



The CPD Fest 2020

PRSI Housekeeping & Update on Brexit and Welfare Issues

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Topics

- PRSI Housekeeping
- Brexit and Welfare

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PRSI Housekeeping

Paying the correct PRSI Class

Claim refund of overpaid PRSI

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There are 12 different Classes of PRSI payments

PRSI @Class A:

Class A is the most common as it applies to nearly all employees in the private sector. Executive Director Employees, Public/Civil Servants employed post April 1995

Family members (spouse, civil partner excluded) when employed by sole trader but not employed in the common home of employer

Family members employed by a Partnership

Family members employed in Ltd Company irrespective of the other family member being a Proprietary Director

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Classes B, C or D:

Class B/C/D can only apply to Civil/Public Servants first employed prior to April 1995 (born before April 1979)

- Concurrent employment with B/C/D client insurable @ Class J

- Concurrent self-employment insurable @ Class K

- Concurrent Rental Income insurable @ Class K

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<p>PRSI Classes:</p>	
<p>E: Ministers of Religion (Church of Irl)</p>	<p>K: Unearned income if also employed, Unearned income if in receipt of an Occupational Pension</p>
<p>H: NCO and Enlisted Army personnel</p>	<p>TDs, Coroners, Judges, President, Public Office Holders,</p>
<p>J: <€38, Over age 66, Concurrently employed when paying Class B/C/D</p>	<p>Self-employed while concurrently employed in civil/public service paying B/C/D PRSI</p>

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<p>PRSI Classes:</p>	
<p>M: Spouse employed by sole-trader, Family member living and working with sole trader. Self employed over pension age Family member running sole-trading business though not in partnership</p>	<p>S: Sole Traders, NEDs Self-employed Directors, County Councillors (2017) Personal Maintenance payments Registered Partnerships Spouses running a business with sole trading Spouse though not in partnership (since 2014)</p>
<p>V: Voluntary Contributor</p> <ul style="list-style-type: none">• V1: Employee (6.6%)• V2: Self-Employed.€500• V3: Previous Class B/C/D (2.6%)	<p>P: Share/Fisherman</p>

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PRSI Refund

- ▶ Welfare and Revenue apply a 4 Year restriction to all PRSI refunds requests
- ▶ If refund claimed prior to end December 2020 over-payments from 2016–2019 will be refunded. Consider registered post if applying off-line at this late stage in the year
- ▶ Refunds claims registered in 2021 will be restricted to years 2017 to 2020

All years of erroneously paid PRSI in addition to the refunded period will be cancelled and never used for any benefit or pension claim

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PRSI Refund-PAYE

A refund of incorrectly paid PRSI through PAYE should be claimed directly from Welfare's PRSI Refund Section, Gandon House, Amiens St, Dublin 1

<https://services.mywelfare.ie/en/topics/statements-and-refunds/>

As all Directors are paid through PAYE any PRSI refund request should also be made directly to Welfare

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PRSI Refund-Self Assessment

Clients in self-employment who overpaid PRSI contributions through self-assessment in error to not apply for a refund to Welfare's PRSI refund Section.

They should request an amended annual assessment to be issued by the Revenue Commissioners and any PRSI refund that may be due, will issue on foot of that request.

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Most common PRSI Refund categories

- Class A and S deducted for clients over 66 years of age
- Family Employment
- Directors liable to Class S under 50% Shareholding rule
- Directors liable to Class S under Beneficial Ownership rule
[Section 16 Social Welfare and Pensions \(Miscellaneous Provisions\) Act 2013](#)
- Executive Directors liable to Class S because their employment is under a "Contract for Services"
- PRSI @Class A & S for Public/Civil Servants paying BCD

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Over age 66. Some employees lie about their age, the most common PRSI Refund by Welfare is in this category

Use indicators to identify these cases. If the client is in receipt of a Welfare State Pension Contributory and the amount of the pension is already being factored in the Tax Credits then:

- Class J (0.9% paid by employer) will apply to an employee
- Class M applies to self-employed
- Get refund application in before end of year or else the employer and the client will be denied a refund for 2016

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Family Employment: A refund of PRSI paid is due if client is employed by sole trading relative as follows:

Employment, other than employment under a written contract of service or apprenticeship, by the

father, mother, grandfather, grandmother, stepfather, stepmother, son, daughter, grandson, granddaughter, stepson, stepdaughter, brother, sister, half-brother or half-sister

of the employed person where the employed person is a member of the employer's household and the employment is related to a private dwelling house or a farm in or on which both the employer and the employed person reside,

Class M applies (No PRSI), Consider making out a written contract or the VC option

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Family Employment

Employment of a spouse, as an employee, by the sole trading spouse is exempt from a "Class A" PRSI charge

Class M applies

Consider the VC option

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Family Employment: Self-Employment with a sole trading relative is not liable to Class S rate of PRSI, Class M applies

- Where a Parent, Grandparent, Step-parent, Son, Daughter, Grandson, Granddaughter, Stepson, stepdaughter, brother, sister, half brother, half sister participates in running the business, but not as a partner, they are exempt from any PRSI charge (Class M applies)

Again, where a refund request is being made, because the client will now have a gap in their Welfare Insurance record, for future pension qualification purposes they should consider applying to become a Voluntary Contributor

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PRSI REFUNDS IN RESPECT OF MAINTENANCE CONTRIBUTIONS

An employee who makes a maintenance payment to a separated or divorced spouse under a legally enforceable agreement may claim a refund of PRSI in respect of that payment.

If the recipient of these maintenance payments (portion of maintenance specifically for children excluded) is not employed, they are liable to register for self-assessment and pay PRSI @Class S on this income.

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Directors

- Fees paid specifically in respect of Non Executive Directors attending Director meetings are subject to Class S (subject to €5,000 income threshold)
- If the Company is already paying Class A rate of PRSI for their Directors they should apply for a refund for any director who:
 - Controls or owns at least 50% Shareholding in the Company
 - (applies to employees also)
- PRSI Refunds in the above category will be processed immediately without any investigation

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Directors

- Has more than 25% Shareholding in the company and can therefore be classified as a Beneficial Owner (applies to employees also)
- Is employed under a “Contract for Service”, when this claim is being investigated, the lack of indicators of a “Contract of Services” is the chief argument to be made to Welfare
- Be prepared for an investigation for PRSI refund of the Class A paid

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Directors

- Welfare’s Scope Section will be in contact, a local Social Welfare Inspector will compile a report on the nature of the contracts of employment the directors have with the company, they will also request forms and questionnaires to be completed by the Directors and someone on behalf of the company
- For a refund to issue a “Contract of Services” (employee) must not exist, accordingly it would be prudent to concentrate on aspects of the employment that prove the Director is not treated in the same manner as a regular employee.

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Directors

- Recently, Scope have been using a lack of sufficient Shareholding to justify a decision for Class A, appeal those cases as that conclusion has no legal basis
- All Scope decisions can be appealed, provided you state solid grounds on which to do so
- Appeal cases: Oral Hearing are currently suspended because of the Covid 19 restrictions so there will be an extensive waiting period before some cases can be heard.

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Directors

If the Appeals Officer decides to issue an arbitrary decision on the case based on the documents they already have on the file, and you disagree with that decision, write back and insist on the granting of an Oral Hearing of the case.

Remember, an Appeals Officer decision is binding, unless it appears to the Chief Appeals Officer that the decision was erroneous by reason of some mistake having been made in relation to the law or the facts, and the only recourse to overturn the decision is through an application to the High Court

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Public/Civil Servants paying Class B, C or D rate of PRSI

- Any concurrent employment, self-employment while employed @ Class B, C or D is not insurable at Class A or Class S.
- Concurrent non public sector Employment is insurable @ Class J
- Concurrent Self-Employment is not insurable: Class K applies

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No PRSI payable: Office holders

Office Holders: Employment Tribunal Members, Workers Rights Commissioners, Coroners, Directors appointed by the Government, Senators, *County Councillors, Judges, MEPs and the President are exempt from PRSI however since 2011 they have been subject to a 4% Levy (Class K) without any accruing entitlement to a Welfare benefit or pension.

County Councillors became liable to PRSI charge of Class S from 2017

If you have any of above as a client then PRSI @Class S will be payable on Unearned income as they are not covered under Welfare "Excepted" regulations

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Refund of the State Pension Contributory portion of the PRSI payments

- If you have a client who was refused a title to the State Pension Contributory on the grounds that he/she first started paying PRSI after their 56th birthday they may be entitled to a refund of the Pension element of the PRSI paid. (52% of PRSI).
- This situation would mainly occur with middle aged or elderly immigrants or returned migrants who did not work before they left Ireland.
- The refund is only made to those pensioners who did not subsequently qualify for a Non-Contributory Pension
- This refund does not invalidate a subsequent title to the Survivors Contributory Pension.

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Miscellaneous end of year issues

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Drawdowns from ARFs

- Under the provisions of section 784A TCA 1997, Drawdowns from an ARF are treated as emoluments assessable under Schedule E and to which Chapter 4 of Part 42 TCA 1997 (PAYE) applies.
- For Social Welfare purposes an ARF is not a pension and is therefore a reckonable emolument liable to a deduction of PRSI @Class S (until the individual reaches the age of 66, thereafter Class M applies).
- *However, if the client is also in receipt of an Occupational Pension, any drawdowns from an ARF are not subject to Class S PRSI but to Class K (also 4%) which will not be used in the Welfare Pension calculation: Explore the VC option*

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Potential importance of remitting PRSI returns for the year immediately prior to your client's pension age.

- Too often the client and accountants fail to realise the significance of submitting a PRSI return for the year immediately prior to the pension age, it is assumed that, as the client has already been awarded their pension, that there is nothing to be gained by pursuing the additional weeks of PRSI being added to the record.

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- Additional weeks of PRSI can have a major affect on the rate of pension, particularly if the Average Test was used in the pension calculation, one more year of PRSI may tip the client into the next average range which may increase their pension from anything from €5 to €62 per week.
- The client will have a document from the pension section which will outline the basis of the pension payment, this will help to identify possible underpayments
- If the TCA or ACM system was used in the Pension calculation, one additional 52 week year will definitely increase the pension by €6.30 per week
- Any Pension underpayments will be backdated to the clients 66th birthday and the Qualified Adult payment will also be adjusted

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Example, if the pension has been awarded in 2020, check the rate of State Pension Contributory the client has been awarded, if the payments are less than the maximum rate of €248.30 then they are based on lower than the 48+ Average range:

€243.30, €223.20, €211.40, €161.80 or €99.20
40-47 30-39 20-29 15-19 10-14

Then the Pension has been awarded using the Average Test. Check the notice from Pensions and if the Average is close to the upper limit request them to make a re-assessment of the pension rate using the recently remitted PRSI contributions.

Note: the Qualified Adult payment to the spouse is proportionate to the amount paid to the Contributory Pensioner, there would also be an additional QA payment

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Note, that “Class S” PRSI is not charged by Revenue under Self-Assessment in the year the client reaches pension age.

However, if the client has less than the minimum of 520 weeks of PRSI required for qualification to a Contributory Pension and PRSI that could be paid in the year of their 66th birthday are sufficient to reach the 520 target then weeks of PRSI @Class S due up to the week of their 66th birthday can be paid directly to Welfare, contact their Self-Employed Section, Cork Rd, Waterford to do so.

Note: Paradoxically there is no title to a refund of “Class S” PRSI paid for a Director through PAYE in the year of their 66th birthday

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Covid 19 Important implications on lack of PRSI contributions in 2020

- Employees: Credits will be allowed for all weeks of the PUP payments
- Directors paying Class A rate of PRSI: Credits will be allowed for all weeks of the PUP payments
- Credit are not granted to clients who's last PRSI was at the Class S rate of PRSI, therefore Directors, Sole-Traders and Partnerships who have total income of less than €5,000 in 2020 will have a break in their Social Insurance record and will need to explore the option of paying Voluntary Contributions for 2020 to maintain a continuity in that record, especially for pension purposes

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Temporary Wage/Employment Wage Subsidy Scheme

- Class J9 covers PRSI charges for these schemes.

Welfare will replace Employees "Class J9" contributions with credits for all weeks in the years 2020 and 2021

- Proprietary directors can claim EWSS from
1st September 2020

Credits will be awarded where Director pays Class A rate of PRSI, however, none due if paying Class S.

52 weeks @ "Class S" to be remitted if regular income > €5,000

If annual income <€5,000 consider Voluntary Contribution option

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Brexit and Welfare

Convention on Social Security between the Government of Ireland and the Government of the United Kingdom of Great Britain and Northern Ireland

Signed 1st February 2019

The Convention demonstrates a continued commitment to the principles of the Common Travel Area and ensures that reciprocal benefit and social security rights for Irish and UK nationals and their family members continue to operate independently of those afforded to EU nationals from other Member States.

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Principal Points of agreement

- Common Travel Area: Guarantees free movement in travel and employment for citizens of both countries
- Continuation of use of Social Security contributions in either country for the purpose of qualification for Benefits or Pensions in either state
- Change to the EU rule of the competent authority to pay the Benefit being the country of last employment to being the country of residence
- Posting rules will still apply to Employees being sent work in the other jurisdiction

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Principal Points of agreement

- Waiving of Habitual Residence Rules for the receipt of a Welfare payment
- Mutual agreement to assist in the pursuit of Non-Compliance investigations against employers and possible overpayments to clients
- Employee who works on a vessel or as a member of a flight crew or cabin crew member of an undertaking which has its registered office or place of business in one country shall be subject to the legislation of that country even if they pursue such an activity in the other country
e.g. Lives in Wales works for Irish Ferries, pays Irish PRSI

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Principal Points of agreement

- Continued right to pay Voluntary Contributions for pension purposes to the UK while also compulsorily insured in Ireland (this is not allowed with other EU countries)
- Continuation of the Pro-Rata agreement that allows use of either countries Social Insurance Contributions to give part title to an Irish State Pension Contributory
e.g. 500 weeks of Irish Contributions
1,580 weeks of UK Insurance
2,080 would pay an Irish Pension of €248.30
However as only 500 of the record used is Irish the pension will be $\text{€}248.30 / 2,080 \times 500$ ergo Irish pension paid €59.70 per week

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Principal Points of agreement

- An Unemployed person, provided they have been claiming for at least 4 weeks may transfer their title to continued Unemployment Benefit to the UK (and visa versa) for a period of at least 13 weeks to seek employment in that country
- If a migration period is less than 52 weeks the Social Security Contributions can be re-classified as Irish contributions
- Any overlapping weeks of contributions shall have the UK Voluntary Contributions disregarded
- Reciprocal agreement to exchange information to aid pursuit of overpayments unless it would create serious economic or social difficulties in Ireland insofar as the Irish laws allow it to refrain from taking such action for similar national claims

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Q&A



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