



Training Developing and Supporting the Payroll Profession

# 15 COMMON PROBLEMS ARISING ON REVENUE PAYE AUDITS

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## Introduction

PAYE/PRSI/USC generates more income for the Government than VAT and Corporation Tax combined. This makes it by far the largest tax liability arising in most Irish businesses and yet the operation of PAYE/PRSI/USC is generally left to untrained, unqualified staff with little, if any support in the operation of these far from simple taxes. During my 12 years as a Revenue auditor and in the intervening years in which I have worked as a tax consultant, my experience has shown me that most problems identified on Revenue audits arise through errors or mistakes rather than through a deliberate attempt to defraud Revenue.

The following points may give you food for thought:

### **According to the Revenue Annual Report for 2011**

11,066 Revenue audits yielded €440.5 million in unpaid taxes, interest and penalties - an average of almost €40,000 per audit

### **According to Revenue published statistics:**

In 2012 almost 1 in every 6 employers received a Revenue PAYE Compliance check (29,881 PAYE compliance checks on approximately 185,000 registered employers)

### **Recent IPASS Survey of employers – 308 respondents**

Just over 20% received a Revenue PAYE audit in recent years. In 2012, the number who received a PAYE audit increased from 8% in 2010 to 34% in 2012 - an increase of more than 400% - obviously Revenue think that PAYE audits are worth pursuing.

Issues that arise in PAYE audits also have a knock on effect on Income Tax or Corporation Tax liabilities and as such, PAYE audits tend to be very successful audits for Revenue in terms of recoveries of unpaid taxes. There are approximately 185,000 employers

registered with Revenue and the number of audits and compliance checks carried out on employers in 2012 was 29,881 from which Revenue recovered €23.2 million. That is almost 1 in every 6 employers who received a PAYE audit or a PAYE compliance in 2012. The majority of these cases visited were not full PAYE audits, but were in fact compliance checks to ensure that employers were complying with Revenue legislation in relation to specific aspects of the PAYE/PRSI/USC system, and these targeted compliance checks are likely to increase in the future.

IPASS recently carried out a survey amongst our members and of the numbers which replied XX% received a full Revenue PAYE in the past 6 years and XX% of them resulted in PAYE/PRSI/USC/Levy underpayments. A PAYE audit is not just an examination of the PAYE records of a company, but rather it concentrates on what did not pass through the company's PAYE records, that is payments on which PAYE/PRSI/USC was not operated and payments which probably should have been subject to such deductions. Payments on which PAYE/PRSI/USC were not operated are usually identified in the Sundries, Miscellaneous or Expenses columns of the cheque payments analysis in business records and these are usually scrutinised by Revenue auditors. Also personal expenses which are incorrectly described as business expenses can result in underpayments of PAYE/PRSI/USC, VAT and income tax or Corporation tax, depending on whether the business is a sole trader, a partnership or a company.

The nature of the business also has an impact on the type of problems which are identified. An experienced auditor will know what kind of problems to expect during an audit, depending on the nature of the business being audited. An

experienced auditor will not ask if a business has any problems. Rather he will ask, are they making the same mistakes and having the same problems as all others in the same line of business? There is a certain similarity to problems identified in all types of businesses because people tend to make the same mistakes over and over again. It's not a question of whether or not they are making any mistakes, but more a question of whether or not they are making the same mistakes, the old reliables, that everyone else is making, particularly those which are determined by the nature of the business being carried on.

For example, a hotel would have very specific issues which cause them problems (see problem number 14) which are totally unlike those encountered by a retailer(see problem number 4), who would have very different problems compared to a manufacturer (see problem number 8), who would have very different problems to a service provider \*(See problem number 5). But they all have problems and they all make mistakes.

However, while many problems are specific to the type of business being carried on, many more problems are common to all businesses, the old reliables, and these arise primarily due to lack of training of the people who are responsible for quantifying and managing the company's biggest tax liabilities, PAYE/PRSI/USC.

While everyone acknowledges that VAT is a complicated tax, most people assume that the operation of payroll taxes i.e. PAYE/PRSI/USC is very straightforward and this is simply not correct. To complicate matters further, employers are now required to operate PAYE on Illness Benefit since January 2013 (which not every employer is aware of), which is wrought with problems and which is an

absolute nightmare to implement and they also will be required to operate PAYE on Maternity Benefit and to collect the Local Property Tax from many employees from mid 2013 onwards.

People also assume that once they have a very good Payroll Software system that they have little to worry about, but once again this is absolutely not correct. Software is simply a tool to help the operator, in the way that a word processor or a spreadsheet is a tool. Payroll software is great for preparing calculations and for keeping records, but software does not make the important decisions. These are made by the operator, such as deciding when a payment is taxable or not, or whether it is liable to PRSI or USC, knowing if a taxable Benefit in Kind arises and if so, how to calculate the taxable value (notional value) of the Benefit in Kind, knowing whether a payment is liable to PRSI and if so what class of PRSI applies. Once the operator makes these important decisions, the software can prepare the calculations and print out the necessary reports or pay slips, but the software simply cannot make these important decisions on its own. In addition, there is no independent review of payroll software to ensure that the software is accurate and it is not uncommon for payroll software to have built in errors which result in underpayments of PAYE/PRSI/USC. Blind dependence on payroll software alone is ill advised.

Furthermore, almost every year brings changes in the operation of PAYE, PRSI and USC and the people responsible for the management of these payroll taxes need to spend time on keeping abreast of the changes. Such changes not only include changes in legislation, but also changes in practice introduced by the relevant agencies including the Revenue Commissioners and the Department of Social

Protection, many of which go totally unnoticed by the majority of employers.

PAYE audits concentrate on problems which are common to all businesses and to problems which are business specific. Incredibly, an additional problem for business owners is the level of expertise of the Revenue auditor. In my early years as a Revenue auditor, my Revenue colleagues often preached heresy telling taxpayers what they could and could not do and they were often incorrect in what they said. However, very few businesses, their staff and indeed their own accountants feel comfortable enough to challenge Revenue auditors, even when the Revenue auditor is incorrect in what he or she says, due to their own lack of knowledge of the operation of the PAYE/PRSI/USC system and relevant legislation.

You might think that all Revenue auditors are highly trained individuals with a wealth of experience and support to ensure they are up to date with all aspects of the PAYE/PRSI/USC system, but this is not the case. In every large organisation you get people of all ranges of ability, knowledge and expertise and in my experience the Revenue are suffering real problems from early retirements, staff embargos and lack of training which are having a serious adverse effect on the expertise and technical knowledge of their audit staff.

We recently prepared a listing of common problems which arise on Revenue Audits, specifically in relation to PAYE Audits and VAT audits since these are the two areas in which the largest number of audits are carried out and any problems identified usually have a knock on effect in relation to Corporation Tax or Income Tax. We identified more than 80 common PAYE problems and each week we seem to add an additional one or two more to this

list. And the most amazing thing about these problems is that in the vast majority of cases the problems are relatively straightforward issues which arise due to lack of knowledge and inadequate training of the people responsible for managing the PAYE/PRSI/USC system.

There is an incorrect assumption that all accountants/auditors are tax experts and that if a business has a problem with its tax returns, that the accountant will identify these when preparing the business accounts each year. This is simply not correct. All accountants are not tax experts, although some do specialise in taxation, but most of the people who prepare business accounts only have a general knowledge of the rules of the main taxes. They do not and could not identify the problems which are regularly picked up on Revenue audits, because doing so is not part of their duties and they are usually not qualified to do so.

So who do you rely on to ensure that your PAYE/PRSI/USC affairs are in order? The answer is simple. You actually rely on the person who processes your payroll, but if things go wrong, who has to foot the bill – you do! So doesn't it make sense to ensure that the person who processes your payroll is qualified to do so?

The best and most widely recognised Irish Payroll qualifications and the only HETAC accredited payroll qualifications in Ireland are the IPASS Certified Payroll Technician and the IPASS Diploma in Payroll Management details of which are available on our website [www.ipass.ie](http://www.ipass.ie). Is the person responsible for managing your PAYE/PRSI/USC liabilities qualified to do so? Probably not, because the vast majority of people who process payroll do not hold the IPASS Certified Payroll Technician qualification.

The list of problems which are discussed on the following pages is not a list of the most common problems, or the most serious problems, that arise on Revenue PAYE audits. Instead it is a cross section of problems, selected from more than 80 common problems which we at IPASS have identified. We have tried to choose a cross section of problems to include some which we believe apply to most businesses, but not all of these problems are likely to apply to any one single business (although that might be an optimistic hope).

The chances are that many of these problems apply to your business and have done so for a number of years and because nobody has been examining your payroll records with a view to auditing your payroll processes, these problems can continue unchecked for many years until you have a Revenue audit. Then it is likely that many, if not all of your problems will come to light. The consequences could then be so costly that it could lead to the closure of your business.

If you are concerned about any of the issues raised here, please feel free to contact the IPASS office and we will be happy to discuss with you how you should deal with any issues which give you cause for concern.

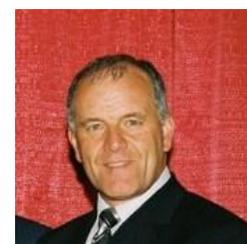
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Eamonn is a taxation consultant and lecturer. Eamonn is Chief Executive of the Irish Payroll Association and is one of this country's leading experts in the operation of PAYE, PRSI, USC and VAT. He is a former Higher Grade Inspector of Taxes and a former Revenue auditor having spent 20 years working in the Revenue Commissioners. He also spent 5 years working with Deloitte as a taxation consultant.

Eamonn has written numerous articles on all aspects of Irish taxation and has addressed many professional bodies including the Irish Taxation Institute, the Law Society, the Institute of Chartered Accountants, the Chartered Association of Certified Accountants and many other professional bodies.

Eamonn is co-author of The IPASS Book, the largest selling book on the operation of PAYE/PRSI/USC and Employment Law in Ireland.

Full information on the range of courses and qualifications available from IPASS are available at [www.ipass.ie](http://www.ipass.ie)



# 15 Common PAYE/PRSI/USC problems arising on Revenue PAYE audits

## 1. Payments of “expenses” which were incorrectly not subjected to PAYE/PRSI/USC.

This is probably the single biggest problem which arises on Revenue PAYE audits. Many businesses record certain payments as expenses and don't consider that there are any tax implications in these payments. There are very strict rules as to what payments qualify as a tax free expense payment and merely labelling a payment as an expense does not mean that there are no PAYE/PRSI/USC implications.

A simple example is where a business pays the cost of an employee's annual car insurance because the employee uses his car on company business. Such a payment is clearly a benefit to the employee and cannot be treated as a non taxable expense. The employee may well use his car for company business, but expenses paid on his behalf by his employer are taxable payments which are subject to PAYE/PRSI/USC and employer PRSI. The employee may submit a claim to the employer for the payment of a mileage allowance in accordance with published Revenue rules and the amount of any reimbursement due to the employee can be offset against the cost of any payments made on his behalf. If the value of the claim for reimbursement of motor expenses by the employee is equal to or greater than the value of the insurance premium paid on his behalf, there are no PAYE/PRSI/USC or employer PRSI implications, but these details must be recorded and be made available for the Revenue auditor.

## 2. Payment of round sum allowances

The payment of a round sum allowance to an employee is a taxable payment. An example of this is where an employee gives a regular round sum payment (per day, per week or per month) to an employee for the use of his private car on company business, such as a weekly payment of petrol money to cover the cost of petrol which the employee incurs when using his car on company business. Such payments are always subject to PAYE/PRSI/USC and employer PRSI unless the payment has been approved (in writing) as a tax free payment by Revenue, in advance, and such approval is rare. Other taxable round sum payments would include clothing allowance, tool money, etc.

There are provisions for the payment to employees of tax free subsistence payments and motor travel allowances, but there are very strict rules which must be followed and very specific records which must be retained to support the payment of such tax free payments.

### **3. Making up tax credits and SRCOP for employees in the absence of a tax certificate**

In order to operate PAYE/PRSI/USC correctly, an employer must hold a tax credit certificate issued by Revenue in respect of each employee. Often a new employee will be due a payment before a tax credit certificate has issued for him and rather than operate the Emergency Basis, an employer, or more correctly his/her payroll processor (with or without the insistence of the employee) will estimate the tax credits and standard rate cut off point (SRCOP) which they expect that the employee will be entitled to and will grant such tax credits and SRCOP to the employee when operating PAYE/PRSI/USC. While such actions might seem reasonable, they are wholly incorrect and will undoubtedly lead to an underpayment of PAYE/PRSI/USC where no tax certificate has issued for the employee.

Indeed some employers often agree to pay an employee a net figure, or a “cash in hand” figure without knowing what that employee’s tax credits and SRCOP are for the current year. Then when no tax certificate has been received for the employee and the annual P35 is being prepared, the employer (or his payroll processor) will calculate the tax credits and SRCOP which they believe the employee is entitled to receive and calculate the PAYE/PRSI/USC liabilities accordingly. In the absence of a tax credit certificate, such calculations are incorrect and usually lead to a sizeable underpayment of PAYE/PRSI/USC which is correctly calculated on the Emergency Basis.

### **4. Goods taken from stock for personal use**

Many self employed people take stock from their business for their own private use and don’t record this as taxable drawings from the business, or even where they do so, they undervalue the value of the goods taken from stock. This is particularly so where the business in question sells consumer items which most families or homes will buy.

For example, if a self employed person runs a supermarket, where do you think he buys his weekly groceries? Invariably he takes them from his own shop, but what records does he keep of such stock withdrawals? Taking stock from the business is the same as taking money from the business and this is a taxable transaction.

Ideally, the self employed person should collect his goods, itemise them and value them at least at cost and record the value of all such drawings when they occur. In practice this rarely happens and even where drawings are recorded the value of such drawings is rarely accurate.

If a Revenue auditor sees a weekly estimate of the value of goods drawn from stock, rather than a factual record of such drawings, he will query the value of such goods. Don’t forget that the Revenue auditor probably has a family himself and he can estimate the value of his weekly grocery bill and compare it with the drawings recorded. If no proper records are maintained of goods withdrawn, and there rarely is such a record, then the auditor’s estimate is every bit as valid as the business owner’s estimate if he can show that his estimate is a realistic one.

People rarely buy all their groceries in one shopping trip. The bulk of their shopping may be purchased in one lot, but there are invariably additional small purchases made during the week also. If a self employed person does not support his estimations realistically, it is easy to find fault and thus undermine his estimations.

This principal does not only apply to self employed people who run supermarkets or grocery shops, but to any self employed person who sells consumer items, including petrol stations, furniture shops, electrical goods retailers, clothing shops, etc.

## **5. Payments to people who are treated as self employed contractors or consultants**

One of the biggest problems which arises on Revenue PAYE audits is that of regular payments to people who are treated as being self-employed. Whether a person is self employed or not, is not a question of choice. You do not choose to be self employed. Instead your status as a self employed individual is determined by the facts surrounding the nature of the contract between the two parties. If it looks like a duck, walks like a duck and quacks like a duck, the chances are it's a duck, no matter what anybody says.

If an individual works on the company premises, takes instructions from the company in the same way as other employees do, uses company equipment as employees do, then he is probably an employee and PAYE/PRSI/USC should be operated. Having a contract signed by both parties saying that he is self employed is irrelevant. Having a VAT number and issuing VAT invoices for payments received is irrelevant. What matters is the nature of the services provided by that person and the nature of the relationship between the two parties.

One area where this problem particularly occurs is where an employee retires or takes redundancy and then agrees to return to work for the same employer, either on a part time or full time basis, as a self employed contractor. In such circumstances the individual is invariably an employee and any payments to him should be subjected to PAYE/PRSI/USC and employer PRSI.

There are very strict rules for determining the employment status of an individual who is self employed and this is a very contentious area. It is a potentially huge problem for the employer if he gets it wrong, because any underpayment of PAYE/PRSI/USC and employer PRSI is payable by him. The employer isn't liable and the employee will also be entitled to paid holidays and paid public holiday entitlements for the period during which he was incorrectly treated as being self employed.

A point to note also is that it is amazing the number of employers who incorrectly treat security staff and cleaning staff as being self employed.

## **6. Non operation of PAYE/PRSI/USC on payment of employee's home phone bill**

Self employed people have a tendency to incorrectly treat certain personal expenses as business costs. One of the most common examples is where a company pays an employee's or the proprietor's home phone bill and treats it as a business expense. Now it may well be that a certain amount of calls made from a person's private home phone are business related, but it almost never happens that a person has no personal phone calls. If that person had a second home phone, one of which could be shown to be used only for business calls, then the payment of the bill for that phone would not cause a problem, but such an occurrence is a rarity.

Revenue did grant a concession where they were willing to treat 50% of an employee's home phone bill as being business related up to a couple of years ago, provided the company could show that there was a valid reason why the employee would have to use his home phone for business purposes. However, they recently changed their mind in relation to this and now insist that where a home phone bill is paid that the business calls should be clearly identified on the phone bill and the cost of these calls only should be disregarded. The balance of the bill paid is a taxable payment subject to PAYE/PRSI/USC and employer's PRSI.

Furthermore, if the cost of the non business calls is say €100, the amount on which the PAYE/PRSI/USC and employer's PRSI is payable is not €100. It is the regressed figure which after deduction of PAYE/PRSI/USC would give a net figure equal to the amount of the bill, in this example a net €100, for the non business calls. For a 20% taxpayer this would amount to a regressed figure of €145 (€100/68%) of which €45 is the amount of PAYE/PRSI/USC payable and for a 41% taxpayer a regressed figure of €208 (€100/48%) of which €108 is the amount of PAYE/PRSI/USC payable.

You can see how the amount of any tax underpayment, plus interest and penalties for a company which pays home phone bills for a number of employees, or for the proprietor, can mount up to a sizeable sum very quickly.

## **7. Payment of personal expenses incorrectly described as business expenses**

Many self employed people often incorrectly treat a personal expense as a business expense and Revenue auditors always look for examples of this. Any foreign trips to popular holiday locations may be described as a business trip, but if Revenue auditors query these trips, the company will be expected to show some documentation to verify the nature of the trip.

A trip to Cork, Galway, New York or London for the proprietor and his wife will invariably attract attention and if the company cannot show evidence or documentation to support the contention that this was a business trip, it is likely to be taken as a personal expense which is liable to PAYE/PRSI/USC and employer's PRSI. The fact that a business conference was being held in that location is not sufficient if you cannot provide evidence that the people involved actually attended the conference and conducted business for the entire period of their absence. For example a trip to London which lasted for 5 days would not be

considered to be a business trip, if attendance at the relevant conference/exhibition only lasted for 1 day. Also if the employee was accompanied by his wife, then part of the cost would be attributed as a taxable benefit in kind (unless the wife was also an employee of the company whose attendance at the exhibition/conference could be justified).

## **8. Incorrect calculation of taxable value of BIKs**

Even where an employer is aware that an employee is in receipt of a taxable benefit in kind (BIK), the calculation of the notional value (the taxable value) of the BIK is often incorrect.

The most common example of this is where an employee is provided with a company car. Having a company car available for personal use is a taxable BIK. There are very specific rules for calculating the taxable value of a company car and these rules provide for a reduction in the taxable value where the business use exceeds 24,135kms (15,000 miles) per year. However, many employers incorrectly calculate the reduction in the taxable value of the use of a company car based on the business mileage covered.

In simple terms in order to qualify for a reduction in the standard calculation of the taxable value of the use of a company car, an employee must keep a record of all business travel stating the date of the travel, the locations visited, the purpose of the travel and the mileage or total kilometres travelled on each business trip. Only if the total of such travel exceed 24,135kms per year can the standard taxable value of the BIK be reduced.

Many people, including many accountants, incorrectly calculate the annual business mileage as being the total annual mileage less 8,045kms (5,000 miles). This is not correct. This arises because Revenue usually assume that an individual will travel at least 8,045kms on private travel in a year. If the total annual distance travelled less the total business travel does not amount to at least 8,045kms, Revenue are likely to query the accuracy of the records. However, it is incorrect to state that Revenue will accept the total distance travelled less 8,045kms as being the annual business travel. If proper records of business travel are not maintained as required above, Revenue are perfectly entitled to reject the employer's calculation and to recalculate the taxable value of the BIK.

It is worth pointing out that as the taxable value of the BIK for the private use of a company car is based on the original Open Market Value of the car, this value has to be recalculated any time the car is changed. It is not unusual for the payroll person not to be notified when an employee is provided with a new car. This usually results in the taxable value of the BIK being understated and PAYE/PRSI/USC and employer's PRSI being underpaid.

## **9. Payments of holiday pay**

When an employee is paid holiday pay and he intends to return to work after his holidays, the PAYE system allows PAYE/PRSI/USC to be calculated on the same basis as if he had been paid on the relevant pay days during his holidays. What this means is that if a weekly paid individual receives 3 weeks' pay when he is going on 2 weeks holiday. When the PAYE/PRSI/USC liability is being calculated, the employee is granted 3 weeks tax credits, 3 weeks SRCOP, 3 weeks PRSI calculations and 3 weeks USC thresholds.

However, if an employee ceases employment and he receives 2 weeks accumulated holiday pay in addition to the week's pay he is due, then the operation of PAYE/PRSI/USC is calculated on the basis of a single week's tax credits, SRCOP, PRSI rates and USC thresholds. If the holiday pay is treated in the same manner as would apply where the employee intends to return to that employment after the holidays, there will be an underpayment of PAYE/PRSI/USC. If this happens regularly for a number of employees each year, especially where staff are employed on a seasonal basis which means that there are regular terminations of employment, such as in hotel and tourism businesses, this can lead to sizeable underpayments of PAYE/PRSI/USC and employer's PRSI.

## **10. Small BIK exemption**

Revenue operate a concession where a small benefit in kind (BIK) with a value of up to €250 per year can be given to an employee tax free. This exemption is governed by strict rules which many employers get wrong.

First of all the BIK cannot be given as a cash payment. Cash payments are always subject to PAYE/PRSI/USC. The BIK may be given as a gift voucher, or another benefit with a value of up to €250, but the exemption only applies to a single BIK given in a calendar year. For example if an employer gives an employee two gift vouchers during the year for €100 each, the exemption only applies to the first voucher and the second voucher given is liable to PAYE/PRSI/USC in full. If an employer gives an employee a gift voucher worth €300 all of this amount is subject to PAYE/PRSI/USC since the value exceeds €250 – the first €250 is not exempt in this instance.

An employee can choose when to use the €250 exemption. For example, if an employee receives a gift of an Easter egg worth €20 and a Christmas Gift Voucher worth €250, the employee can decide to use the exemption when receiving the gift voucher, in which case the value of the Easter egg will be subject to PAYE/PRSI/USC.

## **11. Use of company credit cards**

The use of a company credit card account to pay personal expenses is a fairly common occurrence. If a business has a company credit card account Revenue auditors will examine the monthly account statements to see what payments are being made. It is usually very easy to spot non business expenditure such as restaurant meals, shopping for groceries and petrol, etc. Many personal expenses are incurred outside of

business hours and especially at weekends and these tend to be easily identifiable. Meals in restaurants at evenings and weekends are more likely to be personal rather than business expenses.

Business expenses are usually very specific such as purchase of business items, stationery or computer supplies or payments to suppliers. Any expenditure which the auditor queries will need to be verified by an appropriate business invoice, if it is a business expense. It is rare that company credit cards are never used for personal expenses. It is usually just a matter of how often they are used for personal expenses and how much this amounts to, leading to underpayments of PAYE/PRSI/USC. In fact it is amazing how blatant people can be with company credit cards, especially when they are the business owner, or senior management who don't have to answer to anyone for their use of the company credit card.

## **12. Pool Cars**

The use of pool cars by employees does not give rise to a chargeable benefit in kind (BIK). However, there are very strict rules relating to what Revenue consider to be a pool car which does not attract a liability to BIK and almost always where people claim a BIK exemption in respect of the use of pool cars, they get it wrong. The single most important rule regarding the use of pool cars is that the car in question is never taken home in the evening by any employee. It may be used by various members of staff, or even by a single member of staff during working hours on company business, but no member of staff is allowed to take the car home in the evening as to do so would mean that he has the use of the car for private purposes, which would give rise to a taxable benefit in kind.

## **13. Unrecorded Cash Drawings Used to Pay Part Time Staff**

Most cash businesses such as retailers, pubs, restaurants, etc. employ part time staff at busy periods, be that weekends, or at Christmas and so on. When they do so, there is often the temptation to pay the part time employees cash in hand with no deductions and the cash used to make such payments is usually taken from unrecorded sales.

Any cash business which has very busy periods when part time staff are employed will always be examined with this in mind. If there is no record of part time staff, or sufficient part time staff, employed to deal with these busy periods, the auditor may simply return at a busy time to speak to any staff working on the premises to ask them about the details of their employment.

Cash businesses which have large fluctuations in the level of their business usually employ part time staff and how those staff members are paid is always of interest to the Revenue auditor for good reason.

## **14. Incorrect operation of the Emergency Basis**

The Emergency Basis of operating PAYE is used where a member of staff has not provided the employer with a P45 issued by a previous employer and where the employer has not received a tax credit certificate from Revenue in respect of that employee. If a member of staff works in a business where the period of his employment is only for a short period of time, he can be taxed on the Emergency basis for the entire period of his employment.

However, if that employee returns to work for another short period of time for the same employer in the same year, the Emergency Basis will also be applied to the earnings in that second period. However, what most employers don't know and this is something which payroll software often gets wrong, is that the application of the Emergency Basis is counted from the date the first period of employment commenced. An example will best illustrate this matter.

An employee works for two weeks in a local hotel/bar at Easter which falls in April and then returns to the same hotel/bar to work for the month of August. If the Emergency Basis is applied to his earnings in April, this will be regarded as Month 1 and he will be granted the appropriate tax credits and standard rate cut off point. If he then leaves that employment and returns to work for a few weeks in August, and the Emergency Basis applies to his August earnings, most employers (and many payroll software programs) will treat this period of employment as Month 2 for the Emergency Basis and apply the Month 2 tax credits and standard rate cut off points to the employee's earnings in August.

This is incorrect. Although August is the second month in this year in which the employee had earnings with this employer, it is the fifth month since he first commenced on the Emergency Basis and as such the Emergency Basis rules for Month 5 should be applied, granting the employee no tax credits and no standard rate cut off point. The failure to apply the Emergency Basis correctly will lead to a large underpayment of PAYE/PRSI/USC which the employer is liable to pay and which he has little chance of recovering from the former employee.

## **15. Incorrect PRSI treatment**

Although the Department of Social Protection is responsible for monitoring the operation of the PRSI system and they do in fact carry out a number of PRSI audits each year, the Revenue auditor will always examine one aspect of the operation of the PRSI system and that is the PRSI class applied to company directors. The reason for this is very simple. Employers regularly get the PRSI classification for directors wrong, leading to substantial underpayments of PRSI which is payable to the Collector General.

The rules regarding directors are very straightforward, but are often misunderstood. In fact, there are no specific rules relating to directors, but there are rules which relate to self employed people which only affect directors when the directors are shareholders who own or control, directly or indirectly, 50% or more of the voting rights in the company in which they are employed.

PRSI class S only applies to self employed people and in the case of a limited company a self employed person is regarded as anyone who controls either directly or indirectly at least 50% of the voting rights of a company. Voting rights are usually attached to shares, so that a shareholder who owns or controls at least 50% of the shares of a company is treated as being self employed. If a director does not own or control at least 50% of the shares of a company, he is treated as an ordinary employee for PRSI purposes which usually means that he is liable to pay PRSI at class A. However, there is one exception to this which relates to non executive directors, who are always treated as being liable to PRSI Class S in respect of their non executive director's fees.

The amount of PRSI payable at Class S is 4% of earnings for the employee and 0% for the employer. The rate of PRSI payable at Class A is 5% of earnings for the employee and 10.75% for the employer. Quite a difference!

What also leads to confusion and to the incorrect PRSI classification of a director, is the misunderstanding that arises in relation to directors who own or control at least 15% of the shares of a company. Such directors are known in tax law as "proprietary directors" and such directors are not entitled to receive the PAYE tax credit which normal employees are entitled to receive. This is the only effect of their shareholding and it has no impact whatsoever on their PRSI classification.

It is not unusual to see all company directors, or all proprietary directors incorrectly classified as being liable to PRSI at Class S and this can lead to very large underpayments of PRSI.

Conclusion: The above is only a sample of the most common problems which arise on a Revenue PAYE audit and we have identified more than 80 such problems.

If you want to minimise the possible problems which could arise on a Revenue PAYE audit, then the best possible course of action that you can pursue is to ensure that the person who processes your payroll is a qualified Certified Payroll Technician, regardless of whether that person is a qualified accountant, accounting technician or bookkeeper.

Full details of the Certified Payroll Technician qualification, other qualifications and courses is available on our website at [www.ipass.ie](http://www.ipass.ie)

## Introducing IPASS

IPASS is the leading provider of Payroll and VAT training in Ireland. Through our tax training arm, IPASS Professional Tax Training, we offer a range of courses and qualifications, including PAYE/PRSI/USC, UK Payroll, VAT, Employment Law, Subcontractors Tax Regulations and taxation courses for the self employed which are designed to meet the needs of all employers and self employed individuals today.

We also publish the largest selling book in Ireland on the operation of PAYE, PRSI, USC and Employment in Ireland, The IPASS Book which is updated every year. This is an invaluable reference book for all employers and many consider it to be their indispensable “bible”.

While it is often taken for granted, the smooth operation of the payroll function is critical to every business. In recent years the payroll function has developed beyond recognition to the extent that payroll taxes, including PAYE/PRSI, the Universal Social Charge and the Local Property Tax comprise most businesses’ largest tax liabilities. Indeed, according to the latest annual report published by Revenue, the amount of taxes collected annually in PAYE, PRSI and USC continue to far exceed the total tax collected in VAT and Corporation Tax.

Processing payroll taxes has developed and expanded so much in recent years that a payroll operator needs to constantly work to keep his/her skills up to date in relation to Taxation, Social Welfare and Employment law, all of which are constantly changing.

IPASS has a dedicated team of professional tax consultants who specialise in payroll taxes who constantly work to ensure that our training courses are completely up to date with all changes in legislation and in practice. After all and we have regular meetings and discussions with the Revenue Commissioners and the Department of Social Protection in this regard.

We run courses for our HETAC accredited payroll and VAT courses in venues throughout the country and online and all of our training manuals are written in down to earth language designed to be extremely user friendly, rather than try to impress on you how clever we are. IPASS also provide an invaluable telephone help line service for payroll operations, as one of the benefits of our IPASS membership.

For further information on these courses and on the range of 1 day course, in house courses, Payroll qualifications, VAT qualifications, IPASS membership, our Annual Payroll Conference and The IPASS Book log on to our website [www.ipass.ie](http://www.ipass.ie)