Deduction for expenses in respect of annual membership fees paid to a professional body

Last updated February 2015

1. Tax deductibility of employee expenses – Section 114 TCA 1997

In addition to expenses of travel, Section 114 TCA 1997 provides for a tax deduction in respect of expenses incurred wholly, exclusively and necessarily by an individual in the performance of the duties of his or her employment. In the context of annual membership fees of a professional body, whilst each case is examined on its own facts and circumstances, Revenue will operate in accordance with the following guidance for the tax year 2011 and subsequent years.

For the tax years 2004 to 2010, Section 118(5E) TCA 1997 provided that expenses incurred by an employer on behalf of an employee in connection with the payment (or reimbursement) of annual membership fees of a professional body were exempt from tax where such membership was regarded as “relevant to the business” of the employer. Revenue Instruction Manual 5.3.12 outlines this tax exemption.

2. Statutory requirement for membership of a professional body, etc.

In some instances, individuals are required by statute to be registered members of a designated professional body, association, society, council, etc. before they can carry out the duties of their employment. Under long standing practice, a deduction under Section 114 TCA 1997 is allowed in respect of the annual registration or membership fees in such instances.

In other instances, a statutory provision may provide that an individual registered with, or a member of, a professional body, association, society, council, etc, has a right, by virtue of such registration or membership, to plead or be heard in representing a client of his or her employer before a court or tribunal. Under long standing practice, a deduction under Section 114 TCA 1997 is allowed in respect of the annual registration or membership fees in such instances provided the duties of the employment require the individual to appear and plead before a tribunal.

3. Requirement for a practising certificate or licence

In some instances, outside of a specific statutory requirement, individuals are obliged to have a current practising certificate or licence issued by a
professional body, association, society, council, etc. before they can carry out the duties of their employment. Again, under long standing practice, a deduction under Section 114 TCA 1997 is allowed in respect of both the annual membership fees payable to such body, association, etc. and in respect of the cost of the practising certificate or licence where there is a requirement of that body, association, etc. that an individual must hold a current practising certificate or licence issued by it before that individual can carry out the duties of his/her employment in respect of which the certificate or licence refers.

4. **Other situations where membership fees of a professional body may be deductible**

Apart from the foregoing, a deduction under Section 114 TCA 1997 will be allowed in respect the annual membership fee payable by an employee to a professional body, association, society, council, etc. where -

(a) the duties of the employee and the duties of the employment require the exercise or practice of the occupation or profession in respect of which the annual membership fee refers;

(b) the employee so exercises or practices the occupation or profession in respect of which the annual membership fee refers; and

(c) membership of the professional body is an indispensable condition of the tenure of the employment.

5. **Operation of payroll deduction**

The effect of the withdrawal (by way of Section 7 Finance Act 2011) of the Section 118(5E) TCA 1997 exemption referred to in Paragraph 1 above is that the deductions of tax, PRSI and the Universal Social Charge (USC) must now be made from pay in respect of the notional income amount of any payment of membership fee of a professional body paid by an employer on behalf of an employee. However, for ease of administration and to avoid unnecessary claims under Section 114 TCA 1997, where –

- an employer pays or reimburses a membership fee etc. to a professional body on behalf of an employee; and

- a deduction under Section 114 TCA 1997 would be available as outlined in Paragraph 2 above,

deductions of tax, PRSI and USC need not be made from pay in respect of the notional income amount attributable to such annual membership or registration fee.

6. **Office holders (including directors)**

The foregoing as regards annual membership fees, etc. applies to office holders in like manner as it applies to employees.
7. **Examples**

**Example 1.**
Lisa is an architect and is employed in that capacity. However, before Lisa can practice as an architect, there is a statutory requirement (under the Building Control Act 2007) to be registered with the Royal Institute of the Architects of Ireland in order to perform the duties of her employment and her employer pays her annual registration fee. In this instance, the appropriate deductions of tax, PRSI and the Universal Social Charge (hereinafter referred to as ‘appropriate deductions’) need not be made from her salary in respect of the notional income amount attributable to such annual registration fee.

**Example 2**
Pauline is a health professional and is employed in that capacity. Under the Health and Social Care professionals Act 2005, Pauline is obliged to be registered with the Health and Social Care Professionals Council set up under that Act in order to perform the duties of her employment. Her employer pays her annual registration fee. In this instance, the appropriate deductions need not be made from her salary in respect of the notional income amount attributable to such annual registration fee.

**Example 3**
Mary is an architect but is employed as a human resource manager. Mary’s employer pays her registration fee to the Royal Institute of the Architects of Ireland. In this instance, the appropriate deductions under the PAYE system must be made from her salary in respect of the notional income amount attributable to such annual registration fee.

**Example 4**
John, a health professional, is employed on administrative duties. His employer deems it desirable (even though it is not essential for the performance of his duties) that he retains his membership with the relevant health professional body, council, etc. and pays his annual membership fee to such body, council etc. In this instance, the appropriate deductions must be made from his salary in respect of the notional income amount attributable to such annual membership fee.

**Example 5**
An accountancy practice employs Adrienne, an accountant, in that capacity. Her duties are the preparation and audit of accounts for clients. It is an indispensable condition of the tenure of her employment that she is a member of a recognised accountancy body. Adrienne’s employer pays her annual membership fee to the relevant professional body, association, society, council, etc. In this instance, the appropriate deductions need not be made from her salary in respect of the notional income amount attributable to such annual membership fee.
Example 6
Helen, an accountant, is employed as an ‘in house’ accountant with responsibility for preparation of accounts and related matters. Under Helen’s employment contract it is an indispensable condition of the tenure of her employment that she be a member of a recognised accountancy body. Helen’s employer pays her annual membership fee to the relevant accountancy body. In this instance, the appropriate deductions need not be made from her salary in respect of the notional income amount attributable to such annual membership fee.

Example 7
Philip is an accountant employed by an advertising firm as a marketing executive. His employer deems it desirable (even though it is not essential to the performance of his duties) that he retains his membership with the relevant accountancy professional body and pays his annual membership fee to such body. In this instance, the appropriate deductions must be made from his salary in respect of the notional income amount attributable to such annual membership fee.

Example 8
Patrick is a tax consultant employed by an accounting firm. It is a condition of Patrick’s employment that he may be required to appear and plead on behalf of the firm’s clients before the Appeal Commissioners. Patrick’s employer pays his annual membership fee to one of the bodies recognised by statute as allowing its members an explicit right to be heard before the Appeal Commissioners. In this instance, the appropriate deductions need not be made from his salary in respect of the notional income amount attributable to such annual membership fee.

Example 9
Audrey is a solicitor and is employed in that capacity in the public sector. It is an indispensable condition of the tenure of her employment that she is a member of the Law Society. Her employer pays her annual subscription to the Law Society. In this instance, the appropriate deductions need not be made from her salary in respect of the notional income amount attributable to such annual membership fee.

Example 10
A solicitor practice employs Olive, a solicitor, in that capacity. Olive cannot practice as a solicitor unless she is a member of the Law Society. Her employer pays her annual membership fee. In this instance, the appropriate deductions need not be made from Olive’s salary in respect of the notional income amount attributable to such annual membership fee.

Example 11
Pamela is a solicitor but is employed as a continuity announcer by a radio station. Her employer pays Pamela’s relevant annual fees to the Law Society. In this instance, the appropriate deductions must be made from her salary in respect of the notional income amount attributable to such annual membership fee.