

Report of the Office of the Revenue Commissioners

Analysis of High Income Individuals' Restriction 2011

1. General

The 2006 and 2007 Finance Acts introduced, with effect from 1 January 2007, measures to limit the use of certain tax reliefs and exemptions (known as 'specified reliefs') by high-income individuals. Such individuals, by means of the cumulative use of various tax incentive reliefs, had in previous years substantially reduced their tax liabilities.

The overall objective was to ensure that, from 2007, individuals with an adjusted income¹ of **€500,000** or more (where the full restriction applied) would pay an effective rate of tax of approximately **20 per cent** on a combination of adjusted income and ring-fenced income. The restriction began to apply where an individual's adjusted income exceeded €250,000 and a full restriction applied where an individual had adjusted income of €500,000 or more. As previously reported, that objective was achieved in 2007, 2008 and 2009

The 2010 Finance Act introduced further limitations on the use of specified reliefs which took effect from 1 January 2010. These limitations were designed to ensure that, with effect from the tax year 2010, individuals with an adjusted income level of **€400,000** or more (where the full restriction applies) would pay an effective rate of tax of approximately **30 per cent** on a combination of adjusted income and ring-fenced income. In addition, the adjusted income on which the restriction began to apply was reduced to €125,000. The 2010 report also showed that the objective of achieving an effective rate of approximately 30 per cent for individuals with an adjusted income of €400,000 or more was achieved.

This report relates to the use of specified reliefs by high-income individuals who were subject to the restriction in the tax year 2011. All other high-income individuals are subject to the normal tax rules. Composite details of the tax paid by all high-income individuals are available from the annual Statistical Reports published on the Revenue website www.revenue.ie.

The Finance Act 2011 implemented the Universal Social Charge (known as 'USC') which subsumed the Income Levy. The USC was charged on an individual's aggregate income from all sources (with no account taken of pension contributions, trading losses set against other income etc.) with rates applying on a progressive basis as follows – 2% on the first €10,036, 4% on the next €5,980 and 7% on the remainder. The amount of USC payable by an individual is not affected by the application of the limitation on the use of specified reliefs. Therefore, in order to examine whether or not the limitation is achieving its objective of ensuring that individuals with an adjusted income level of €400,000 or more would pay an effective tax rate of approximately 30 per cent the USC figure is excluded. However, to examine the amount of income tax being paid by these individuals, the USC figure is included. Throughout this report the tax figures and rates are exclusive of USC unless otherwise stated.

¹ *Adjusted income* is the taxable income of an individual before the restriction is applied, to which is added the amount of income sheltered in the year through the use of the specified reliefs. It excludes "ring-fenced income" (e.g. DIRT) which is normally liable to tax at specific rates regardless of the amounts involved or the marginal rate of tax at which the individual is liable.

Analysis of the application of the high-income individuals' restriction for the tax year 2011 shows that the objective of achieving an effective rate of tax of approximately 30 per cent for individuals with an adjusted income of €400,000 or more was achieved in that tax year. Where adjusted income was less than €400,000, a tapering approach ensured that there was a graduated application of the restriction, with the effective rate of tax increasing towards 30 per cent as adjusted income increased towards €400,000.

A brief summary of how the restriction operated for the tax year 2011, and the specified tax reliefs covered by the restriction, is included in **Annex 1**.

2. Results for 2011

A breakdown of the 2011 results showing the effect of the restriction in its fifth year of operation is set out in tabular form in **Annex 2**. These results are based on actual returns received.

A comparison of the outcome for 2011 with the outcome for 2007, 2008, 2009 and 2010 is set out below.

Year	Total Number of Individuals	Additional Tax €m
2011	1,143	63.60
2010	1,544	80.18
2009	452	38.86
2008	423	39.68
2007	439	39.99

The results for 2011 indicate that the overall number of individuals who were subject to the restriction was 1,143 and that the additional tax yield was €63.6m. Compared to 2010, this represents a decrease of 401 in the number of individuals and a decrease of €16.58m in the additional tax yield from the measure. These decreases result from two main factors:

1. The general economic downturn which has meant that a number of taxpayers have seen their income fall to levels at which they are no longer subject to the limitation, and
2. The changes introduced in Finance Act 2011 i.e. the reduction in the amount of income which can qualify from the artists exemption and the removal of the tax exemption for patent income

Cases where full restriction applies – Adjusted Income of €400,000 or more

Table 1A (Annex 2) shows that the 286 high-income individuals with an adjusted income of €400,000 or more (i.e. where the full restriction applied) paid an **average** effective tax rate of **30.67 per cent** on the combination of adjusted income and ring-fenced income.

This meets the objective set out for the measure. The additional tax involved was €40m, representing a 101.5% increase on the tax that would otherwise have been paid if the restriction had not applied. 35 individuals with adjusted income of €400,000 or more, who would not otherwise have paid income tax in 2011, were brought into the tax net for that year.

Table 1B (Annex 2) summarises the distribution of the effective tax rates for the 286 cases with adjusted income of €400,000 or more. It shows that the majority of high-income individuals within this category fall into the effective tax rate bands of 25% to 30% (59 cases) and 30% to 35% (226 cases). One individual fell into the effective rate band of greater than 40%.

These individuals paid on average 39.7 per cent tax inclusive of USC.

Cases where restriction partly applies – Adjusted Income of up to €400,000

Table 2A (Annex 2) shows that the 857 high-income individuals with an adjusted income of up to €400,000 (i.e. where the restriction applies on a graduated basis) paid an **average** effective tax rate of **19.21 per cent** on the combination of adjusted income and ring-fenced income. The additional tax involved was €23.6m, representing a 119% increase on the tax that would otherwise have been paid if the restriction had not applied. 174 individuals with adjusted income of up to €400,000, who would not otherwise have paid income tax in 2011, were brought into the tax net for that year.

Table 2B (Annex 2) summarises the distribution of the effective tax rates for the 857 cases with adjusted income of up to €400,000. The spread reflects the graduated nature of the application of the restriction for cases in this category. The fact that over 50% of these individuals had an effective tax rate of 20% or more reflects the fundamental changes made to the restriction in Finance Act 2010.

These individuals paid on average 28.8 per cent tax inclusive of USC.

3. Schedule of declared use of Reliefs

Table 3 (Annex 2), in relation to each specified relief, shows:

- the overall number of individuals subject to the restriction, who declared that they used the relief, and
- the total combined amount of the relief declared as used by those individuals.

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ANNEX 1

Operation of the restriction in the tax year 2011

The restriction works by limiting the total amount of “specified reliefs” that a high-income individual can use to reduce his or her tax liability in any one tax year.

In the tax year 2011, the overall objective was to ensure that individuals with an adjusted income of **€400,000** or more would pay an effective rate of tax of **approximately 30 per cent** on a combination of adjusted income and ring-fenced income. A graduated application of the restriction below an adjusted income level of €400,000 would ensure that the effective rate of tax increased towards 30 per cent as adjusted income increased towards €400,000.

For the tax year 2011, the restriction applied to an individual where all of the following criteria applied:

- the Adjusted Income of the individual for the tax year was equal to or greater than an Income Threshold Amount which was, in general, **€125,000** but was less if the individual had ring-fenced income (e.g. deposit interest),
- the aggregate of specified reliefs used by the individual for the tax year was equal to or greater than a Relief Threshold Amount which was set at **€80,000**, and
- the aggregate of specified reliefs used by the individual for the tax year was greater than **20 per cent** of the individual’s adjusted income.

In the case of a married couple, application of the restriction to each spouse is determined separately. Therefore, in 2011, the restriction applied to each individual spouse only where the three circumstances mentioned above applied to that spouse for that tax year.

Specified Reliefs

Broadly speaking, the reliefs that are restricted include:

- the various sectoral and area-based property tax incentives,
- certain exemptions e.g. relating to artists’ income, woodlands etc.,
- certain investment incentive reliefs such as BES, EII relief and film relief,
- relief for interest paid on loans used to acquire an interest in a company or in a partnership.

Normal business-related expenses, deductions for capital allowances on plant and machinery, genuine business-related trading losses, and genuine losses from a rental activity that do not arise from the use of specified reliefs are not restricted. In addition, personal tax credits are not affected by the restriction.

ANNEX 2

Table 1A: Cases with Adjusted Income of €400,000 or more

Adjusted Income Range	Number of Cases	Tax Before Restriction	Tax After Restriction	Additional Tax After Application of Restriction	Average Effective Rate Before Application of Restriction	Average Effective Rate After Application of Restriction	Tax (including USC) payable after restriction	Average Effective Rate (including USC) after Application of Restriction
€		Amount €	Amount €	Amount €	Rate %	Rate %	Amount €	Rate %
400,000 500,000	85	6,766,760	12,717,224	5,950,465	17.40	29.85	16,201,168	38.06
500,001 650,000	80	6,944,608	14,489,769	7,545,161	17.05	30.29	18,640,098	38.97
650,001 800,000	46	5,299,326	10,607,063	5,307,737	18.31	30.93	13,761,190	40.13
800,001 1,000,000	24	3,691,266	7,016,582	3,325,316	17.98	31.26	9,030,854	40.23
1,000,001 1,500,000	34	5,687,858	13,583,222	7,895,364	14.41	31.49	17,331,908	40.18
1,500,001 2,000,000	8	1,252,898	4,917,767	3,664,869	10.57	34.92	6,272,690	44.54
Over 2,000,000	9	9,722,125	15,999,044	6,276,918	18.47	31.83	19,848,970	39.49
Totals	286	39,364,841	79,330,671	39,965,830	16.97	30.67	101,086,878	39.70

Table 1B: Effective Tax Rates - cases with Adjusted Income of €400,000 or more

<i>Effective Rate</i>	<i>No of cases</i>	<i>% of cases in Table</i>
0%	0	0
> 0% < 10%	0	0
> 10% < 20%	0	0
> 20% < 25%	0	0
> 25% < 30%	59	20.63%
> 30% < 35%	226	79.02%
> 35% < 40%	0	0
> 40%	1	0.35%
Totals	286	100%

Table 1C: Effective Tax Rates - inclusive of USC - cases with Adjusted Income of €400,000 or more²

<i>Effective Rate (Including USC)</i>	<i>No of cases</i>	<i>% of all cases</i>
0%	0	0
> 0% < 10%	0	0
> 10% < 20%	0	0
> 20% < 25%	0	0
> 25% < 30%	3	1.05%
> 30% < 35%	15	5.24%
> 35% < 40%	153	53.50%
> 40% < 45%	106	37.06%
> 45% < 50%	2	0.70%
> 50% < 55%	3	1.05%
> 55% < 60%	3	1.05%
> 60%	1	0.35%
Totals	286	100%

² Certain items are deductible when arriving at adjusted income (e.g. pension contributions, certain rental capital allowances on plant and machinery, trading losses against other income etc.) that are not deductible against income on which USC is chargeable. These differences between what is deductible can give rise to taxpayers having effective USC inclusive tax rates on their adjusted income in excess of the top rate of tax plus the top rate of USC.

Table 2A: Cases with Adjusted Income of up to €400,000

Adjusted Income Range	Number of Cases	Tax Before Restriction	Tax After Restriction	Additional Tax After Application of Restriction	Average Effective Rate Before Application of Restriction	Average Effective Rate After Application of Restriction	Tax (including USC) payable after restriction	Average Effective Rate (including USC) after Application of Restriction
€		Amount €	Amount €	Amount €	Rate %	Rate %	Amount €	Rate %
Under 125,000	37	628,136	861,537	233,402	8.64	10.54	1,451,690	17.76
125,001 160,000	188	1,169,948	3,038,298	1,868,350	5.53	10.52	5,286,361	18.30
160,001 200,000	184	2,399,338	5,917,553	3,518,215	8.11	16.61	8,651,843	24.28
200,001 250,000	171	3,827,640	8,852,250	5,024,610	10.99	21.37	12,052,946	29.10
250,001 325,000	171	6,572,165	13,447,339	6,875,174	14.18	25.28	17,568,490	33.03
325,001 399,999	106	5,220,101	11,333,327	6,113,227	15.79	28.51	14,704,365	36.99
Totals	857	19,817,328	43,450,304	23,632,978	10.48	19.21	59,715,695	28.84

Table 2B: Effective Tax Rates - cases with Adjusted Income of up to €400,000

<i>Effective Rate</i>	<i>No of cases</i>	<i>% of cases in Table</i>
0%	0	0
> 0% < 5%	14	1.63%
> 5% < 10%	92	10.74%
> 10% < 15%	151	17.62%
> 15% < 20%	169	19.72%
> 20% < 25%	223	26.02%
> 25% < 30%	201	23.45%
> 30% < 35%	6	0.70%
> 35% < 40%	1	0.12%
> 40%	0	0
Totals	857	100%

Table 2C: Effective Tax Rates - inclusive of USC - cases with Adjusted Income of up to €400,000

<i>Effective Rate (Including USC)</i>	<i>No of cases</i>	<i>% of all cases</i>
0%	0	0
> 0% < 5%	5	0.58%
> 5% < 10%	5	0.58%
> 10% < 15%	60	7.00%
> 15% < 20%	115	13.42%
> 20% < 25%	168	19.60%
> 25% < 30%	170	19.84%
> 30% < 35%	189	22.05%
> 35% < 40%	121	14.12%
> 40% < 45%	12	1.40%
> 45% < 50%	4	0.47%
> 50% < 55%	3	0.35%
> 55% < 60%	1	0.12%
> 60%	4	0.47%
Totals	857	100%

Table 3 - Schedule of declared use of different reliefs (for publication purposes, some categories have been amalgamated)

Ref Number	Specified Relief	Number of Cases	Amount of Relief used in 2011 by those affected by the restriction.
1/2/3/4	Sect 140, 141, 142 and 143 – dividends and distributions out of exempt income from stallion fees, stud greyhounds, woodlands, patents, certain mines and other mining operations	21	1,126,138
5	Sect 195 – Exempt income, profits or gains of artists, writers or composers	23	2,084,401
6	<i>Sect 231 – Exempt stallion fees</i>	<i>N/A</i>	<i>Did not apply in 2011</i>
7	Sect 232 – Exempt woodland income	13	442,979
8	<i>Sect 233 – Exempt stud greyhound fees</i>	<i>N/A</i>	<i>Did not apply in 2011</i>
9	<i>Sect 234 – Exempt patent royalty income</i>	<i>N/A</i>	<i>Did not apply in 2011</i>
10/11	Sect 248 and 250 – relief for interest paid on loans to acquire an interest in a company	86	4,546,134
12	Sect 253 – relief for interest paid on loans to acquire an interest in a partnership	29	314,426
13	Sect 272 – writing down allowances in respect of capital expenditure on:		
	• hotels and holiday camps/cottages	337	64,374,586
	• nursing homes, residential units attached to nursing homes and convalescent homes	89	9,404,159
	• hospitals, sports injury clinics and mental health centres	104	10,531,081
14	Sect 273 – accelerated writing down allowances in respect of certain industrial buildings or structures	18	1,796,572
15	Sect 274 – balancing allowances in respect of capital expenditure on:		
	• hotels and holiday camps/cottages	109	19,297,302
	• nursing homes, residential units attached to nursing homes and convalescent homes	22	2,374,946
	• hospitals, sports injury clinics and mental health centres	23	2,952,446
15A	Sect 304(4) – Carry forward of capital allowances (relating to specified reliefs) in trading situations	2	5,663
15B	Sect 305(1) – Set off and carry forward of capital allowances (relating to specified reliefs) in rental situations	22	3,541,858

Ref Number	Specified Relief	Number of Cases	Amount of Relief used in 2011 by those affected by the restriction.
16/17	Sect 323 and 324 – Custom House Docks Area: capital allowances for commercial premises and double rent allowance in respect of rent paid for certain business premises	9	1,546,542
18/19/20	Sect 331, 332 and 333 – Temple Bar Area: capital allowances for industrial buildings, commercial premises and double rent allowance in respect of rent paid for certain business premises	2	141,944
21	Sect 341 – Urban Renewal Scheme: capital allowances for industrial buildings	30	2,856,248
22	Sect 342 – Urban Renewal Scheme: capital allowances for commercial buildings	35	4,829,708
23	Sect 343 – Enterprise Area: capital allowances for certain buildings	22	1,123,849
24	Sect 344 – Multi Story Car Park capital allowances	23	610,228
25	Sect 345 - Urban Renewal, Enterprise Area, Multi Story Car Park: double rent allowance in respect of rent paid for certain business premises	2	52,037
26	Sect 352 – Qualifying Resort Area: capital allowances for certain industrial buildings	5	368,441
27	Sect 353 – Qualifying Resort Area: capital allowances for certain commercial buildings	5	240,160
28	Sect 354 – Qualifying Resort Area: double rent allowance in respect of rent paid for certain business premises	0	0
29	Sect 372C – Qualifying (Urban) Areas: capital allowances for certain industrial buildings	49	7,165,399
30	Sect 372D – Qualifying (Urban) Area and Living over the shop scheme: capital allowances for certain commercial buildings	26	2,195,295
31/32	Sect 372M and Sect 372N – Qualifying Rural Areas: capital allowances for certain industrial and commercial buildings	25	2,598,993
33/34	Sect 372V and 372W – Park and Ride Scheme: Capital allowances for Park and Ride Facilities and for certain commercial buildings	3	420,260
35	Sect 372AC – Town Renewal Area: capital allowances for certain industrial buildings	15	772,860
36	Sect 372AD – Town Renewal Area: capital allowances for certain commercial buildings	20	1,433,786

Ref Number	Specified Relief	Number of Cases	Amount of Relief used in 2011 by those affected by the restriction.
36A/36B	Sect 372AX and 372AY – Mid Shannon Corridor Tourism Scheme: capital allowances for certain registered holiday camps and tourism infrastructure facilities	3	822,655
37/38	Sect 372AP and Sect 372AU(1) – Relief for lessors of residential premises (“section 23” type relief, including old schemes)	70	8,260,150
39	Sect 381 – Repayment of tax due to losses (arising from use of specified reliefs)	2	279,257
40	Sect 381 – Repayment of tax due to losses (arising from use of specified reliefs), as extended by Sect 392	4	250,616
41	Sect 382 – Carry forward of losses (arising from use of specified reliefs) to future years	9	702,458
42/43/44	Sect 383, Sect 384 and Sect 385 – Relief (arising from use of specified reliefs) for losses under Case IV and Case V and for Terminal losses	68	9,586,397
45	Sect 481 – Relief for investment in Films	30	1,427,320
46	Sect 482 – Relief for investment on significant buildings and gardens	15	2,872,811
47	Sect 485F – Carry forward of excess relief	420	78,373,354
47A	Sect 489(2)(a) – Employment and Investment Incentive Scheme	14	1,101,000
48	Sect 489(3) – BES relief	44	3,480,562
49	Sect 843 – Capital allowances for buildings used for third level education purposes	10	1,328,533
50	Sect 843A – Capital allowances for certain child-care facilities	33	2,390,398
51	Sect 847A – Donations to certain sports bodies	4	183,441
52	Sect 848A – Donations to approved bodies	173	3,932,736
53	Paragraph 11 of Schedule 32, Urban Renewal Scheme 1986: Capital allowances for certain commercial premises in designated areas	8	929,778
54	Paragraph 13 of Schedule 32, Urban Renewal Scheme 1986: Double rent allowances in relation to certain premises in designated areas	3	472,042