

Report of the Office of the Revenue Commissioners

Analysis of High Income Individuals' Restriction 2012

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 income 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.

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 income 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.

This report relates to the use of specified reliefs by high-income individuals who were subject to the restriction in the tax year 2012. 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.

Analysis of the application of the high-income individuals' restriction for the tax year 2012 shows that the objective of achieving an effective rate of income 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 income 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 2012, and the specified tax reliefs covered by the restriction, is included in **Annex 1**.

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.

2. Results for 2012

A breakdown of the 2012 results showing the effect of the restriction in its sixth 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 2012 with the outcome for 2007, 2008, 2009, 2010 and 2011 is set out below.

Year	Total Number of Individuals	Additional Income Tax €m
2012	1,050	63.21
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 2012 show that the overall number of individuals who were subject to the restriction was 1,050 and that the additional income tax yield was €63.2m. Compared to 2011, this represents a decrease of 93 in the number of individuals and a decrease of €0.39m in the additional yield from the measure.

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

Table 1A (Annex 2) shows that the 260 high-income individuals with an adjusted income of €400,000 or more (i.e. where the full restriction applied) paid an **average** effective income tax rate of **30.5 per cent** on the combination of adjusted income and ring-fenced income.

This meets the objective set out for the measure. The additional income tax involved was €41.4 million, representing a 128% increase on the tax that would otherwise have been paid if the restriction had not applied. Furthermore, of those 260 individual, 58 individuals who would not otherwise have paid income tax in 2012 were brought into the tax net for that year.

Table 1B (Annex 2) summarises the distribution of the effective tax rates for the 260 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 income tax rate bands of 30% to 35% (218 cases).

These individuals paid on average 40.8 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 790 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 income tax rate of **19.08 per cent** on the combination of adjusted income and ring-fenced income. The additional income tax involved was €21.8 million representing a 124%

increase on the tax that would otherwise have been paid if the restriction had not applied. Furthermore, of those 790 individuals, 226 individuals who would not otherwise have paid income tax in 2012 were brought into the tax net for that year.

Table 2B (Annex 2) summarises the distribution of the effective income tax rates for the 790 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 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 29.4 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 2012

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 2012, 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 2012, 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 2012, 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, EII² 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, business-related trading losses, and 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.

² Finance (No. 2) Act 2013 provided that where an investment which qualifies for EII relief is made after 15 October 2013 and before 1 January 2017, then it will not be a specified relief. This will be reflected in the 2013 report.

Annex 2

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

Range of Adjusted income	Number of Cases	Tax <i>before</i> restriction	Tax <i>after</i> restriction	Additional Tax <i>after</i> application of restriction	Average Effective rate <i>before</i> application of restriction	Average Effective rate <i>after</i> application of restriction	Tax including USC payable <i>after</i> restriction	Average Effective Rate (including USC) <i>after</i> application of restriction
€		Amount €	Amount €	Amount €	Rate %	Rate %	Amount €	Rate %
400,000 500,000	76	4,127,402	10,738,899	6,611,497	15.5	30.2	14,221,992	40.1
500,001 650,000	65	6,152,627	11,656,742	5,504,115	19.5	29.8	15,674,903	40.2
650,001 800,000	47	3,786,470	10,777,464	6,990,995	14.8	30.7	14,451,767	41.2
800,001 1,000,000	18	2,390,804	5,328,834	2,938,030	14.8	31.3	7,047,049	41.5
1,000,001 1,500,000	38	5,398,133	15,210,168	9,812,035	14.0	31.3	20,382,775	42.0
1,500,001 2,000,000	6	363,770	3,374,431	3,010,661	6.5	31.5	4,593,739	43.1
Over 2,000,000	10	10,126,538	16,634,755	6,508,216	17.6	31.5	20,999,435	40.5
Totals	260	32,345,744	73,721,293	41,375,549	16.1	30.5	97,371,660	40.8

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 all cases</i>
< 15%	0	0.00%
>15% < 20%	2	0.77%
>20% < 25%	3	1.15%
>25% < 30%	37	14.23%
>30% < 35%	218	83.84%
>35% < 40%	0	0%
> 40%	0	0%
Totals	260	100%

Table 1C: Effective Tax Rates – inclusive of USC – cases with Adjusted Income of €400,000 or more³

<i>Effective Rate (Including USC)</i>	<i>No of cases</i>	<i>% of all cases</i>
< 25%	0	0.00%
>25% < 30%	2	0.77%
>30% < 35%	9	3.46%
>35% < 40%	97	37.31%
>40% < 45%	121	46.54%
>45% < 50%	24	9.23%
>50% < 55%	5	1.92%
>55% < 60%	1	0.38%
> 60%	1	0.38%
Totals	260	100%

³ 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

Range of Adjusted income	Number of Cases	Tax <i>before</i> restriction	Tax <i>after</i> restriction	Additional Tax <i>after</i> application of restriction	Average Effective rate <i>before</i> application of restriction	Average Effective rate <i>after</i> application of restriction	Tax including USC payable <i>after</i> restriction	Average Effective Rate (including USC) <i>after</i> application of restriction
€		Amount €	Amount €	Amount €	Rate %	Rate %	Amount €	Rate %
Under 125,000	52	683,741	1,036,520	352,779	9.9	9.9	1,741,389	21.3
125,001 160,000	172	1,217,735	2,987,346	1,769,611	6.4	11.1	5,426,095	20.8
160,001 200,000	137	1,631,340	4,408,101	2,776,761	8.9	16.7	6,957,496	26.8
200,001 250,000	170	4,043,904	8,950,758	4,906,854	12.5	21.3	13,010,103	31.4
250,001 325,000	173	5,712,411	12,840,223	7,127,812	14.0	24.9	18,025,502	35.0
325,001 399,999	86	4,243,250	9,139,718	4,896,467	16.8	28.2	12,760,727	39.6
Totals	790	17,532,381	39,362,666	21,830,284	11.4	19.1	57,921,312	29.4

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 all cases</i>
>0% < 5%	20	2.53%
>5% < 10%	79	10.00%
>10% < 15%	145	18.35%
>15% < 20%	152	19.24%
>20% < 25%	195	24.68%
>25% < 30%	187	23.68%
>30% < 35%	12	1.52%
>35% < 40%	0	0.00%
Above 40%	0	0.00%
<i>Totals</i>	<i>790</i>	<i>100%</i>

Table 2C. Effective Tax Rates – inclusive of USC – Adjusted Income of up to €400,000.

<i>Effective Rate (Including USC)</i>	<i>No of cases</i>	<i>% of all cases</i>
>0% < 5%	9	1.14%
>5% < 10%	3	0.38%
>10% < 15%	23	2.91%
>15% < 20%	93	11.77%
>20% < 25%	134	16.96%
>25% < 30%	155	19.62%
>30% < 35%	164	20.76%
>35% < 40%	149	18.86%
>40% < 45%	38	4.81%
>45% < 50%	10	1.27%
>50% < 55%	5	0.63%
>55% < 60%	0	0.00%
> 60%	7	0.89%
<i>Totals</i>	<i>790</i>	<i>100%</i>

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 2012 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	11	303,495
5	Sect 195 – Exempt income, profits or gains of artists, writers or composers	22	1,828,200
6	<i>Sect 231 – Exempt stallion fees</i>		<i>Did not apply in 2012</i>
7	Sect 232 – Exempt woodland income	8	610,185
8	<i>Sect 233 – Exempt stud greyhound fees</i>		<i>Did not apply in 2012</i>
9	<i>Sect 234 – Exempt patent royalty income</i>		<i>Did not apply in 2012</i>
10/11/	Sect 248 and 250 – relief for interest paid on loans to acquire an interest in a company	53	1,122,981
12	Sect 253 – relief for interest paid on loans to acquire an interest in a partnership	16	112,626
13	Sect 272 – writing down allowances in respect of capital expenditure on:		
	• hotels and holiday camps/cottages	341	56,176,964
	• nursing homes, residential units attached to nursing homes and convalescent homes	91	9,288,006
	• hospitals, sports injury clinics and mental health centres	26	1,590,871
14	Sect 273 – accelerated writing down allowances in respect of certain industrial buildings or structures	11	1,118,398
15	Sect 274 – balancing allowances in respect of capital expenditure on:		
	• hotels and holiday camps/cottages	85	18,784,265
	• nursing homes, residential units attached to nursing homes and convalescent homes	16	2,165,699
	• hospitals, sports injury clinics and mental health centres	27	2,126,451
15A	Sect 304(4) – Carry forward of capital allowances (relating to specified reliefs) in trading situations	1	1246
15B	Sect 305(1) – Set off and carry forward of capital allowances (relating to specified reliefs) in rental situations	19	3,555,005
15C	284 (subject to section 485C(1B) – wear & tear allowances on plant and machinery claimed by a passive trader when leasing the plant and machinery to a manufacturing trade.		<i>Does not apply until 2013</i>

Ref Number	Specified Relief	Number of Cases	Amount of Relief used in 2012 by those affected by the restriction.
15D	288 (subject to section 485C(1B) – balancing allowances on plant and machinery claimed by a passive trader when leasing the plant and machinery to a manufacturing trade		<i>Does not apply until 2013</i>
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	5	847,451
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	6	311,177
21	Sect 341 – Urban Renewal Scheme: capital allowances for industrial buildings	25	1,926,165
22	Sect 342 – Urban Renewal Scheme: capital allowances for commercial buildings	36	3,737,289
23	Sect 343 – Enterprise Area: capital allowances for certain buildings	23	1,475,357
24	Sect 344 – Multi Story Car Park capital allowances	20	391,182
25	Sect 345 - Urban Renewal, Enterprise Area, Multi Story Car Park: double rent allowance in respect of rent paid for certain business premises	5	1,371,838
26	Sect 352 – Qualifying Resort Area: capital allowances for certain industrial buildings	1	107,200
27	Sect 353 – Qualifying Resort Area: capital allowances for certain commercial buildings	3	210,633
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	38	4,759,356
30	Sect 372D – Qualifying (Urban) Area and Living over the shop scheme: capital allowances for certain commercial buildings	21	1,318,600
31/32	Sect 372M and Sect 372N – Qualifying Rural Areas: capital allowances for certain industrial and commercial buildings	16	1,722,939
33/34	Sect 372V and 372W – Park and Ride Scheme: Capital allowances for Park and Ride Facilities and for certain commercial buildings	4	577,870
35	Sect 372AC – Town Renewal Area: capital allowances for certain industrial buildings	8	391,058

Ref Number	Specified Relief	Number of Cases	Amount of Relief used in 2012 by those affected by the restriction.
36	Sect 372AD – Town Renewal Area: capital allowances for certain commercial buildings	18	1,012,831
36A/36B	Sect 372AX and 372AY – Mid Shannon Corridor Tourism Scheme: capital allowances for certain registered holiday camps and tourism infrastructure facilities	1	150,385
37/38	Sect 372AP and Sect 372AU(1) – Relief for lessors of residential premises (“section 23” type relief, including old schemes)	53	8,402,568
39	Sect 381 – Repayment of tax due to losses (arising from use of Specified Reliefs)	2	84,009
40	Sect 381 – Repayment of tax due to losses (arising from use of specified reliefs), as extended by Sect 392	5	658,305
41	Sect 382 – Carry forward of losses (arising from use of specified reliefs) to future years	5	533,171
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	65	10,226,150
45	Sect 481 – Relief for investment in Films	31	1,508,196
46	Sect 482 – Relief for investment on significant buildings and gardens	12	2,524,541
47	Sect 485F – Carry forward of excess relief	481	99,578,083
47A	Sect 489(2)(a) – Employment and Investment Incentive Scheme ⁴	36	3,716,873
48	Sect 489(3) – BES relief	13	987,512
49	Sect 843 – Capital allowances for buildings used for third level education purposes	8	1,080,127
50	Sect 843A – Capital allowances for certain child-care facilities	23	1,327,930
51	Sect 847A – Donations to certain sports bodies	5	184,848
52	Sect 848A – Donations to approved bodies	163	2,142,028
53	Paragraph 11 of Schedule 32, Urban Renewal Scheme 1986: Capital allowances for certain commercial premises in designated areas	7	629,690
54	Paragraph 13 of Schedule 32, Urban Renewal Scheme 1986: Double rent allowances in relation to certain premises in designated areas	2	244,849
	Totals	1,868	253,008,325

⁴ Finance (No. 2) Act 2013 provided that where an investment is made after 15 October 2013 and before 1 January 2017, then it will not be a specified relief. This will be reflected in the 2013 report.