pdf



**Issue 28 - October
1997**

Taxation of Couriers

Question

How are couriers treated for tax purposes ?

Answer

Couriers are regarded as self-employed for PRSI purposes as a result of a Social Welfare Appeals Officer's decision. In the interest of uniformity Revenue decided, without prejudice, to treat them as self-employed for tax purposes. Many courier firms have opted to implement a voluntary PAYE system of tax deduction in respect of couriers engaged by them. The PAYE allowance of £800 is given to the couriers who are subject to this voluntary PAYE deduction system. A special flat-rate expense allowance regime has been agreed for couriers on voluntary PAYE. Basically, to reduce the administrative overhead, this involves treating expenses as being a percentage of income. The PAYE principles of disregarding the allowable expenses for tax purposes (instead of allowing them in tax-free allowances) before operating PAYE was applied. Any courier firm wishing to join the voluntary PAYE scheme should contact their Inspector of Taxes.

3. Correspondence from Revenue to Public Accounts Committee dated 4 August 2000

PS 3422/00

4 August 2000

Mr. Jerome Flanagan
Office of the Chairman
Committee of Public Accounts
Leinster House
Dublin 2

Dear Mr Flanagan,

I am directed by the Chairman to refer to your letter of 25 July 2000 concerning Mr Martin McMahon, motor cycle courier, of 17 Westfield Green, Ashbourne, Co Meath. Mr McMahon's main concern seems to be health and safety in the courier business.

As regards taxation, the issue of couriers and particularly motorcycle couriers was the subject of protracted discussions between Revenue and representatives of the courier industry. I enclose copies of our letters of 7 March 1997 and 3 April 1997 to Messrs K Ryan & Co., which represented courier firms at the discussions. The letters outline the agreement reached for tax purposes. The majority, if not all, of the courier firms identified following those discussions opted for the voluntary PAYE system of taxation for couriers engaged by them for the reasons outlined in the letters.

For the purpose of insurability under Social Welfare law a motorcycle courier was found to be self-employed by a Department of Social, Community & Family Affairs Appeals Tribunal some years ago. The decision was not challenged further through the High Court on a point of law and consequently would stand for social insurance purposes.

Motorcycle couriers are also regarded as self-employed in the UK. This has been reaffirmed today on the basis of a telephone contact with the UK office dealing with decisions relating to the status of taxpayers for tax and social security purposes.

Taxation of couriers is not currently an issue. The issue relates to the question of insurability for social insurance purposes and presumably also relates to the employment and health and safety

rights of couriers. These issues are matters for the Departments of Social, Community & Family Affairs and Enterprise, Trade & Employment respectively.

I understand that Mr. McMahon has formally taken up the question of his insurability status with the Department of Social, Community & Family Affairs.

The issue of couriers was also raised at a recent inaugural meeting of an 'employment status' group set up under the auspices of the Programme for Prosperity & Fairness. The group consists of representatives of ICTU, CWU, IBEC, Revenue and the Departments of Finance and Social, Community & Family Affairs. It is envisaged that representatives of the Department of Enterprise, Trade & Employment will be invited to the next meeting.

I trust this clarifies the position.

Yours Sincerely

4. Tax and Duty Manual 4.1.7 updated November 2007

[4.1.7] Taxation of Couriers

Last updated November 2007

Reference material: **Tax Briefing, Issue 28 (October 1997)**

Revnet/guides/guidelines/trade profiles/trade specific information

Question

How are couriers treated for tax purposes?

Answer

Couriers are regarded as self-employed for PRSI purposes as a result of a Social Welfare Appeals Officer's decision. In the interest of uniformity Revenue decided, without prejudice, to treat them as self-employed for tax purposes.

Many courier firms have opted to implement a voluntary PAYE system of tax deduction in respect of couriers engaged by them. The employee tax credit is given to the couriers who are subject to this voluntary PAYE deduction system.

A special flat-rate expense allowance regime has been agreed for couriers on voluntary PAYE (see Appendix below for details). In the interest of reducing the administrative overhead, this involves treating expenses as a percentage of income. The PAYE principle of disregarding the allowable expenses for tax purposes before operating PAYE was applied.

Any courier wishing to join the voluntary PAYE scheme should contact his/her Inspector of Taxes.

APPENDIX A

Motor Cycle Couriers

Motorcycle couriers' expense allowance figure, to exclude wear and tear on the motorcycle, is agreed at 40% of a courier's gross earnings.

Wear and tear on the motorcycle will be regarded as additional to the 40% expenses deduction. To avoid couriers, courier firms and Revenue having to compute wear and tear on an ongoing basis, particularly each time a motorcycle is changed, 5% of the courier's gross earnings is allowed as an additional expense to cover wear and tear on the motorcycle. This gives a total expense allowance of 45% of gross earnings for motorcycle couriers.

Cycle Couriers

While cycle couriers would not have a similar level of expenditure to motorcycle couriers, a composite flat-rate expenses figure of 20% is allowed to cover wear and tear, replacement of the bicycle and spare parts and the purchase, replacement and cleaning of specialist gear, etc.

Van Owner-Driver Couriers

Because of the limited numbers and the particular circumstances of van owner-driver couriers, there is no flat-rate expense for this category. They may claim expenses incurred "wholly and exclusively" for the purpose of the trade in the normal way.

5. Tax and Duty Manual 5.1.12 Reviewed June 2015

[5.1.12] Taxation of Couriers

Reviewed June 2015

Reference Material; Tax Briefing, Issue 28 (October 1997)

Question

How are couriers treated for tax purposes?

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A special flat-rate expense allowance regime has been agreed for couriers on voluntary PAYE. To reduce the administrative overhead, this involves treating expenses as being a percentage of income. The PAYE principle of disregarding the allowable expenses for tax purposes (instead of coding them with tax credits) before operating PAYE was applied.

Any courier firm wishing to join the voluntary PAYE scheme should contact its local Revenue Office.

6. Tax and Duty Manual 4.1.7 Reviewed June 2016

[4.1.7] Taxation of Couriers

Reviewed June 2016

Reference material: **Tax Briefing, Issue 28 (October 1997)**

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How are couriers treated for tax purposes?

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7. Revenue eBrief No. 198/18 issued 13 November 2018

Revenue eBrief No. 198/18

13 November 2018

Taxation of couriers

Tax and Duty Manuals [Part 04-01-07](#) and Part 05-01-12 relating to the taxation of couriers have been updated.

Revenue has reviewed the circumstances surrounding the engagement of motor cycle and bicycle couriers. Part 04-01-07 now clarifies:

- the tax treatment of motor cycle and bicycle couriers with effect from 1 January 2019
- that the previous agreement set out in Appendix 1 will no longer apply.

The content of Part 05-01-12 has been incorporated into Part 04-01-07.

Published: 13 November 2018

8. Tax and Duty Manual 04.01.07 updated November 2018

Taxation of Couriers

Part 04-01-07

Document last updated November 2018

Introduction

Revenue has reviewed the circumstances surrounding the engagement of motor cycle and bicycle couriers. The purpose of this manual is to clarify:

- the tax treatment of motor cycle and bicycle couriers with effect from 1 January 2019 and,
- that the previous agreement set out in appendix 1 will no longer apply.

Employed or Self-Employed?

In order to determine the status of a courier, it is necessary to examine each case by reference to the [Code of Practice for Determining Employment or Self-Employment Status of individuals](#).

Whilst the facts of each case will determine whether an individual is either an employee or self-employed, Revenue are of the view that, in general, motor cycle and bicycle couriers are engaged under a contract for service i.e. they are self-employed individuals.

Return of income

With effect from 1 January 2019 motor cycle and bike couriers engaged under a contract for service i.e. self-employed individuals, will need to file a tax return under self-assessment. They may make a claim for the [Earned Income Credit](#)

Expenses

All self-employed couriers may make a claim for any expenditure incurred wholly and exclusively for the purpose of their courier activity.

Revenue's previous agreement of a flat rate deduction for expenses of 20%, 40%, or 45% (see appendix 1) will no longer apply with effect from 1 January 2019.

Voluntary PAYE

Many courier firms have opted to implement a voluntary PAYE system of tax deduction to help couriers comply with their tax obligations, and Revenue has no issue with this arrangement continuing. Tax/USC/PRSI should be applied on the gross income.

Van Owner-Driver Couriers

Similarly, in order to determine the status of van owner-driver couriers, it is necessary to examine each case by reference to the [Code of Practice for Determining Employment or Self-Employment Status of individuals](#).

Whilst the facts of each case will determine whether an individual is either an employee or self-employed, Revenue are of the view that, in general, van owner-driver couriers are engaged under a contract for service i.e. they are self-employed individuals.

Appendix 1

Position up to 31 December 2018

Question

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Answer

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