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Tax E-News

Welcome to our latest monthly tax newswire. We hope you enjoy reading this newsletter and find it useful. Contact us if you wish to discuss any issues further.

February 2023

Foreign Earnings Deduction

Content accurate as at 31.01.2023

Foreign earnings deduction (FED) is a relief from income tax (but not Universal Social Charge (USC) or Pay Related Social Insurance (PRSI)) for individuals who temporarily carry out duties of their office or employment in certain countries which was introduced as part of Finance Act 2012. Over the years the list of countries to which the provisions apply have increased and can be summarised as follows:

Finance Act	**2012**	**2013**	**2015**	**2016**
Countries Added to List	Brazil	Egypt	Bahrain Qatar	Columbia
	Russia	Algeria	Chile Saudi Arabia	Pakistan
	India	Senegal	Indonesia Singapore	
	China	Tanzania	Japan South Korea	
	South Africa	Kenya	Kuwait Thailand	
		Nigeria	Malaysia UAE	
		Ghana	Mexico Vietnam	
		Congo	Oman	

The tax years to which the relief apply has also been extended over the years and is now due to expire in 2025.

Conditions

The relief can be claimed by an individual who meets all the following conditions:

(a) is resident in the State for tax purposes
(b) spends a minimum of 30 qualifying days working in one or more of the relevant states in a continuous 12-month period, part of all of which is in the tax year to which the claim relates
(c) spends at least three consecutive qualifying days in any one period, in a relevant state, substantially devoted to the performance of duties
(d) is a director or employee in the private sector or in the commercial Semi-State sector
(e) is not claiming certain other reliefs simultaneously.

The Relief

The amount of emoluments that may be relieved from tax for a tax year is quantified by apportioning an employee’s emoluments from the relevant office or employment for that tax year by reference to the number of qualifying days worked in a relevant state in that tax year, over the number of days that the relevant employment is held in that tax year (see the “specified amount” formula below).

However, the amount of emoluments that may be relieved from tax in any tax year cannot exceed €35,000. The deduction only reduces the individual’s income for income tax purposes and not USC or PRSI.

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The Specified Amount

$$\frac{D \times E}{F}$$

D is the number of "qualifying days" in the tax year in relation to the individual
E is the income in the tax year from a relevant office or employment, and includes so much of any gain realised by the exercise, assignment or release of a right obtained by the individual as an office holder or employee in the relevant office or employment, after deducting any pension contribution or qualifying pension premium, but excluding:

i. any benefit-in-kind under general charging provisions (s118)
ii. any benefit-in-kind arising by virtue of a car being made available by reason of the employment
iii. any benefit in respect of a preferential loan arrangements
iv. any gratuitous lump sum termination payments, v. any payments under restrictive covenants, vi. expenses paid or recouped by claimants.

F is the total number of days in the tax year that the individual held a relevant office or employment (365 days in a full tax year).

For the years 2015 to 2025:

- A "qualifying day" must be one of at least three consecutive days, spent in a relevant state, substantially devoted to the performance of duties.
- Time spent travelling from the State to a relevant state or from a relevant state to the State and or to another relevant state is deemed to be time spent in a relevant state. This means that the day of arrival in the relevant state can be counted, provided the individual left the State the previous day and the day of departure from the relevant state can be counted, provided the individual does not arrive back in the State until the following day.

Example 1

John leaves Dublin at 4pm on Monday and arrives in India at 8am on Tuesday. He leaves India to return to Dublin at 7pm on Thursday, arriving back in Dublin at 2am on Friday. For the purposes of this relief, each of the days Tuesday to Thursday may be counted as days the whole of which are spent in India (qualifying days).

Note: Saturdays, Sundays and public holidays, throughout the whole of which the individual is present in a "relevant state" and which form an unavoidable part of a business trip to a "relevant state", may be counted as "qualifying days".

Example 2

Ann, who is tax resident in the State, worked for Company A for the whole of the tax year 2022. During 2022, she spent 60 qualifying days working in Brazil and a further 38 qualifying days working in China for Company A. Her earnings for the 2022 tax year are €90,000 and no tax is payable on these earnings to the Brazilian or Chinese authorities.

Specified Amount $\frac{98 \times €90{,}000}{365}$ = €24,164 deduction

Please talk to us if you work in any of the above countries or are considering working abroad. We would be delighted to talk through your options.

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KEY FILING DATES – February 2023

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TAX HEAD	RETURN	PERIOD	PAYMENT & FILING DATE
Dividend Withholding Tax	DWT	January 2023	14th February 2023
Professional Services Withholding Tax (PSWT)	F30	January 2023	14th February 2023
PAYE/PRSI/USC/LPT	Monthly Deductions	January 2023	23rd February 2023
Corporation Tax	Preliminary tax	Accounting periods ending between 1st – 31st March 2023	23rd February 2023
Corporation Tax	Corporation Tax Return (Form CT1)	Accounting periods ending between 1st – 31st May 2022	23rd February 2023
Relevant Contracts Tax (RCT)	RCT Monthly Return	January 2023	23rd February 2023
Corporation Tax	Returns of Third-Party Information (Form 46G)	Accounting periods ending between 1st – 31st May 2022	28th February 2023
Corporation Tax	Close companies with undistributed profits	Accounting periods ending between 1st – 31st August 2021	28th February 2023

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