Notes for Guidance - Taxes Consolidation Act 1997

Finance Act 2024 edition

Part 15

Personal Allowances and Reliefs and Certain Other Income Tax and Corporation Tax Reliefs

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PART 15 PERSONAL ALLOWANCES AND RELIEFS AND CERTAIN OTHER INCOME TAX AND CORPORATION TAX RELIEFS

CHAPTER 1 *Personal allowances and reliefs*

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CHAPTER 1
Personal allowances and reliefs

Overview

Chapter 1 of ***Part 15*** sets out the personal income tax reliefs available to individuals. Most of the reliefs are formal tax credits which are set against the income tax otherwise payable. Others are determined by reference to the standard rate of income tax, in effect, also tax credits. The balance are given by way of a deduction from income and accordingly attract relief at the taxpayer's marginal rate of tax.

The initial sections of the Chapter (that is, ***sections 458*** to ***460***) are concerned with providing for general provisions applicable to all the reliefs provided for in the Chapter. These general provisions are also applicable to certain other reliefs set out elsewhere in this Act. These other reliefs are listed in the Table to ***section 458***.

458 Deductions allowed in ascertaining taxable income and provisions relating to reductions in tax

(1) This section provides that an individual on making a claim and on submitting a return of his/her total income on the prescribed form is, subject to the rules governing the various tax credits, deductions and reliefs, entitled —

- for the purpose of computing his/her taxable income to have such deductions as are specified in ***Part 1*** of the Table to this section made from his/her total income, and
- to have the income tax to be charged reduced by such tax credits and other reductions as are specified in ***Part 2*** of that Table made in ascertaining his/her final income tax liability.

(1A) Where an individual is entitled to a tax credit specified in ***Part 2*** of the Table to the section, that tax credit is to be used to reduce the tax charged on an individual, other than under ***section 16(2)***, by the lesser of —

(a) the amount of the tax credit, and

(b) the amount required to reduce the tax chargeable to nil.

(1B) The requirement for a claim for relief to be accompanied by a return of income does not apply where the claim is —

(a) for the purposes of the operation of PAYE, or

(b) in relation to a claim for repayment of tax deducted under PAYE.

A self-employed person with PAYE income is covered by (a), but not (b) – in that instance they continue to be obliged to submit a return of income.

(2) The Table to the section lists the sections under which a deduction from total income, a tax credit or reduction in tax may be made. All claims for such deductions from total income, tax credits and such reductions in tax must be made in accordance with ***subsections (3)*** and ***(4)*** of ***section 459*** and ***paragraph 8*** of ***Schedule 28***. In strictness, therefore, before any of the reliefs specified in the Table can be granted, a claim and a return of income on the prescribed form must be made. In practice, however, this requirement is generally not enforced.

TABLE

Part 1

Section 372AR	(Relief for owner occupiers)
Section 372AAB	(Relief for owner occupiers, Living City Initiative)
Section 467	(Employed person taking care of incapacitated individual)
Section 469	(Relief for health expenses)
Section 471	(Relief for contributions to permanent health benefit schemes)
Section 472A	(Relief for the long-term unemployed)
Section 472AB	(Earned income tax credit)
Section 472B	(Seafarer allowance, etc)
Section 472BA	(Fisher tax credit)
Section 479	(Relief for new shares purchased on issue by employees)
Section 481	(Relief for investment in films)
Section 485F	(Carry forward of excess relief)
Section 489	(BES and Seed Capital relief)
Section 493	(Seed capital relief)
Paragraphs 12 and ***20*** of ***Schedule 32***	(Transitional Provisions)

Part 2

Section 244	(Relief for interest paid on certain home loans)
Section 461	(Basic personal tax credit)
Section 461A	(Additional tax credit for certain widowed persons)
Section 462B	(Single person child carer credit)
Section 463	(Widowed parent tax credit)
Section 464	(Age tax credit)
Section 465	(Incapacitated child tax credit)
Section 466	(Dependent relative tax credit)
Section 466A	(Home carer tax credit)
Section 468	(Blind person's tax credit)
Section 470	(Relief for insurance against expenses of illness)
Section 470A	(Relief for premiums under qualifying long-term care policies)
Section 470B	(Age-related tax credit for health insurance premiums)
Section 472	(Employee tax credit)
Section 472C	(Relief for trade union subscriptions)
Section 473	(Allowance for rent paid by certain tenants)
Section 473A	(Relief for fees paid for third level education etc.)
Section 476	(Relief for fees paid for training courses)
Section 477	(Relief for service charges)
Section 478	(Relief for payments made by certain persons in respect of alarm systems)
Section 478A	(Stay and Spend tax credit)
Section 480C	(Residential Premises Rental Income Relief)

459 General provisions relating to allowances, deductions and reliefs

Summary

This section ensures that personal tax reliefs are not available in respect of income used to pay certain annual payments, etc. It also provides the method of granting such reliefs and sets out the criteria required to support a claim for them.

Details

Charges, annual payments, etc

An individual is not entitled to any relief specified in the Table to ***section 458*** to the extent that such relief is used to reduce any income the tax on which the individual is entitled to charge against any other person or to deduct, retain or satisfy out of any payment which the individual is liable to make to any other person. This ensures that the individual remains liable for income tax withheld from annual payments, etc. ***(1)***

Granting of reliefs

Any of the reliefs specified in the Table to ***section 458*** may be given either by discharge or reduction in the individual's income tax assessment or by repayment of the excess tax paid. ***(2)***

Claims

Except as provided below, a claim for any relief must be accompanied by a declaration and statement in the prescribed form signed by the claimant setting out — ***(3)***

- his/her sources of income and the amount of such income,
- the amounts of yearly interest or annual payments which have been or may be used to reduce the claimant's income, and
- any sum which the claimant is entitled to deduct income tax from and in respect of which the claimant is liable for the amount so deducted. ***(4)***

The claim is to be made and proved in the same way as tax under Schedule D is ascertained and charged. In the case of an individual who is not resident in the State, the individual may prove his/her entitlement by submitting a sworn affidavit (stating the required particulars). The affidavit must be sworn by oath before a person authorised to administer in the place where the individual resides an oath relating to the public revenue of Ireland. Where an individual can prove that he/she is unable to attend in person, a claim on that individual's behalf may be made by any guardian, trustee, attorney, agent or factor acting for the claimant. A person assessable on behalf of any other person may make a claim on that other person's behalf.

The requirement that a claim must be accompanied by a declaration and statement in the prescribed form setting out details of the claimant's income etc., does not apply where the claim is — ***(5)***

(a) for the purposes of the operation of PAYE, or

(b) in relation to a claim for repayment of tax deducted under PAYE.

A self-employed person with PAYE income is covered by (a), but not (b) – in that instance they continue to be obliged to submit a return of income.

Where on the basis of information in their possession – either by way of section 894A or otherwise – the Revenue Commissioners are satisfied as to the entitlement of a taxpayer to a relief, the relief may, if considered appropriate, be granted to the taxpayer notwithstanding any requirement for the taxpayer to claim and prove title to the relief. ***(6)***

460 Rate of tax at which repayments are to be made

A repayment of income tax to which a person is entitled after the granting of any personal tax credit/relief for any year of assessment is to be made at the standard rate of tax or the higher rate, as appropriate. ***(1)***

Where a person proves that he/she had no taxable income for a year of assessment because of his/her entitlement to any tax credit, deduction or relief for that year, any tax paid by him/her in respect of his/her income for that year is refundable in full. However, any such repayment cannot exceed the difference between the correct tax liability and the amount of tax actually paid. ***(2) & (3)***

461 Basic personal tax credit

Summary

This section provides the basic personal tax credits.

In the case of—

- a married person assessed in accordance with ***section 1017*** (that is, jointly assessed),
- a civil partner assessed in accordance with ***section 1031C*** (that is, jointly assessed),
- a married person/civil partner who proves that the person and his/her spouse/civil partner are not living together but that the spouse/civil partner is wholly or mainly maintained by the person for the year of assessment and the person is not entitled, in computing his/her income for tax purposes for that year, to claim a deduction for maintenance payments,
- a widowed person whose spouse has died in the year of assessment,

the basic personal tax credit is €4,000.

In all other cases the basic personal tax credit is €2,000.

461A Additional tax credit for certain widowed persons

A widowed person or surviving civil partner who is not entitled to the single person child carer credit under ***section 462B*** is entitled to a tax credit of €540 in addition to the basic personal tax credit of €1,650.

462 One-parent family tax credit

Summary

This section provides for a tax credit of €1,650 for surviving civil partners, widowed and single persons with children. This credit is in addition to the basic personal tax credit of €1,650 but does not apply for the year of assessment, if the higher basic personal tax credit of €3,300 is due. This section ceased to apply for years of assessment 2014 and subsequent years.

Details

Definitions and scope

"qualifying child" is a child who is either— ***(1)(a)***

- born in the year of assessment,
- under 18 years of age at the beginning of the year of assessment, or
- if over 18 at the beginning of the year of assessment,
  - receiving full-time instruction at an educational establishment, or

— permanently incapacitated by reason of mental or physical infirmity from maintaining himself/herself and had become so incapacitated before the age of 21 or while receiving full-time instruction at an educational establishment,

and who is either the claimant's child or is in the custody of and maintained by the claimant at his/her own expense for all or part of the year of assessment.

The section applies to a person not entitled to the higher basic personal tax credit under ***section 461(a)*** and ***(b)***.

The references to a child receiving full-time instruction at an educational establishment includes a child undergoing an apprenticeship in a trade or profession, provided the full-time training lasts a minimum period of 2 years. An inspector may request the employer to furnish any details in respect of such training. ***(4)***

Tax credit

Where a qualifying child is resident for all or part of the tax year with a person to whom the section applies, that person is entitled to a tax credit of €1,650. ***(2)***

Relief is not allowed for a year of assessment:-

- In the case where the husband and wife are living together;
- In the case of civil partners who are not living separately; or
- In the case of cohabitants.

Only one tax credit is allowable for any year of assessment irrespective of the number of qualifying children resident with the claimant. ***(3)***

The Revenue Commissioners may consult with the Minister for Education and Skills where a question arises as to whether a tax credit under this section should be granted in respect of a child over 18 who is stated as receiving full-time instruction. ***(5)***

This section ceased to apply for the year of assessment 2014 and subsequent years. ***(6)***

462A Additional allowance for widowed parents and other single parents

Section 462A was deleted by the Finance Act 2000, section 6(b) for 2000–2001 and later tax years.

462B Single person child carer credit

Summary

This section provides for a tax credit (the single person child carer credit) of €1,900 for surviving civil partners, widowed and single persons who have a qualifying child residing with them for the greater part of the tax year. This credit is in addition to the basic personal tax credit of €2,000 but does not apply for the year of assessment, if the higher basic personal tax credit of €4,000 is due.

Details

Definitions and scope

"order" in relation to a child, is an order granted under section 11 of the Guardianship of Infants Act 1964 granting joint custody to the father and the mother of a child. ***(1)(a)***

"qualifying child" in relation to a primary claimant is a child who is either—

- born in the year of assessment,
- under 18 years of age at the beginning of the year of assessment, or

- if over 18 at the beginning of the year of assessment,
  - is receiving full-time instruction at an educational establishment, or
  - is permanently incapacitated by reason of mental or physical infirmity from maintaining himself/herself and had become so incapacitated before the age of 21 or while receiving full-time instruction at an educational establishment.

Such a child must either be a child of the primary claimant, or in the custody of and maintained by the primary claimant for whole or the greater part of the year of assessment, or where the child is born in the year of assessment, for the greater part of the period to the end of the year from when the child was born.

The section applies to a person not entitled to the higher basic personal tax credit under ***section 461(a)*** and ***(b)***. The credit is not available to an individual who is jointly assessed or whose spouse or civil partner died in the year of assessment. ***(1)(b)***

The credit is not allowed for a year of assessment:- ***(1)(c)***

- in the case of either party to a marriage, unless they are separated by a deed of separation, by an order of a court of competent authority, or in such circumstances that the separation is likely to be permanent;
- in the case of civil partners, unless they are living separately in circumstances where reconciliation is unlikely; or
- in the case of cohabitants.

Tax credit

A 'primary claimant' is the individual who proves that a qualifying child resides with him or her for the greater part of the year of assessment, or in the case of a child born in the year of assessment, the greater part of the period to the end of the year from when the child was born. However, in the circumstances where a child might reside equally with each parent under a joint custody order making it otherwise impossible to identify the primary claimant, the subsection provides that the primary claimant shall be the parent in receipt of child benefit from the Department of Social Protection. ***(2)(a)***

A 'secondary claimant' for the purposes of the section is an individual with whom the qualifying child of a primary claimant resides for not less than 100 days in aggregate in the year. ***(2)(b)***

Where a qualifying child is resident for all or the greater part of the tax year with a primary claimant, that claimant is entitled to a tax credit of €1,900. ***(3)***

Where in any year of assessment a primary claimant, who would be entitled to the single person child carer credit, relinquishes his or her claim to that credit, a secondary claimant may claim the credit in respect of that qualifying child of the primary claimant. ***(4)***

Only one tax credit is allowable for any year of assessment irrespective of the number of qualifying children resident with the claimant. ***(5)***

The references to a child receiving full-time instruction at an educational establishment includes a child undergoing an apprenticeship in a trade or profession, provided the full-time training lasts a minimum period of 2 years. ***(6)(a)***

An inspector may request the employer to furnish any details in respect of such training. ***(6)(b)***

The Revenue Commissioners may consult with the Minister for Education and Skills where a question arises as to whether a tax credit under this section should be granted in respect of a child over 18 who is stated as receiving full-time instruction. ***(7)***

A child will be treated as resident with an individual for any day where the child resides with that individual for the greater part of that day. ***(8)***

463 Widowed parent tax credit

Summary

This section provides a special tax credit for widowed parents and surviving civil partners with dependent children following the death of a spouse or a civil partner. The tax credit, which applies for the 5 years following the year in which the person is bereaved, is €3,600 in the first year, €3,150 in the second year, €2,700 in the third year, €2,250 in the fourth year and €1,800 in the fifth year. To qualify for the tax credit, 2 conditions must be satisfied-

- the widowed person must not have remarried by the start of the year, and
- a qualifying child must be resident with the widowed person for all or part of the year.

Details

Definition

A "qualifying child" has the same meaning as in ***section 462B*** and any question as to whether a child is regarded as a qualifying child is determined on the same basis as it would be for the purposes of ***section 462B*** and ***subsections (5)***, ***(6)*** and ***(7)*** of that section apply accordingly. ***(1)***

Application

The section applies to an individual whose spouse or civil partner dies in a year of assessment.

Relief

An individual who proves in relation to any of the 5 years of assessment immediately following the year of assessment in which that individual's spouse or civil partner dies, that- ***(2)***

- he/she has not remarried before the start of the year, and
- a qualifying child is resident with him/her for all or part of that year,

shall be entitled to a tax credit as follows:

- €3,600 for year 1,
- €3,150 for year 2,
- €2,700 for year 3,
- €2,250 for year 4, and
- €1,800 for year 5.

No tax credit is available for any year of assessment where a man and woman are living together as husband and wife or as civil partners.

464 Age tax credit

An additional tax credit is provided for persons aged 65 years or over. To qualify, an individual must prove that at any time during a year of assessment he/she is aged 65 or over. The tax credit is €490 in the case of a married person and civil partner whose spouse or civil partner is living with him/her and who is jointly assessed to tax under ***section 1017 or section 1031C***, and a deduction of €245 in any other case.

465 Incapacitated child tax credit

Summary

This section provides a tax credit of €3,800 for a person who proves for a year of assessment that he/she has an incapacitated child. The credit is also available in the case of an incapacitated child who is not the child of the claimant but is in the custody of and maintained by the claimant.

Details

An individual is entitled to a tax credit of €3,800 for any year of assessment where the individual proves that at any time during that year he/ she had living any child who— ***(1)***

- is under 18 years of age and is permanently incapacitated by reason of mental or physical infirmity, or

- if over 18 at the beginning of the year of assessment, is permanently incapacitated by reason of mental or physical infirmity from maintaining himself/herself and had become so permanently incapacitated before reaching 21 years or had become so permanently incapacitated after reaching 21 but while receiving full-time instruction at an educational establishment.

A child under 18 is regarded as permanently incapacitated by reason of mental or physical infirmity only if that infirmity is such that if the child were over 18 there would be a reasonable expectation that he/she would be incapacitated from maintaining himself/herself. ***(2)(a)***

A claimant may claim either the tax credit under this section or the dependent relative tax credit (***section 466***) but not both in respect of the same child. ***(2)(b)***

Where a claimant proves that he/she has custody of and maintains at his/her own expense any child who but for the fact that the child is not a child of the claimant (for example, an informally adopted child) would be an incapacitated child, that neither he/she nor anyone else is entitled to any tax credit (other under ***section 466A***) in respect of the child or, if any other individual is entitled to such a tax credit, that the individual in question has relinquished the rights to such tax credit, then, the claimant is entitled to the same tax credit for the child as if the child were his/hers. ***(3)***

Full-time instruction

The references to a child receiving full-time instruction at an educational establishment include a child undergoing an apprenticeship in a trade or profession, provided the full-time training lasts a minimum period of 2 years. An inspector may request the employer to furnish any details in respect of such training. ***(4)***

Consultation

The Revenue Commissioners may consult with the Minister for Education and Skills where a question arises as to whether an allowance under this section should be granted in respect of a child over 21 who had become permanently incapacitated by reason of mental or physical infirmity from maintaining himself/herself after reaching 21 but while receiving full-time instruction. ***(5)***

Two or more claimants

Where for any year of assessment 2 or more individuals would be entitled to relief in respect of the same child the following provisions apply- ***(6)***

- only one tax credit is to be made per child,

- where the child is maintained by one parent only, that parent is entitled to claim such tax credit,
- where the child is maintained by both parents, each parent is entitled to claim such part of such tax credit as is proportionate to the amount expended by him/her on the maintenance of the child, and
- in ascertaining, for the purposes of entitlement to the tax credit, whether a parent maintains a child and, if so, to what extent, any payments made by the parent for or towards the maintenance of the child which the parent is entitled to deduct in computing his/her own total income for tax purposes is treated as not being a payment for or towards the maintenance of the child.

466 Dependent relative tax credit

Summary

This section sets out the dependent relative tax credit.

Details

This section provides for the granting of a tax credit of €305 to a person who proves for any year of assessment that he or she maintains at his/her own expense any person — ***(1) & (2)***

(a) being —

- a relative of the claimant, or of the claimant's spouse or civil partner, who is incapacitated by old age or infirmity from maintaining himself/herself,
- the widowed father or widowed mother of the claimant or of the claimant's spouse or civil partner, or a parent of the claimant's civil partner who is a surviving civil partner, whether incapacitated or not, or
- a child of the claimant or a child of the civil partner of the claimant, living with the claimant on whose services the claimant, by reason of old age or infirmity, has to depend,

and

(b) whose income does not exceed by more than €280 the aggregate of the payments to which an individual is entitled in respect of an old age contributory pension payable at the maximum rate who —

- has no dependants,
- is over 80 years,
- is living alone, and
- is ordinarily resident on an island.

Where 2 or more individuals jointly maintain a dependent relative, the tax credit is divided between such individuals in proportion to the amounts expended by each individual in maintaining that relative. ***(3)***

466A Home carer tax credit

Summary

This section provides for a tax credit of €1,950 for married couples and civil partners where one spouse or civil partner works at home to care for children, the aged and incapacitated persons.

Details

Definitions

"dependent person" means a person (other than the spouse or civil partner of the qualifying claimant) who lives with a qualifying claimant and who is – ***(1)***

- a child in respect of whom Social Welfare child benefit is received by the qualifying claimant or by his or her spouse or civil partner,
- a person aged 65 years or more, or
- a person who is permanently incapacitated by reason of mental or physical infirmity.

"qualifying claimant" means a person —

- assessed to tax under the joint assessment rules of ***section 1017 or 1031C***, and
- who, or whose spouse or civil partner (described as the "carer spouse" or "carer civil partner") cares for one or more dependent persons.

"relative" includes a relation by marriage and a person of whom that claimant is or was the legal guardian.

The relief

Where an individual proves for any year of assessment that he/she is a qualifying claimant, the person will be entitled for that year to a tax credit of €1,950. ***(2)***

Where the "dependent person" is a relative of the qualifying claimant or the claimant's spouse or civil partner he/she shall be regarded as residing with the qualifying claimant if — ***(3)***

- the relative lives in close proximity to the qualifying claimant (next door, on the same property or within 2 kilometres of each other),
- a direct system of communication exists between the qualifying claimant's residence and the residence of the relative.

Only one home carer's tax credit will be allowed irrespective of the number of dependent persons being cared for and only one qualifying claimant (the person with whom the care recipient normally resides) is entitled to the tax credit in respect of any dependent person. ***(4)&(5)***

Where in any year of assessment the carer spouse or carer civil partner is entitled to an income in his/her own right (disregarding the Social Welfare Carer's Benefit and Carer's Allowance) exceeding €7,200 in that year, the tax credit is reduced by one half of the amount of that excess. ***(6)***

The home carer's tax credit will be granted for a year of assessment notwithstanding the income of the carer spouse or civil partner exceeds the permitted limit (€7,200), where the claimant qualified for the tax credit in the immediately preceding year, but it shall not exceed the amount of the tax credit granted in the immediately preceding year. This provision does not apply to succeeding years of assessment. ***(7)***

A person may not avail of both the home carer's tax credit and the increased standard rate tax band for certain two earner couples (***section 15(3)***) but may opt for whichever is the more beneficial for a particular year. ***(8)***

467 Employed person taking care of incapacitated individual

Summary

This section provides for a deduction from total income for family members who employ a carer to look after an incapacitated relative. Tax relief is available in respect of expenditure up to €75,000 (€50,000 prior to 1 January 2015) in each case of an incapacitated person.

Where two or more persons employ the carer, the allowance of €75,000 is apportioned between them. Carers may be employed on an individual basis or through an agency.

Details

Definition

"qualifying individual", in relation to an individual, includes a relative, a civil partner or a relative of a spouse or civil partner. ***(1)***

"relative" includes, in addition to the usual persons covered by the term relative (namely, blood relations), a civil partner, a relation by marriage or civil partnership and a person in respect of whom the individual is and was the legal guardian.

The relief

Where an individual proves, for a year of assessment— ***(2)***

- that, throughout the year of assessment, he/she or his/her relative was totally incapacitated by physical or mental infirmity, and
- that, for the year of assessment, the individual or, where a couple are jointly assessed under ***section 1017 or 1031C***, the individual's spouse or civil partner, has employed a person, either on an individual basis or through an agency, to take care of the incapacitated person,

then the individual, in computing taxable income, is entitled to a deduction from total income of the lesser of €75,000 and the cost of the care in respect of each such incapacitated person.

The relief may be granted in the first year in which the individual proves that the person becomes incapacitated provided all other conditions of the section are met ***(2A)***

Where two or more individuals are, under this section, entitled to a deduction in respect of the same incapacitated person, the total of the deductions granted to the individuals cannot exceed €75,000. Also, the deduction of €75,000 is apportioned between the individuals in proportion to the amounts borne by each individual in employing the carer. ***(3)***

Where a deduction is allowed under this section, the claimant is not entitled to either the incapacitated child tax credit (***section 465***) or the dependent relative tax credit (***section 466***) in respect of the carer. ***(4)***

468 Blind person's tax credit

An individual is entitled to a tax credit where he/she proves, for any year of assessment, that for the whole or part of the year of assessment — ***(2)***

- he/she was blind, or
- his/her spouse or civil partner was blind and the couple are jointly assessed under ***section 1017*** or ***section 1031C*** for the year of assessment.

The tax credit is €1,950 for a year of assessment for an individual claimant. The tax credit is €3,900 where, for a year of assessment, a husband and wife are both blind, or both civil partners are blind and are jointly assessed under ***section 1017*** or ***section 1031C*** as the case may be.

A "blind person" is a person whose central visual acuity does not exceed 6/60 in the better eye with correcting lenses, or whose central visual acuity exceeds 6/60 in the better eye or in both eyes but is accompanied by a limitation in the fields of vision that is such that the widest diameter of the visual field subtends an angle no greater than 20 degrees. ***(1)***

469 Relief for health expenses

Summary

An individual is entitled to a deduction from total income where he/she proves, for any year of assessment, that he/she has paid qualifying health expenses incurred in the provision of health care. Health expenses do not qualify for relief under this section where they are, or are to be, reimbursed from some other source.

Details

Definitions

"appropriate percentage" in relation to a year of assessment, means a percentage equal to the standard rate of tax for that year. ***(1)***

"educational psychologist" is a psychologist who has expertise in the education of students.

"health care" is the prevention, diagnosis, alleviation or treatment of an ailment, injury, infirmity, defect or disability, and includes pregnancy care but does not include-

- routine ophthalmic treatment,
- routine dental treatment, or
- cosmetic surgery or similar procedures, unless the surgery or procedure is necessary to ameliorate a physical deformity arising from, or directly related to, a congenital abnormality, a personal injury or a disfiguring disease.

"health expenses" are health care expenses representing the cost of —

- the services of a practitioner, ***(a)***
- diagnostic procedures carried out on the advice of a practitioner, ***(b)***
- maintenance or treatment necessarily incurred in connection with the services or procedures referred to in ***paragraph (a)*** or ***(b)***, ***(c)***
- drugs or medicines supplied on the prescription of a practitioner, ***(d)***
- the supply, maintenance or repair of any medical, surgical, dental or nursing appliance used on the advice of a practitioner, ***(e)***
- physiotherapy or similar treatment prescribed by a practitioner, ***(f)***
- orthoptic or similar treatment prescribed by a practitioner, ***(g)***
- transport by ambulance, or ***(h)***
- as respects a person who is permanently incapacitated by reason of mental or physical infirmity and who is either under the age of 18 years, or if over 18 years is in full time education — ***(i)***
  - educational psychological assessment carried out by an educational psychologist,
  - speech and language therapy carried out by a speech and language therapist.

"practitioner" is a doctor or dentist registered in the appropriate register under the Medical Practitioners Act, 2007 or the Dentists Act, 1985 and, in relation to health care provided outside the State, includes a person entitled under the laws of the country in which the care is provided to practice medicine or dentistry in that country.

"routine dental treatment" is the extraction, scaling and filling of teeth and the provision and repairing of artificial teeth or dentures.

"routine ophthalmic treatment" is sight testing and advice as to the use of spectacles or contact lenses and the provision and repairing of spectacles or contact lenses.

"specified amount" in relation to a year of assessment, means the amount of expenditure which qualifies for income tax relief in accordance with this section.

Relief

Where an individual proves for any year of assessment that he/she has paid health expenses, he/she is entitled to a deduction from total income of an amount equal to the amount proved to have been paid. For all years up to and including 2008 relief will be granted at an individual's marginal rate of tax. With effect from 1 January 2009, relief will be allowed at the standard rate of tax, with the exception of expenditure incurred on nursing home fees which will continue to be allowed at an individual's marginal rate of tax for 2009 provided the nursing home provides nursing care on site on a 24-hour per day basis. ***(2)(a)***

Where an individual receives or is entitled to receive State support under the Nursing Homes Support Scheme Act 2009 relief may be granted in respect of any contribution made by the individual under the heading of health expenses. ***(2)(b)***

Tax relief is not allowable in respect of financial support received by an individual under the Nursing Homes Support Scheme Act 2009. ***(2)(c)***

Deemed expenditure

Health expenses paid by a married person or by a civil partner are treated as if that person's spouse or civil partner paid them only where the spouse/civil partner is assessed to tax on their joint income in accordance with ***section 1017 or 1031C*** **as the case may be.** The effect of this is to allow relief in respect of expenses paid by the non-assessable spouse or other civil partner. ***(3)(a)***

Any expenses paid out of the estate of a deceased person by his/her executor or administrator are treated as having been paid by the deceased person immediately before his/her death. ***(3)(b)***

Exclusion of reimbursed expenses

Health expenses paid do not qualify for relief under this section where they are or are to be made good by any public or local authority or under any contract of insurance or by way of compensation or some other means. ***(3)(c)***

Election for year in which relief is taken

Where an individual makes a claim for a year of assessment and after the end of that year the claimant pays expenses in relation to health care provided in that year, the claimant may elect to have such payment allowed in the year in which the claim is made and not for the year in which the payment is actually made. If this election is made, any deduction for health expenses paid in subsequent years must also be taken on the same basis. ***(5)***

Claims

The claim for relief must be made on the appropriate form and must be accompanied by all other relevant documents required to substantiate the claim. The relief is given by way of repayment of tax. ***(6)***

470 Relief for insurance against expenses of illness

Summary

This section provides relief at the standard rate of income tax for any year of assessment where an individual proves that in the year of assessment he/she incurred expenditure under a contract of insurance which provides specifically for the reimbursement or discharge of

actual health expenses (as defined in ***section 469***) or of non-routine dental expenses of the individual, the individual's spouse or civil partner, or the children or other dependants of the individual or of the individual's spouse or civil partner. Since 6 April 2001, the relief operates under a relief at source (TRS) system, that is, the subscriber can deduct the relief from the gross premium due. The amount deducted is refunded by the Revenue Commissioners to the authorised insurer.

Details

Definitions

"appropriate percentage" is a percentage equal to the standard rate of income tax for a year of assessment. ***(1)***

"authorised insurer" is —

- any undertaking entered in the Register of Health Benefits Undertakings which is lawfully carrying on health insurance in the State, and in particular cases, an undertaking authorised pursuant to the Third EU Directive on Non-Life Insurance where a policy of health insurance was taken out when the subscriber was not resident in the State but resident in another EU State; and
- any undertaking authorised to carry on insurance business which provides dental insurance policies.

"child" means anyone under the age of 21, provided that the policy charged in respect of that person is at a reduced rate in accordance with section 7(5) of the Health Insurance Act 1994.

"relevant contract" is a contract of insurance which provides specifically (whether in conjunction with other benefits or not) for the making good, in whole or in part, of actual health expenses (within the meaning of ***section 469***) or of dental expenses other than routine dental expenses within the meaning of that section.

"relievable amount" determines the amount of the insurance premium which will qualify for relief.

- Where the premium covers only the making good of expenses covered in the definition of "relevant contract", the whole of the premium qualifies. If some other benefit in addition to such re-imbursement were covered by the premium, an apportionment will be necessary.
- Relief is not allowed in respect of payments in so far as they are referable to benefits other than the making good of the expenses referred to in the definition of "relevant contract".

provided that, in respect of a relevant contract renewed or entered into on or after 16 October 2013, the relievable amount in respect of any payment made under a relevant contract, in respect of any 12 month period covered by that contract, shall not exceed the aggregate of the relievable amount attributable to each adult or each child on the policy up to a maximum of €1,000 per adult and €500 per child, and where the contract is for a period of less than 12 months, or terminated before the end of the [period, the relievable amount is reduced proportionately.

Thus, a payment which secures a weekly sum during illness does not qualify for relief under this section although it may qualify for relief under ***section 471***. Where a payment covers some other benefit or benefits in addition to the making good of such expenses, an apportionment will be necessary. An apportionment would also have to be made of payments to an organisation (for example, a trade union) where the benefits of membership include insurance which would be within the scope of the section.

Where, for the years of assessment 2009-2012, a payment under a contract of insurance qualifies for age-related tax credit under ***section 470B***, the relievable amount is reduced by the amount of the age-related tax credit due under that section.

For the years 2013 and following, where a risk equalisation payment is made in consequence of a claim made under a policy, the risk equalisation payment is disregarded for the purposes of determining the relievable amount.

Relief

Relief is granted under the section to an individual for any year of assessment where he/she or, if the individual is married or in a civil partnership and jointly assessed under ***section 1017 or 1031A***, the individual's spouse or civil partner has made a payment to an authorised insurer under a relevant contract. Subject to the operation of the TRS system from 6 April 2001, the person making the payment is entitled in computing his/her income tax liability for that year of assessment to have that liability reduced (other than his/her tax liability in respect of tax withheld from annual payments under ***section 16(2)***) by an amount equal to the relievable amount under the relevant contract multiplied by the standard rate of tax for the year, subject to such a reduction being limited to reducing that liability to nil. ***(2)***

The reference to ***section 16(2)*** in this subsection ensures that tax deducted from annual payments is retained in charge against the person deducting it and the tax deducted is not diluted by the relief provided by the section.

TRS system

With effect from 6 April 2001 where a person is entitled to relief under ***subsection (2)*** in respect of a premium paid on or after that date, the person obtains the relief by deducting income tax at the standard rate from the relievable amount. ***(3)(a)***

The authorised insurer— ***(3)(b)***

(i) regards the net amount of premium as discharging the person's full liability in respect of the insurance cover, and

(ii) may make a claim to recover from the Revenue Commissioners the equivalent of the amount retained by the subscriber.

Bar on double relief

If relief is given under this section, no relief will be given or allowed in respect of the same payment under any other provision of the Income Tax Acts, with the exception of any age-related tax credit due under ***section 470B*** in respect of the payment. ***(4)***

Administration of relief

The Revenue Commissioners shall make regulations in respect of the administration of this section particularly the operation of the TRS system. Every such regulation must be laid before Dáil Éireann. ***(5)***

Where an amount of a refund is paid to an authorised insurer to which there is no entitlement, the amount is to be repaid by the insurer. ***(6)***

470A Relief for premiums under qualifying long-term care policies

Summary

This section provides tax relief in respect of premiums on qualifying insurance policies designed to cover – in whole or in part – future care needs of individuals who are unable to perform at least two activities of daily living or are suffering from severe cognitive impairment. The relief is given at the standard rate of income tax and operates under a relief at source system, that is, the subscriber can deduct the relief from the gross premium due. The amount deducted will be refunded by the Revenue Commissioners to the insurer.

Benefits payable under a qualifying policy will not be taxable. Qualifying policies, which must be approved by the Revenue Commissioners, may be taken out by an individual in relation to himself or herself, his or her spouse and children and other relatives. This section will not apply for the year of assessment 2010 and subsequent years of assessment.

Definitions

Some of the more important are — ***(1)***

"activities of daily living" means the normal activities of washing, dressing, feeding, toileting, mobility (moving around) and transferring (from bed to chair);

"long-term care services" means necessary diagnostic, preventive, therapeutic, curing, treating, mitigating and rehabilitative services as well as maintenance or personal care services carried out by or on the advice of a practitioner;

"maintenance or personal care services" means any needed assistance with any of the disabilities as a result of which an individual is a "relevant individual";

"practitioner" means a registered medical doctor;

"qualifying individual" is the proposer under the policy of insurance or his/her spouse or children or a relative of the proposer or of his/her spouse;

"qualifying insurer" means a life assurance undertaking authorised in the State or another EU state or under the EEA Agreement;

"qualifying long-term care policy" means a policy providing for reimbursement of long-term care services expenses for a relevant individual and which is approved of by the Revenue Commissioners in accordance with the section;

"relevant individual" means a qualifying individual under a qualifying long-term care policy who is medically certified as being unable to perform for at least 90 days at least 2 activities of daily living or who requires substantial supervision because of severe cognitive impairment.

Registration of insurers

A person will not be a qualifying insurer until that person is entered in a register maintained by the Revenue for the purposes of the section and any associated regulations. Where the insurer is non-resident or not carrying on business in the State through a fixed place of business, it must appoint an agent in the State to discharge the insurer's duties and obligations under the section and the regulations and must notify the Revenue Commissioners accordingly. ***(2)***

Approval of policy

The Revenue Commissioners may not approve a policy for the purposes of the section unless they are satisfied as to the matters specified. These are that— ***(3)***

- the policy must only provide for the reimbursement or discharge of expenses of long-term care services for the relevant individual,
- the policy must only be terminable by the insurer on special terms listed in the policy,
- the policy requires that the individual must be tested by reference to at least 5 activities of daily living to determine if he/she is a relevant individual,
- the policy must not provide for any payments on termination, surrender or otherwise that can be paid or assigned, borrowed or pledged as collateral, and
- the policy must not be connected with another policy.

A policy may however provide for the payment of periodic amounts without regard to the expenses of the payment period.

The Revenue Commissioners may approve standard forms of policies. ***(4)***

Relief subject to declaration

An individual seeking the tax relief must first produce to the insurer a declaration which- ***(6)***

- is made and signed by the individual,
- is made in a form prescribed or authorised by the Revenue Commissioners,
- contains the declarer's full name, the address of his or her permanent residence and his or her PPS Number,
- declares that at the time the declaration is made that he or she is resident in the State, and that the beneficiary under the policy is a qualifying individual in relation to the individual, and
- contains an undertaking that if, at any time while the long-term care policy is in force, the individual ceases to be resident in the State he or she will notify the qualifying insurer accordingly.

Retention of declarations

Insurers must retain the declarations for a period of 6 years or 3 years after the policy ceases (whichever is the longer). The declarations may be called for, and inspected, by an inspector of taxes. ***(7)***

The relief

Relief is to be by way of deduction from the gross premium – which the insurer is obliged to allow – and the insurer will be reimbursed by the Revenue Commissioners for the amount of the deduction. ***(5) & (8)***

Administration of relief

The Revenue Commissioners shall make regulations dealing with the administration of the relief. ***(9)***

Where an amount is paid by the Revenue Commissioners to a qualifying insurer which is not due, it is to be repaid by the insurer. ***(10)***

Bar on double relief

Double tax relief in respect of the same payment is prevented. ***(11)***

The Revenue Commissioners may delegate their functions under the section – other than the making of Regulations. ***(12)***

This section will not apply for the year of assessment 2010 and subsequent years of assessment. ***(13)***

470B Age-related relief for health insurance premiums

Summary

This section provides for age-related tax credit in respect of health insurance premiums paid under relevant contracts renewed or entered into on or after 1 January 2009 but before 1 January 2013, in respect of each insured person aged 50 years and over.

The relief operates under a relief at source (TRS) system, that is, the subscriber can deduct the age-related tax credit from the gross premium due. The amount deducted is refunded by the Revenue Commissioners to the authorised insurer.

Details

Definitions

(1) "authorised insurer" is any undertaking entered in the Register of Health Benefits Undertakings which is lawfully carrying on health insurance in the State, and in particular cases, an undertaking authorised pursuant to the Third EU Directive on Non-Life Insurance where a policy of health insurance was taken out when the subscriber was not resident in the State but resident in another EU State, but excludes insurers offering dental insurance and also restricted membership undertakings within the meaning of section 2(1) of the Health Insurance Act 1994.

"employee" and "employer" have the same meanings, respectively, as in ***section 983***.

"excluded contract of insurance" means—

(a) a contract of insurance which comes within the meaning of paragraph (*d*) of the definition of "health insurance contract" in section 2(1) of the Health Insurance Act 1994 (i.e. certain international contacts of insurance), or

(b) a contract of insurance relating solely to charges for public hospital in-patient services.

"in-patient indemnity payment" has the same meaning as in section 2(1) of the Health Insurance Act 1994.

"insured person", in relation to a relevant contract, means an individual, the spouse or civil partner of the individual, or the children or other dependents of the individual or of the spouse of the individual, in respect of whom the relevant contract provides specifically, whether in conjunction with other benefits or not, for the reimbursement or discharge, in whole or in part, of actual health expenses (within the meaning of ***section 469***).

"PPS Number", in relation to an individual, means that individual's Personal Public Service Number within the meaning of section 262 of the Social Welfare Consolidation Act 2005.

"relevant contract" is a contract of medical insurance (not being an excluded contract of insurance) which provides for the making of in-patient indemnity payments and which specifically (whether in conjunction with other benefits or not) for the making good, in whole or in part, of actual health expenses (within the meaning of ***section 469***) of the individual, the individual's spouse, or the children or other dependants of the individual or of the individual's spouse.

"relevant year of assessment" means—

(a) the year of assessment 2009, 2010, 2011 or 2012, or

(b) where a payment made to an authorised insurer is a monthly or other instalment towards the payment of the total annual premium due under a relevant contract, and the payment of such an instalment becomes due and is made in the year of assessment 2013, the year of assessment 2013.

"relievable amount" determines the amount of the insurance premium which will qualify for the age-related tax credit. Where the premium covers only the making good of expenses covered in the definition of "relevant contract", the whole of the premium qualifies. If some other benefit in addition to such re-imbursement were covered by the premium, an apportionment will be necessary. Relief is not allowed in respect of payments in so far as they are referable to benefits other than the making good of the expenses referred to in the definition of "relevant contract".

"restricted membership undertaking" has the same meaning as in section 2(1) of the Health Insurance Act 1994 (i.e. undertakings that deal only with particular groups of employees - membership is confined to employees and retired employees and their dependants).

(2) The age-related tax credit applies to health insurance premiums paid under relevant contracts renewed or entered into on or after 1 January 2009 and before 1 January 2013, that qualify for relief under ***section 470***.

(3) Where an individual is entitled to age-related tax credit under this section, then, notwithstanding the bar on double relief in respect of the same payment set out in ***section 470(4)***, the age-related tax credit shall be given.

(4) Age-related tax credit is granted under this section where an individual or if the individual is married or a civil partner and jointly assessed under ***section 1017 or 1031C***, the individual's spouse or civil partner, has made a payment for a relevant year of assessment to an authorised insurer under a relevant contract renewed or entered into on or after 1 January 2009 but before 1 January 2013, in respect of an insured person aged 50 years or more. Subject to the operation of the TRS system, and to the provisions of ***subsection (5)***, the person making the payment is entitled in computing his/her income tax liability for that year of assessment to have that liability reduced (other than his/her tax liability in respect of tax withheld from annual payments under ***section 16(2)***) by an amount equal to the amount of the age-related tax credit(s) that the individual is entitled to, subject to such a reduction being limited to reducing that liability to nil.

The reference to ***section 16(2)*** in this subsection ensures that tax deducted from annual payments is retained in charge against the person deducting it and the tax deducted is not diluted by the relief provided by the section.

The amount of the age-related tax credit varies according to the age of the insured person on the date the relevant contract is renewed or entered into, on the basis set out in the Table to the subsection. The Table can be summarised as follows:

TABLE				
Age	**Amount of age-related tax credit** (Contract renewed / entered into between 1 January 2009 and 31 December 2009)	**Amount of age-related tax credit** (Contract renewed / entered into on or after 1 January 2010)	**Amount of age-related tax credit** (Contract renewed / entered into on or after 1 January 2011)	**Amount of age-related tax credit** (Contract renewed / entered into on or after 1 January 2012)
Aged 50 years and over but less than 55 years on the date the relevant contract is renewed or entered into, as the case may be	€200	€200	Nil	Nil
Aged 55 years and over but less than 60 years on the date the relevant contract is renewed or entered into, as the case may be	€200	€200	Nil	Nil

Aged 60 years and over but less than 65 years on the date the relevant contract is renewed or entered into, as the case may be	€500	€525	€625	€600
Aged 65 years and over but less than 70 years on the date the relevant contract is renewed or entered into, as the case may be	€500	€525	€625	€975
Aged 70 years and over but less than 75 years on the date the relevant contract is renewed or entered into, as the case may be	€950	€975	€1,275	€1,400
Aged 75 years and over but less than 80 years on the date the relevant contract is renewed or entered into, as the case may be	€950	€975	€1,275	€2,025
Aged 80 years and over but less than 85 years on the date the relevant contract is renewed or entered into, as the case may be	€1,175	€1,250	€1,725	€2,400
Aged 85 years and over on the date the relevant contract is renewed or entered into, as the case may be	€1,175	€1,250	€1,725	€2,700

Where the premium paid to an authorised insurer is a monthly or other instalment towards the payment of the total annual premium due under the relevant contract, the age-related tax credit is pro rated depending on the frequency of the instalments (for example, where the total annual premium is paid in monthly instalments, the age-related tax credit will be one twelfth of the annual amount).

The amount of age-related tax credit given in respect of an insured person cannot exceed the actual amount of the premium, or, where relevant, part of the premium, paid in respect of that person. ***(5)(a)***

This paragraph prevents an individual who pays, by way of instalment, an annual health insurance premium which falls due in 2011, and some of those instalments are made in 2012, from receiving any more age-related tax credit than he or she would have received if the annual premium had been paid in full in 2011. ***(5)(b)***

This paragraph provides that where an employer pays a health insurance premium for an employee, and the employee is chargeable to income tax on the perquisite, any excess amount of the age-related tax credit(s) and standard-rated relief available under ***section 470***, not required for set off against the income tax chargeable on the perquisite (in accordance with ***section 112*** and ***112A***) is not available for set off against income tax chargeable on any other income. ***(5)(c)***

Example

Gross premium		€2,500
Age-related tax credit		€500
		€2,000
Tax relief at standard rate		€400
Net Premium		€1,600

Taxation of perquisite

Gross premium		€2,500
at employee's marginal rate, say, 20%		€500
Tax credits due		
Age-related	€500	
Tax relief at standard rate	€400	€900
Excess		€400

This excess is not available for set off against income tax chargeable on any other income.

TRS system

Where a person is entitled to age-related tax credit(s) under ***subsection (4)*** in respect of a premium paid under a relevant contract renewed or entered into on or after 1 January 2009 but before 1 January 2012, the person obtains the relief by deducting an amount equivalent to the age-related tax credit(s) due. ***(6)(a)***

The authorised insurer— ***(6)(b)***

(a) regards the net amount of premium as discharging the person's full liability in respect of the insurance cover, and

(b) may make a claim to recover from the Revenue Commissioners the equivalent of the amount retained by the subscriber.

The entitlement to deduct an amount equal to the age-related tax credit(s) due from the payment made to the authorised insurer is in addition to the entitlement to deduct an amount in accordance with ***section 470(3)*** (an amount equal to the appropriate percentage (standard rate of tax) of the payment net of any age-related tax credit or age-related tax credits due). ***(6)(c)***

Where an individual makes a payment in respect of a premium due under a relevant contract renewed or entered into on or after 1 January 2009 but before the passing of the Health Insurance (Miscellaneous Provisions) Act 2009, the individual is deemed to have deducted and retained out of the payment an amount equal to the amount of the age-related tax credit(s) that the individual is entitled to under this section in respect of that payment. ***(6)(d)***

Administration of relief

The Revenue Commissioners shall make regulations in respect of the administration of this section particularly the operation of the TRS system. Every such regulation must be laid before Dáil Éireann. ***(7)***

Where an amount of a refund is paid to an authorised insurer to which there is no entitlement, the amount is to be repaid by the insurer. ***(8)***

471 Relief for contributions to permanent health benefit schemes

Summary

This section provides relief for premiums paid to a bona fide permanent health benefit scheme. The relief is confined to an amount not exceeding 10 per cent of the individual's total income for any tax year. Where the premium is paid by an individual's employer and is taxed on the individual as a perquisite, the premium is treated as having been paid by the employee and qualifies for relief. The relief is given as a deduction from total income.

Details

Definitions

"benefit" is a payment to a person under a permanent health benefit scheme in the event of loss or diminution of income due to ill health. ***(1)***

"permanent health benefit scheme" is any scheme, policy, contract or other arrangement approved by the Revenue Commissioners which provides for periodic payments to an individual in the event of loss or diminution of income due to ill health.

"contribution" is any premium paid or other periodic payment made to a scheme in consideration of the right to obtain benefits under the scheme. The contribution to the scheme must bear a reasonable relationship to the benefits secured by it.

Relief

Where an individual for a year of assessment proves that he/she pays a premium or other contribution in that year to a bona fide permanent health benefit scheme, he/she is entitled to a deduction from total income in respect of so much of the premium or other contribution as does not exceed 10 per cent of his/her total income. ***(2)***

Benefit in kind

Where a contribution is paid by an individual's employer and the amount paid is treated as a perquisite of the office or employment taxable on the individual under Schedule E, the contribution is treated as having been paid by the employee and the amount of the contribution, subject to the 10 per cent limit, qualifies for relief. ***(3)***

472 Employee tax credit

Summary

A tax credit (commonly known as the PAYE tax credit) is available to individuals in receipt of certain emoluments chargeable to tax under the PAYE system. The amount of the tax credit in 2025 is €2,000 or 20 per cent of the emoluments, whichever is the lesser. In the case of a married couple or civil partners, both of whom are working, each spouse or civil partner is entitled to a separate tax credit.

Details

Definitions

"appropriate percentage" is a percentage equal to the standard rate of income tax for a year of assessment. ***(1)(a)***

"emoluments" are emoluments to which ***Chapter 4*** of ***Part 42*** (that is, the PAYE system) applies or is applied. The exclusion of certain emoluments from the definition has the effect of denying the allowance to —

- proprietary directors, their spouses, civil partners, children and children of their civil partner,
- the spouse, civil partner, child or child of the civil partner, of the person paying the emoluments, and
- the spouse, civil partner, child or child of the civil partner, of a partner in a partnership.

These exclusions, however, do not apply to children or children of the civil partner, of proprietary directors or self-employed individuals in certain circumstances - see ***subsection (2)***.

"specified employed contributor" is a person who is an employed contributor for the purposes of the Social Welfare (Consolidation) Act, 2005, but does not include a person —

- who is an employed contributor for those purposes only by virtue of section 9(1)(b) of that Act (that is, every person, irrespective of age, who is employed in insurable (occupational injuries) employment), or
- to whom Article 81, 82 or 83 of the Social Welfare (Consolidated Contributions and Insurability) Regulations (S.I. No. 312 of 1996) applies.

"director" is —

- where a company is managed by a board of directors or other similar body, a member of that board or other body,
- where a company is managed by a single director or similar person, that director or similar person,
- where a company is managed by its members, a member of the company,

and includes any person who is or has been a director.

"proprietary director" is a director who is either the beneficial owner of, or is able directly or indirectly to control more than 15 per cent of the ordinary share capital of the company. For this purpose, any ordinary share capital of a company which is owned or controlled by a child or spouse, civil partner or child of a civil partner, of such a director or any ordinary share capital of a company which is owned or controlled by a trustee of a trust set up for the benefit of persons, including any such person or such director, is treated as owned and controlled by the director or employee. ***(1)(a) & (b)***

Children or children of a civil partner of proprietary directors and self-employed individuals

The exclusion from the definition of "emoluments" does not apply for any year of assessment to emoluments paid, in that year, to children or the children of a civil partner, of proprietary directors and self-employed individuals (other than such a child who is himself/herself a proprietary director) where certain conditions are met. The conditions are that — ***(2)***

- the individual is a specified employed contributor, or the employer, in relation to the emoluments paid to the child in the year of assessment, complies, in so far as they apply, with the requirements of the PAYE system;
- the terms of the employment are such as to constitute a full-time employment and the individual actually engages in the employment on a full-time basis. Accordingly, the child must throughout the year devote substantially the whole of his/her time to the employment (students and others employed on a part-time or temporary basis do not qualify for the deduction); and
- the emoluments from the employment in the year of assessment must not be less than €4,572.

Cross-frontier workers

Certain profits/gains received by an individual from an office or employment held or exercised outside the State are treated as emoluments for the purpose of the tax credit. The conditions which need to be satisfied are that — ***(3)***

- the income is chargeable to tax in the country in which it arises,
- the income is subjected on payment to a system of tax deduction which is similar in form to the Irish PAYE system,
- the income is chargeable to tax in full in this State under Schedule D, and
- the income would be emoluments within the meaning of ***subsection (1)*** if the office or employment was held or exercised in this State and the employer was resident in this State (this condition ensures that the tax credit can only be granted in respect of an office or employment which if held or exercised in the State would currently attract the tax credit).

Relief

Where for any year of assessment an individual proves that his/her total income consists in whole or in part of emoluments of €10,000 or more, the individual is entitled to a tax credit of €2,000. (i.e., €10,000 @ 20% = €2,000). Where an individual's income is less than €10,000, the tax credit is restricted to 20% of the income. For example, total income €7,000 @ 20% = 1,400 (max) PAYE Tax Credit. ***(4)***

In the case of a married couple or civil partners jointly assessed to tax ***under section 1017 or section 1031C***, each spouse or civil partner is entitled to this tax credit, or the appropriate percentage of their emoluments, whichever is the lesser.

Repayment

In the case of a child or the child of a civil partner of a proprietary director or self-employed individual who satisfies the conditions of ***subsection (2)***, the tax credit is given by way of repayment. ***(5)***

472A Relief for long-term unemployed

Note: This scheme and the relief under Section 88A has ceased for all employments commencing on or after 1 July 2013.

Summary

This section, together with ***section 88A***, provides tax incentives, for both employers and employees, to help the long-term unemployed to return to employment.

Qualifying employees may, in addition to their normal tax credits, claim an income deduction with child additions for the three-year period after taking up employment. For the first year, the additional deduction will be €3,810 plus €1,270 for each qualifying child. For the second and third years, the deduction is €2,540 and €1,270 respectively and the child additions are €840 and €425 respectively. The relief for an employee will, at the option of the employee, be allowed in the three-year period commencing with either the tax year in which the employment commences or the following tax year. Furthermore, an employee may change jobs once within that three-year period and retain the relief.

Both incentives apply in respect of individuals who are/have been

- unemployed for at least 12 months and in receipt of a specified social welfare payment or
- from the 1 January 2012 unemployed for at least 12 months and signing on for and entitled to credited contributions or

- in a category approved of for the purposes of the scheme by the Minister for Social, Community and Family Affairs with the consent of the Minister for Finance.

Details

Definitions

"the Act of 2005" means the Social Welfare Consolidation Act 2005.

"continuous period of unemployment" has the same meaning as in the Act of 2005, that is, any 3 days within a consecutive period of 6 days and any 2 such 6 day periods not separated by more than 52 weeks.

"director" and "proprietary director" have the same meanings as in ***section 472***.

"emoluments" also draws its meaning from ***section 472*** and basically means emoluments which qualify for the PAYE tax credit. Accordingly, proprietary directors and their spouses and the spouses of the self-employed are excluded from the relief. Children of proprietary directors and the self-employed may qualify for the relief if they are entitled to the PAYE tax credit.

"employment" means a PAYE employment.

"employment scheme" means a scheme or programme providing for the payment, either to an employer or an employee, of a grant, subsidy, etc by the State, a statutory body or any public or local authority in respect of an employment.

"qualifying child" has the same meaning as in ***section 462*** and any question as to whether a child is regarded as a qualifying child is determined on the same basis as it would be for the purposes of ***section 462*** and ***subsections (4)*** and ***(5)*** of that section apply accordingly.

"qualifying employment" is an employment which:

- commences on or after 6th April 1998 and before such day as the Minister for Finance may by order appoint.
- is of at least 30 hours duration per week and
- is capable of lasting at least 12 months

but it does ***not*** include

- an employment from which the previous holder was unfairly dismissed,
- an employment with an employer who had redundancies in the previous 26 weeks or
- an employment which is largely commission based.

"qualifying individual" means an individual who commences a qualifying employment and who —

(I) immediately prior to the commencement has been unemployed for the previous 12 months and in receipt of unemployment benefit, unemployment assistance or the one parent family allowance under the Social Welfare system in respect of a continuous period of unemployment of not less than 312 days,

(For the year 2012 and subsequent years an individual who is signing on for PRSI credits for at least 12 months qualifies for the relief) or

(II) is in any other category of persons approved of for the purposes of the section by the Minister for Social, Community and Family Affairs with the consent of the Minister for Finance. [The relief has been extended under this heading to persons in receipt of the Social Welfare Disability Allowance or Blind Persons pension for 12 months and to prisoners released under the Good Friday Agreement.],

and

was not previously a qualifying individual for the purposes of the relief.

It is to be noted therefore that an individual may be a qualifying individual for the purposes of the relief once and once only.

For the purposes of the definition of "qualifying individual", periods spent on, and payments received in respect of, certain activities, programmes or courses are deemed to be periods of unemployment and unemployment payments, respectively, for the purposes of the relief. These activities, programmes and courses are —

- FÁS non-apprenticeship training courses.
- the Community Employment Scheme.
- the Job Initiative programme.
- the "Workplace" 5 week job experience programme.
- the Back to Education Scheme administered by the Department of Social, Community and Family Affairs.

Sundays are not to be taken into account in calculating periods of unemployment.

Amount of deduction

A qualifying individual is entitled to a deduction from his or her total income – which may only be set against emoluments from a qualifying employment – as follows —

- Year 1 €3,810.
- Year 2 €2,540.
- Year 3 €1,270.

The deduction may be claimed for the tax year in which the qualifying employment commences or the following tax year.

Child additions

A qualifying individual with qualifying children is entitled, for the same three year period, to additions in respect of each qualifying child as follows —

- Year 1 €1,270.
- Year 2 €850.
- Year 3 €425.

Only one span of deductions will be allowed in respect of any one child. Where more than one qualifying individual is entitled to claim in respect of a qualifying child the deduction due for any year will be apportioned between them on the basis of the maintenance of the child or such other manner as they jointly advise the inspector.

Carry over of relief

If, within the three-year claim period, a qualifying individual ceases a qualifying employment, the balance of reliefs due may within that period, be carried over and used in one, and only one, other qualifying employment.

Other employment incentives

Where the employer or employee has or is benefiting under other employment schemes no relief will be due under this section to the employee (or under ***section 88A*** to the employer). In this connection, FÁS (non apprenticeship) training courses, the Community Employment Scheme, the Job Initiative Programme, the "Workplace" 5-week job experience programme and the Back to Education Scheme administered by the Department of Social, Community and Family Affairs are not regarded as employment schemes.

Claims for relief

Claims for relief are to be on forms provided by the Revenue Commissioners and must contain such information and other details as the Commissioners may reasonably require.

This Section ceased to have effect for all employments commencing on or after 1 July 2013.

472AA Relief for long-term unemployed starting a business

Summary

This section provides a tax incentive for individuals who are long term unemployed to start their own businesses. Qualifying individuals will be entitled to claim a deduction in arriving at total income up to an amount of the lower of €40,000 or the amount of Case I / II profits chargeable to tax in that year of assessment.

As this section provides for a deduction in arriving at Total Income, this relief is not a relief for USC or PRSI purposes.

Details

Definitions ***(1)***

"continuous period of unemployment" is linked to the definition in the Social Welfare Consolidation Act 2005. This definition provides that an individual can work up to 3 days a week and have that period count towards a period of continuous unemployment. In addition, if an individual who was unemployed takes up employment and subsequently becomes unemployed again, if that is within 12 months of the original period of unemployment then both periods are linked for the purposes of determining a period of unemployment.

"new business" is a new trade or a new profession which is set up between 25 October 2013 and 31 December 2018. A new trade or a new profession cannot have been previously carried on by another person. That is, it cannot be acquired through a purchase, and inheritance etc. It must be new economic activity.

"qualifying individual" is a person who has been continuously unemployed for a period of 12 months and in respect of that period:

- Entitled to crediting contributions, e.g. signing on but because of means testing they are not in receipt of any payments, or
- In receipt of :
    - Jobseeker's benefit
    - Jobseeker's allowance
    - One-parent family payment, or
    - Partial capacity payment

And who has not previously claimed relief under this section.

"qualifying period" means a period of 24 months beginning on the date the new business is started.

"unemployment payment" is defined as Jobseeker's benefit and Jobseeker's allowance. This definition is used to deem payments received by individuals on FAS or other training schemes to be payments which an individual can receive and still qualify for this relief.

Where an individual was in receipt of jobseeker's benefit or allowance and is on a State training scheme, like FÁS schemes, then the period spent on the training course will qualify as a period of unemployment. ***(2)***

Any payments received in relation to this training will be deemed to be jobseeker's benefit or allowance and so the individual will continue to meet the definition of a qualifying individual.

Sundays are not counted when looking at periods of unemployment.

A qualifying individual who has set up a new business will be entitled to a deduction in arriving at Total Profits of an amount calculated in accordance with sub-section (4). ***(3)***

Deduction ***(4)***

The deduction is equal to the lower of:

Profits X $\frac{\text{Months in the qualifying period also in the year of assessment}}{\text{Number of months in the basis period for the year of assessment}}$

Or

€40,000 X $\frac{\text{Months in the qualifying period also in the year of assessment}}{12}$

The effect of these calculations is that an individual can claim no more than €80,000 in total and no more than €40,000 in any one year of assessment.

Order of set-off ***(5)***

Relief under this section is given in priority to relief for losses carried forward under s.382 or to capital allowances granted under Part 9.

Limit of relief ***(6)***

A qualifying individual can only claim €40,000 in a year of assessment.

Chargeable person ***(7)***

A person claiming relief under this section is a chargeable person who must file a tax return.

472AB Earned Income Tax Credit

Summary

An Earned Income tax credit is available to individuals in receipt of earned income (other than income that qualifies for the Employee (PAYE) tax credit). The amount of the tax credit is €2,000 or 20 per cent of the qualifying earned income, whichever is the lesser. However, the combined Earned Income tax credit and Employee (PAYE) tax credit (s.472), in relation to an individual, cannot exceed €2,000.

In the case of a married couple or civil partners, both of whom have income, each spouse or civil partner is entitled to a separate tax credit.

Details

Definitions

"appropriate percentage" is a percentage equal to the standard rate of income tax for a year of assessment. ***(1)***

"qualifying earned income" means earned income (as defined in s3) but does not include income that is used in determining the Employee (PAYE) tax credit (s472).

Relief ***(2)***

This subsection deals with the determination of the tax credit due.

Paragraph (a) provides that the credit due to an individual in respect of his or her own income is the lower of €2,000 and the appropriate percentage (currently 20%) of the qualifying earned income, and

Paragraph (b) provides that, where the individual is assessed under joint assessment in respect of his or her spouse's or civil partners income, the credit due to the assessable spouse is computed on the income of his or her spouse or civil partner and is the lower of €2,000 and the appropriate percentage (currently 20%) of the qualifying earned income of his or her spouse or civil partner.

Interaction with Employee (PAYE)Tax Credit ***(3)***

Paragraph (a) provides, in relation to an individual's own income, that the aggregate of the tax credit under this section and any Employee (PAYE) tax credit is not to exceed €2,000, and

Paragraph (b) provides, in relation to the income of the individual's spouse or civil partner on which the individual is assessable under joint assessment, that the aggregate of the tax credit under this section and any Employee (PAYE) tax credit due in respect of the income of the individual's spouse or civil partner is not to exceed €2,000.

472B Seafarer allowance, etc.

Summary

The section provides for an allowance of €6,350 for certain seafarers. The allowance is conditional on a seafarer being at sea for at least 161 days in a tax year.

Details

Definitions ***(1)***

"international voyage" means a voyage beginning or ending in a port outside the State.

"Member State's Register" means essentially a shipping register for the registration of shipping in any EU Member State.

"sea-going ship" means a passenger or cargo ship registered in a Member State's Register. Fishing vessels are excluded.

"qualifying employment" means an employment the duties of which are performed on a sea-going ship on an international voyage.

"qualifying individual" is defined as an individual who has an agreement with the master of a ship and who holds a qualifying employment.

Absence for a day ***(2)(a)***

An individual is regarded as being absent from the State for a day if he or she is absent at midnight.

Drilling rigs at sea ***(2)(b)***

A drilling rig or platform at sea is regarded as a port outside the State for the purposes of the section. A voyage to such a rig (including rigs within the Irish continental shelf), therefore, qualifies as an international voyage for the purposes of the allowance.

Exclusions ***(3)***

The allowance is not available to State employees or employees of State-sponsored bodies or statutory boards. It is also not available in any case where the income is taxed under the "remittance basis" of taxation or where the income is subject to "split year" treatment. The latter applies where a taxpayer in the year of arrival in, or departure from, the State is

deemed resident for part of the year only and is thus already entitled to favourable tax treatment.

The allowance ***(4) & (4A)***

Where an individual makes a claim and satisfies an authorised officer that he or she was absent from the State for at least 161 days in a tax year for the purposes of performing the duties of a qualifying employment, he or she is entitled to a deduction of €6,350 against the income from the qualifying employment. The allowance cannot be set against other income of the individual or against the income of his or her spouse.

Bar on foreign earnings deduction ***(5)***

During the period from 6 April 1994 to 31 December 2003 seafarers could claim either seafarers relief under this section or the foreign earnings deduction under section 823 but not both. This choice only arose for seafarers on voyages to destinations outside the UK, as the foreign earnings deduction did not apply to periods of absence on direct visits to the UK.

The foreign earnings deduction provided by section 823 ceased on 31 December 2003.

Qualifying employment ***(6)***

For the purposes of the definition of 'qualifying employment' any duties not performed on board a ship on an international voyage which are merely incidental to the duties which are performed on board a ship on an international voyage may be treated as having been performed on board the sea-going ship.

472BA Fisher tax credit

Summary

This section gives a tax credit of €1,270 to fishers who spend at least 80 days per year engaged in sea-fishing.

Details

Definitions

"aquaculture animal" means farmed fish at all life stages and is taken from EU Council Directive 2006/88/EC. ***(1)***

"day at sea" means a cumulative period of 8 hours within any 24 hour period during which the fisher undertakes one or more fishing voyages;

"fisher" means any person engaging in fishing on board a fishing vessel;

"fishing vessel" means a vessel which is—

(a) registered on the European Community Fishing Fleet Register in accordance with Commission Regulation (EC) No 26/2004 of 30 December 2003 , and

(b) is used solely for the purposes of sea-fishing;

but does not include a vessel that is engaged in fishing or dredging solely for scientific, research or training purposes.

"fishing voyage" means a fishing trip commencing with a departure from a port for the purpose of fishing, and ending with the first return to a port thereafter upon the conclusion of the trip, but a return due to distress only shall not be deemed to be a return if it is followed by a resumption of the trip;

"sea-fish" means fish of any kind found in the sea, whether fresh or in other condition, including crustaceans and molluscs, but does not include salmon, fresh water eels or aquaculture animals;

"sea-fishing" means fishing for or taking sea-fish.

A fisher who has spent at least 80 qualifying days at sea in a year actively engaged in sea-fishing shall be entitled to a tax credit of €1,270. ***(2)***

A fisher may not claim the Seafarers Allowance (section 472B) in the same year as the fisher tax credit. ***(3)***

The tax credit is available to individuals who are resident in the State regardless of whether they are PAYE employees or self-assessed individuals. ***(4)***

472BB Sea-going naval personnel credit

Summary

This section provides for a tax credit of €1,500 for the years of assessment 2021 to 2029 inclusive, available to permanent members of the Irish Naval Service who spent at least 80 days at sea on a naval vessel in the relevant period for each respective year of assessment. A credit amounting to €1,270 was available in respect of the 2020 year of assessment.

Details

Definitions ***(1)***

"day at sea" means a cumulative period of 8 hours within any 24-hour period on patrol at sea on board a naval vessel;

"naval vessel" means a naval patrol vessel owned by the Minister for Defence;

"qualifying individual" means a permanent member of the Irish Naval Service who has spent at least 80 days at sea in a relevant period performing the duties of his or her employment;

"relevant period" in relation to a year of assessment, means the immediately preceding year of assessment.

Where a permanent member of the Irish Naval Service spent at least 80 days at sea in 2019 on board an Irish naval vessel, they shall: ***(2)***

(a) be entitled to a tax credit of €1,270 in 2020, and

(b) shall not be entitled to the Seafarer's Allowance (section 472B) or the Fisher Tax Credit (section 472BA) in 2020.

Where a permanent member of the Irish Naval Service spent at least 80 days at sea in the years 2020 to 2028 inclusive on board an Irish naval vessel, they shall: ***(3)***

(a) be entitled to a tax credit of €1,500 in the years of assessment 2021 to 2029 respectively, and

(b) shall not be entitled to the Seafarer's Allowance (section 472B) or the Fisher Tax Credit (section 472BA) in the years of assessment 2021 to 2029 inclusive.

472C Relief for trade union subscriptions

Summary

This section provides for an annual flat rate allowance of €350 at the standard rate of tax in respect of trade union subscriptions. The full allowance is available annually regardless of the actual amount of the subscription paid. Any person who is a member of a trade union at any time in a particular year will be entitled to the allowance though membership of more than one trade union in the same year will still only entitle the person to one allowance.

The relief is abolished for the tax year 2011 and each subsequent tax year.

Details

Definitions

"appropriate percentage" which means the standard rate of income tax; ***(1)***

"specified amount" in relation to an individual for a tax year means €350;

"trade union" means the holder of a negotiating licence under the Trade Union Act, 1941, an excepted body within the meaning of the same Act and the various representative bodies of the Garda Síochána and the Defence Forces as set out.

Relief

Relief is available in a particular year if the individual is a trade union member at any time in that year. Where relief is due under the section, the income tax to be charged on the individual or the individual's spouse, other than under ***section 16(2)***, is to be reduced by the lesser of — ***(2)***

- the appropriate percentage of the specified amount, or
- the amount which reduces the income tax to nil.

The relief for 2001 (the short tax year) is to be added to the relief for 2002. Where the 2001 relief cannot be fully used in 2002 the unused element may be set back against 2001 tax. The amount to be set back is the lesser of- ***(3) & (5)***

- the amount set back, or
- the amount which reduces the 2001 tax to nil.

Membership of more than one trade union

A person is entitled to only one allowance per year even though they may during the year be members of more than one trade union. ***(6)***

Information

To facilitate the giving of the relief to an individual, employers and trade unions may, when requested by Revenue and where such information is available to them, furnish to Revenue certain information regarding trade union membership i.e.- ***(7)***

- the name and address of the individual,
- the name of the trade union of which the individual is a member,
- the Personal Public Service Number (PPSN) of the individual, and
- the name and address of the employer.

For the purpose of a return by a trade union as above, an employer may furnish to the trade union, on request, the names and PPSNs of his or her employees who are members of the trade union concerned and who are having their trade union subscription deducted from pay. ***(7A)***

Information furnished by employers or unions under the section will be used only to facilitate giving the relief and not for any other purpose. ***(8)***

The relief is abolished for the tax year 2011 and each subsequent tax year. ***(9)***

472D Relief for key employees engaged in research and development activities

Summary

This section provides relief for key employees engaged in research and development activities. The relief operates so as to allow such an employee avail of a reduction in his or her income tax liability as a result of the surrender by his or her employer company of some

or all of the research and development credit to which that company was entitled (under ***section 766*** and ***section 766C***).

The section also provides that employees claiming the relief can only benefit from the reduction to the extent that the amount of income tax payable on his or her total income for the tax year of claim is not less than 23 per cent. The relief does not impact on an employee's liability to the Universal Social Charge or to PRSI.

Details

Definitions

(1) "associated company", in relation to a relevant employer, means a company which is that employer's associated company within the meaning of ***section 432***.

"control" has the same meaning as in ***section 432***.

"emoluments" has the same meaning as in ***Chapter 4*** of ***Part 42*** (Schedule E emoluments).

"key employee" means an individual who –

- is not, and has not been, a director of his or her employer or an associated company of that employer and is not connected to such a director;
- does not, and did not, have a material interest in his or her employer or an associated company of that employer and is not connected to a person who has such a material interest, and

in the accounting period for which his or her employer was entitled to claim relief under ***section 766(2)*** or ***section 766C(1)***, performed 50 per cent or more (75 per cent or more for 2012) of the duties of his or her employment in the conception or creation of new knowledge, products, processes, methods or systems.

In addition, in order for an individual to be a key employee, 50 per cent or more (75 per cent or more for 2012) of the cost of his or her emoluments from his or her employer must qualify as expenditure on research and development under ***section 766(1)(a)*** in the accounting period for which that employer would be entitled to claim relief under ***section 766*** or ***section 766C(1)***.

"material interest", in relation to a company, means the beneficial ownership of or ability to control, directly or through the medium of a connected company or connected companies or by any other indirect means, more than 5 per cent of the ordinary share capital of the company.

"ordinary share capital", in relation to a company, means all the issued share capital (by whatever name called) of the company.

"relevant emoluments" means emoluments paid by a relevant employer to a key employee.

"relevant employer" means a company that employs a key employee and who is entitled to relief under ***section 766(2)***.

"tax year" means a year of assessment for income tax purposes.

The Relief

(2) Where a company surrenders all or part of its research and development tax credit to a key employee, that employee can, subject to the conditions set out in ***subsection (3)***, claim to have the income tax charged on his or her relevant emoluments from that company for a tax year reduced by the amount surrendered.

The tax year for which the claim can be made by a key employee is the tax year following the tax year in which the accounting period of the relevant employer company ends. That

accounting period being the accounting period in respect of which the employer surrenders an amount under ***section 766(2A)*** or ***section 766C(2)***.

Where for a tax year an employee is no longer a key employee of the company that surrendered the credit, but remains an employee of that company, he or she shall still be entitled to claim the credit for that tax year provided that he or she was a key employee in the tax year in respect of which the credit was surrendered and provided the employer was a relevant employer in that year. This allows for the fact that there is a time lapse between the company surrendering the credit and the employee using the surrendered credit.

Restriction – minimum effective rate

(3) The amount of relief that a key employee can claim in any tax year is limited by reference to his or her effective rate of tax for that year.

The amount surrendered to the key employee cannot reduce the amount of income tax payable on the total income of the employee (or the total income of his or her spouse/civil partner where joint assessment applies) to less than 23 per cent of such total income.

The restriction by reference to the effective rate applies equally in the years to which the relief is carried forward (see ***subsection (4)***).

Carry forward of Relief

(4) Where, as a result of the restriction in ***subsection (3)***, a key employee cannot claim the full amount of the credit surrendered by his or her employer in a tax year, the amount not claimed can be carried forward to reduce the income tax liability of the next tax year and each succeeding tax year until relief for the full amount has been claimed or until the key employee ceases to be an employee of the relevant employer.

Exemption from income tax

(5) The amount surrendered by a relevant employer to a key employee is exempt from income tax.

Tax Deducted/Remitted

(6) A key employee cannot have the tax charged on his or her emoluments reduced until all tax deducted under the PAYE system by his or her employer from emoluments paid to him or her for the tax year to which the claim relates have been remitted by the relevant employer to the Collector-General. This condition applies to any tax year in which the employee is claiming credit, either by reference to new credit granted in respect of a tax year or credit carried forward from a previous tax year.

Withdrawing of Relief

(7) Where for the tax year 2013 it is discovered that a key employee was not entitled to relief or part of the relief given under the section, or where it is discovered that the amount surrendered by his or her employer exceeded that which the employer was entitled to surrender, the key employee must pay to the Revenue Commissioners an amount equal to the excess relief claimed.

This subsection does not apply for the year 2014 and subsequent years. In those years, the tax foregone is recovered from the company instead of the employee. ***Section 766*** and ***section 766C,*** as appropriate, refers.

Excess Relief Granted

(8) Where for the tax year 2013, the employer company fails to advise a key employee of a change to the amount originally surrendered, such failure does not exempt the employee

from the obligation to pay to the Revenue Commissioners an amount equal to any excess relief claimed.

This subsection does not apply the year 2014 and subsequent years. In those years, the tax foregone is recovered from the company instead of the employee. ***Section 766*** or ***section 766C***, as appropriate, refers.

Return of Income

Any individual making a claim under this section shall be required to file a return of income for the year of assessment to which the claim relates. ***(9)***

For the year 2014 and subsequent years, an employee must file a tax return for all years in which he or she avails of a tax credit under this section, and not just the first year of claim. This is relevant to cases where an employee carries forward unused credit from one tax year to the next as is permitted by this section.

473 Allowance for rent paid by certain tenants

Summary

This section provides an allowance at the standard rate for persons who prove for a year of assessment that they have paid rent in respect of certain private tenancies which is their main residence. The relief takes the form of a reduction in income tax chargeable on an individual's income by an amount equal to the lowest of —

- the total of such payments multiplied by the standard rate of tax for that year;
- the specified limit (see below) multiplied by the standard rate of tax for that year;
- the amount that reduces the income tax of that person to nil (that is, it cannot create a repayment).

Details

Definitions

"appropriate percentage" means a percentage equal to the standard rate of tax. ***(1)***

"specified limit" is the maximum amount of the allowance provided by the section and to which the standard rate of tax is applied i.e. for year ended 31 December 2010-

(a) married, civil partners, widowed persons and surviving civil partners – €4,000; but if over 55 years €8,000;
(b) single persons – €2,000; but if over 55 years €4,000.

The table below sets out the amount of relief due at the standard rate of tax for years 2010 to 2018:

Tax Year	**Single Under 55** €	**Single Over 55** €	**Widowed/ Surviving civil partner/ Married/Civil partners under 55** €	**Widowed/ Surviving civil partner/ Married/Civil partners over 55** €
2010	2,000	4,000	4,000	8,000
2011	1,600	3,200	3,200	6,400
2012	1,200	2,400	2,400	4,800
2013	1,000	2,000	2,000	4,000
2014	800	1,600	1,600	3,200

2015	600	1,200	1,200	2,400
2016	400	800	800	1,600
2017	200	400	400	800
2018	0	0	0	0

"residential premises" is a property held under a tenancy agreement, being a building or part of a building used or suitable for use as a dwelling and land which the occupier has for his/her occupation and enjoyment with the building as its garden or grounds of an ornamental nature.

"rent" covers every type of periodic payment made in return for the use, occupation or enjoyment of residential premises. However, rent does not include any payment —

- for the maintenance or repair to residential premises for which in the absence of agreement to the contrary the tenant would be liable,
- relating to the provision of goods or services,
- relating to any right or benefit other than the bare right to use, occupy and enjoy the premises, or
- any part of the rent that is recoverable by the tenant or is subsidised from or by other persons.

"tenancy" includes any contract, agreement or licence in respect of which rent is paid, but does not include —

- a tenancy for a freehold estate or interest, or a tenancy for a definite period of 50 years or more,
- tenancies held from local authorities, Government Departments or the Office of Public Works, and
- tenancies where the tenants have the option of buying the dwelling for a nominal amount after payment of rent for a specified period.

No relief is due to individuals who commence renting on or after 8 December 2010. ***(1A)(a)***

Relief will continue to be allowed for the years 2010 to 2017 to individuals who on 7 December 2010 were paying rent under a tenancy. ***(1A)(b)***

Relief

The relief is available to an individual who proves for a year of assessment that in that year he/she has paid rent in respect of a residential premises which, during the period in respect of which the rent was paid, is his/her main residence. The relief takes the form of a reduction in his/her income tax liability (other than his/her liability for tax withheld from annual payments under ***section 16(2)***). The reduction is an amount equal to the lowest of — ***(2) & (3)***

- the total of such payments multiplied by the standard rate of tax for that year;
- the specified limit multiplied by the standard rate of tax for that year;
- the amount that reduces the income tax of that person to nil (that is, the relief cannot create a repayment).

The reference to ***section 16(2)*** ensures that tax deducted from annual payments is retained in charge against the person deducting the tax and that tax is not diluted by the reduction in tax in respect of this relief.

In the case of married couples or civil partners jointly assessed to tax under ***section 1017 or 1031C***, the relief is available irrespective of who pays the rent.

Apportionment

Any payment made partly for rent and partly for some other purpose is to be apportioned in order to determine the amount paid on account of rent. Any such apportionment may be made by an inspector to the best of his/her knowledge and judgment. ***(4)***

Payments

Payments in respect of rent for any period are treated as made in that period irrespective of when they are actually made. For example, if rent payments are made after the end of the year but are related to a period within that year, they are regarded as having been made within that year. Where the period in respect of which a rent payment is made straddles 2 years, the payment is to be apportioned on a time basis between each of the 2 years. ***(5)***

Information

The relief must be claimed and must be supported by certain information. The information required is a signed certificate and statement by the claimant, in a form prescribed by the Revenue Commissioners, setting out — ***(6)***

- the name, address and income tax number of the claimant,
- the name, address and income tax number or corporation tax number, as appropriate, of the person or body of persons entitled to the rent under the tenancy under which the rent was paid,
- the postal address of the premises in respect of which the rent was paid,
- full particulars of the tenancy under which the rent was paid.

Also required is a receipt or acknowledgement in respect of such rent.

Failure to supply any of the required information may be grounds for the refusal of a claim for relief. However, an inspector may waive the requirement that the claimant supply the name, address and income tax number or corporation tax number, as appropriate, of the person or body of persons entitled to the rent under the tenancy under which the rent was paid on receipt of satisfactory proof that the claimant's inability to supply the information is genuine. The inspector may also waive the requirement to supply a receipt or acknowledgement of rent paid on the submission by the tenant of details of the total rent paid for the relevant period and the name and address of the person or body of persons to whom the rent was paid.

Appeals

A person aggrieved by a decision of an inspector in relation to any question arising under ***subsection (4)*** or ***(6)*** may appeal to the Appeal Commissioners. Notice of appeal must be made in writing to the inspector within 30 days of receipt of the inspector's decision. The Appeal Commissioners are to hear and determine such an appeal in the same manner as if it was an appeal against an income tax assessment. ***(7)***

Landlord's obligations

A landlord is obliged within 7 days of being requested by the tenant to supply the tenant with a receipt of acknowledgement of the rent paid by the tenant in the year of assessment. The receipt or acknowledgement must be in writing and must contain — ***(8)***

- the name and address of the tenant,
- the name, address and income tax number or corporation tax number, as appropriate, of the person or body giving the receipt or acknowledgement, and
- full particulars of the amount of rent paid in the year of assessment and the period within that year in respect of which it is paid.

Regulations

The Revenue Commissioners may make regulations in connection with the operation of the relief. These Regulations are contained in the Income Tax (Rent Relief) Regulations, 1982 (S.I. No 318 of 1982). ***(9)***

Bar on double relief

A tenant is not entitled to obtain relief under this section and under another provision of the Income Tax Acts in respect of the same payment of rent. ***(10)***

473A Relief for fees paid for third level education, etc

Summary

This section provides relief for the payment of fees for third level education courses. The relief is granted at the standard rate of tax when an individual pays qualifying fees for an approved course whether on his or her own behalf or on behalf of another individual. Fees which are met from any other source e.g. grant or scholarship, are not allowable. Examination fees, administration fees, registration fees do not qualify for relief.

Details

Definitions

"academic year", in relation to an approved course, means a year of study commencing on a date not earlier than 1 August in a year of assessment;

"appropriate percentage", in relation to a year of assessment, means a percentage equal to the standard rate of tax for that year;

"approved college", in relation to a year of assessment, means —

(a) a college or institute of higher education in the State, which provides courses, approved for higher education grants or approved by the Minister for Education and Science;
(b) a university or similar institution of higher education in an EU Member State or in the United Kingdom which is maintained or assisted by recurrent grants from public funds of any EU Member State or of the United Kingdom or, is a duly accredited university or institution of higher education of that Member State or of the United Kingdom;
(c) a college or institution in another EU Member State or in the United Kingdom, which provides distance education in Ireland in courses, approved by the Minister for Education and Science;
(d) a university or similar institution of higher education in any country, including the United Kingdom, (other than Ireland and the EU Member States) which is maintained or assisted by public funds of that country or is a duly accredited university or institution of higher education of that country;

"approved course" is —

(a) a full or part-time undergraduate course provided by an approved college, which is at least two years in duration.
(b) a postgraduate course, based on a thesis or exam, lasting between one and four years provided by an approved college, which requires the individual to have a degree before undertaking the course.

"the Minister" means the Minister for Education and Science;

"qualifying fees" means the amount of fees chargeable in respect of tuition for an approved course which is approved by the Minister for Education and Science, with the consent of

the Minister for Finance, for the purposes of this section. For the tax year 2011 and subsequent tax years, the maximum annual relief for tuition fees (including the Student Contribution) is €7,000 @ 20% (standard rate) per individual per course.

The relief

Where an individual pays fees (on his or her own behalf or on behalf of another individual) in respect of any of the qualifying courses in a qualifying college, the tax to be charged on the individual, other than under ***section 16(2)***, is to be reduced by the lesser of —

(a) the appropriate percentage of the qualifying fees, and

(b) the amount required to reduce the tax charged to nil.

Except where separate assessment or single treatment applies, relief is given to an individual in respect of fees paid by a spouse or civil partner.

No tax relief will be given in respect of any fees where any sum in relation to the fees is received from any source whatever by means of grant, scholarship etc or in respect of any fees that is refunded or partly refunded by the college.

Where a claim is made by an individual and the qualifying fees, or part of the qualifying fees, relate to a full-time course or full-time courses –

For the year of assessment 2013 the first €2,500 is disregarded.

For the year of assessment 2014 the first €2,750 is disregarded.

For the year of assessment 2015 and each subsequent year of assessment the first €3,000 is disregarded

Where a claim is made by an individual and all the qualifying fees relate to a part-time course or part-time courses –

For the year of assessment 2013 the first €1,250 is disregarded.

For the year of assessment 2014 the first €1,375 is disregarded.

For the year of assessment 2015 and each subsequent year of assessment the first €1,500 is disregarded

Note: The disregard is based on a claim, the subject of which may be one or more students. The general effect of this approach to granting relief is that all claimants will get full tax relief on the Student Contribution for 2nd and subsequent students in their claim.

The Minister for Education and Science may withdraw approval in respect of any course or college where the course or college no longer meet the appropriate standard as laid down by the Minister. Notice of such withdrawal is to be published in Iris Oifigiúil.

An individual claiming the tax relief must provide a statement from the approved college setting out specified information in respect of both the course and college when making the claim for the tax relief.

The Revenue Commissioners may consult with the Minister for Education and Science on a question relating to any approved course or approved college.

The Minister for Education and Science must provide the Revenue Commissioners with details of all courses and colleges approved for the purpose of this section by 1 July each year together with details of the amount of fees qualifying in respect of each course for the academic year involved.

Where relief is given under the section in respect of a payment of fees, relief will not be given under any other provision of the Income Tax Acts in respect of that payment.

Where any fees that are the subject of a claim are refunded or partly refunded by a college, the individual by whom the claim was made must notify Revenue within 21 days that he or

she has received a refund. A person who fails to notify Revenue that a refund was received from the college is liable to a penalty €3,000.

473B Rent Tax Credit

Summary

This section provides for an income tax credit which is available to those who pay rent for their residential accommodation. This credit applies for the 2022 to 2025 years of assessment, inclusive. For the years of assessment 2024 and 2025, the value of the tax credit is equal to the lesser of 20 per cent of the qualifying payment made or €1,000 (€2,000 in the case of a jointly assessed couple).

Qualifying payments in respect of rent due for a claimant's principal private residence or 'second home' used to facilitate an individual's attendance at or participation in their employment, office holding, trade, profession or approved course, or for a property used by a claimant's child to facilitate his or her attendance at or participation in an approved course will, subject to satisfying the required conditions, qualify for the credit. The credit will be given on foot a claim being made to Revenue by the claimant.

Details

Definitions

"appropriate percentage", in relation to a year of assessment, means a percentage equal to the standard rate of tax for that year; ***(1)***

"approved course" has the same meaning as it has in section 473A;

"child" means a child of an individual, or a child of the individual's spouse or civil partner, who has not attained the age of 23 years at the commencement of the year of assessment during which he or she first enters an approved course;

"claimant" has the meaning given to it in subsection (2);

"landlord", in relation to a residential property, means the person for the time being entitled to receive (otherwise than as agent for another person) any payment on account of rent paid under a tenancy in respect of the residential property;

"payment on account of rent" means a payment made in return for the special possession, use, occupation or enjoyment of a residential property, but does not include -

(a) any portion of such payment which has been, or is to be, reimbursed, or otherwise funded by way of a subsidy provided –

(i) to the claimant, or

(ii) where the claimant is assessed to tax in accordance with section 1017 or 1031C in the year of assessment, to his or her spouse or civil partner,

or

(b) any itemised payment relating to-

(i) the cost of maintenance of, or repairs to, the property,

(ii) the provision of goods or services relating to any right or benefit other than the bare right to special possession, use, occupation or enjoyment of the property, or

(iii) a security deposit paid on commencement of the tenancy;

"PPS Number", in relation to an individual, means the individual's Personal Public Service Number within the meaning of section 262 of the Social Welfare Consolidation Act 2005;

"principal private residence" means a residential property occupied by an individual as his or her sole residence;

"qualifying payment" means a payment made on account of rent falling due in a year of assessment, where such payment has been made under a tenancy;

"relative" means a lineal ascendent, lineal descendent, brother, sister, uncle, aunt, niece or nephew;

"rent tax credit" has the meaning given to it in subsection (2);

"residential property" means-

(a) a building or part of a building located in the State which is used or suitable for use as a dwelling, and

(b) adjoining land which the occupier of a building or part of a building has for his or her own occupation and enjoyment with the building or part of a building as its gardens or grounds of an ornamental nature;

"specified amount", in relation to a year of assessment, means-

(a) €10,000, in the case of an individual who is assessed to tax in accordance with section 1017 or 1031C in the year of assessment, and

(b) €5,000 in all other cases;

"specified landlord" means-

(a) a Minister of the Government,

(b) the Commissioners of Public Works in Ireland,

(c) a housing authority within the meaning of the Housing (Miscellaneous Provisions) Act 1992, or

(d) an approved housing body within the meaning of the Housing (Regulation of Approved Housing Bodies) Act 2019;

"supported tenant" means, in relation to a tenancy, an individual who is -

(a) in receipt of-

(i) payment of a supplement towards the amount of rent payable by the individual in respect of his or her residence payable in accordance with regulations made under section 198 of the Social Welfare Consolidation Act 2005,

(ii) housing assistance, within the meaning of Part 4 of the Housing (Miscellaneous Provisions) Act 2014, or

(iii) social housing support, within the meaning of the Housing (Miscellaneous Provisions) Act 2009,

or

(b) residing in a residential property which has been designated as a cost rental dwelling within the meaning of Part 3 of the Affordable Housing Act 2021;

"tax reference number" means-

(a) in the case of an individual, his or her PPS Number and,

(b) in the case of a partnership or company, the reference number stated on any return of income, form or notice of assessment issued to the partnership or company, as the case may be, by the Revenue Commissioners;

"tenancy" means-

(a) any agreement, contract or lease which has been registered under Part 7 of the Residential Tenancies Act 2004, or

(b) any licence for the use, as a residence, of a room or rooms in an individual's principal private residence, where-

(i) there is no obligation under Part 7 of the Residential Tenancies Act 2004 for such licence to be registered, and

(ii) the licence has been commenced with the consent of the landlord,

but does not include any tenancy-

(I) which, apart from any statutory extension, is a tenancy for a freehold estate or interest or for a definite period of 50 years or more, or

(II) in which an agreement or provision exists under which any amount paid may be treated as consideration or part consideration, in whatever form, for the creation of a further or greater estate, tenancy or interest in the property concerned or any other property.

Entitlement to the credit

The rent tax credit will be available where an individual (to be known as the claimant): ***(2)***

(i) proves that he or she made a qualifying payment during the year of assessment,

(ii) that qualifying payment was made in respect of a residential property which was used by the claimant as his or her principal private residence during the period to which the payment relates, and

(iii) makes a claim in that regard.

The value of the credit will be the lower of:

(i) the qualifying payment made during the year of assessment at the standard rate of tax (currently 20%),

(ii) the specified amount (being €10,000 in the case of a jointly assessed individual, and €5,000 in all other cases) at the standard rate of tax (currently 20%), and

(iii) the amount which reduces the claimant's income tax to nil.

Therefore, the maximum credit due to an individual in respect of a year of assessment will be €1,000, or €2,000 in the case of a jointly assessed couple for 2024 and 2025.

Apportionment

Where a qualifying payment relates to a period which straddles two years of assessment the payment will be apportioned based on the proportion each part of the period has to the period as a whole. ***(3)(a)***

Where a qualifying payment has been apportioned to a year of assessment, that portion of the payment shall be deemed to have been made in that year of assessment. ***(3)(b)***

Jointly assessed couples

In the case of a couple who are jointly assessed to tax, any qualifying payment made by the non-assessable party will be deemed to have been made by the assessable party (the claimant). ***(4)***

Payments made in respect of residential property that is not the claimant's PPR

The credit may also be available where a claimant proves that he or she has made a qualifying payment in respect of a residential property which he or she uses, but which is not his or her principal private residence. ***(5)***

In such cases, the claimant will be entitled to the rent tax credit in respect of that qualifying payment where he or she:

(i) makes a claim in that regard, and
(ii) uses that residential property to facilitate his or her attendance at or participation in their trade, profession, employment, office holding or an approved course.

This provision also applies where the claimant is jointly assessed to tax and either the qualifying payment is made by his or her spouse or civil partner, or the residential property in respect of which the qualifying payment was made was used by his or her spouse or civil partner.

Exclusions

There are a number of exclusions from the credit, namely: ***(6)(a)***

(i) where the landlord is a specified landlord as defined in subsection (1), or
(ii) the claimant is a supported tenant as defined in subsection (1), or
(iii) where the claimant is a relative of the landlord (being an ancestral ascendent or descendent, sibling, uncle, aunt, niece or nephew). ***(6)(b)***

The exclusion under subsection (6)(b) applies subject to subsection (7).

Where a payment is received in respect of that property to which section 836 TCA (Allowances for expenses for members of the Oireachtas).

Related claimant and landlord exemption

Notwithstanding subsection (6)(b) the credit can be claimed in certain circumstances where the claimant and landlord are related. This will be the case where: ***(7)(a)-(c)***

(i) the relationship between the claimant and landlord is not that of parent and child, or vice versa, and
(ii) the tenancy is of a type that is required to be registered with the Residential Tenancy Board and complies with such requirement.

Rent payment made in respect of property use by the claimant's child

The credit may also be available where a claimant proves that he or she has made a qualifying payment in respect of a residential property which is used by his or her child as their principal private residence. In such cases, the claimant would be entitled to the rent tax credit in respect of that qualifying payment where: ***(8)***

(i) he or she makes a claim in that regard,
(ii) neither the parent nor the child are related to the landlord,
(iii) the child is participating in an approved course and using the residential property to facilitate his or her attendance at same, and
(iv) if the tenancy is of a type that is required to be registered with the Residential Tenancy Board that requirement is complied with.

This provision also applies where the claimant is jointly assessed to tax and either the qualifying payment is made by his or her spouse or civil partner, or the child concerned is a child of his or her spouse or civil partner.

A child for this purpose means an individual who has not attained the age of 23 at the commencement of the year of assessment during which he or she first enters an approved course.

Making a claim

Revenue will make an electronic process available to facilitate claims for the rent tax credit and claimants may be required to provide the following information when making a claim for the rent tax credit: ***(9)***

(i) the name, address (including the Eircode) and PPS Number of the claimant and his or her spouse or civil partner, where the couple are jointly assessed and that spouse or civil partner made the qualifying payment;

(ii) details of the total amount paid to the landlord by the claimant (or his or her spouse or civil partner where the couple are jointly assessed and the payment was made by the claimant's spouse or civil partner) including a periodic breakdown of the payment and a split between those amounts which are and are not qualifying payments for the purpose of this tax credit;

(iii) full particulars of the tenancy under which the qualifying payment was made, including:
- the name and address (including the Eircode) of the individual who uses the residential property, if not the claimant (or his or her spouse or civil partner if jointly assessed),
- the address (including the Eircode) of the residential property in respect of which the qualifying payment was made,
- the unique identification number assigned to the residential property for Local Property Tax (LPT) purposes (where it is available to the claimant),
- the unique number assigned to the tenancy by the Residential Tenancy Board (RTB) once the tenancy has been registered (if applicable and where it is available to the claimant),
- the duration of the tenancy, and
- where the tenancy is a licence, confirmation that the landlord has consented to the commencement of the licence;

(iv) the name and address (including the Eircode) of the person to whom the qualifying payment was made and the landlord (if a different person, and where such information is available to the claimant); and

(v) the tax reference number of the landlord (where it is available to the claimant).

Furnishing of information

Revenue have the power to request additional information or documentation from a claimant in support of his or her claim for the rent tax credit. ***(10)(a)***

Revenue can require the claimant to provide, within 30 days, a copy of the relevant tenancy document, a receipt or statement of any payment made under that tenancy or any other information that may reasonably be required by the Revenue Commissioners to determine whether the requirements of this provision are met.

The requested particular must be in writing and can contain the following: ***(10)(b)***

(i) the name of the individual who made the qualifying payment;

(ii) the amount of any payment made under a tenancy to the landlord concerned, or to a person acting on behalf of the landlord, by that individual during the relevant year of assessment;

(iii) the total amount of the payment period made to the landlord;

(iv) the amount of any qualifying payment made to the landlord;

(v) the total amount of any qualifying payment made to the landlord;

(vi) the name and address (including the Eircode) of the individual who uses the property as his or her principal private residence, if different to the individual who made the qualifying payment
(vii) the address, including Eircode of the property;
(viii) the name and address (including the Eircode) of the person to whom the qualifying payment was made;
(ix) the name and address (including the Eircode) of the landlord, if different to the person referred to in subparagraph (viii); and
(x) the tax reference number of the landlord.

Revenue have grounds to refuse a claim or to withdraw the credit if the claimant fails to furnish any of the information or documentation requested under subsection (10). ***(11)***

A person in receipt of a qualifying payment (generally landlord or landlord's agent) must, within 30 days of being requested to do so, provide Revenue with any information the officer considers necessary to determine whether the requirements of this section are met. ***(12)***

Credit available

Where a claimant is entitled to the rent tax credit on a number of basis, the maximum credit available is €1,00 for a single individual, and €2,000 per year for an individual who is jointly assessed to tax for the years 2024 and 2025. ***(13)***

Years applicable

The rent tax credit shall be available in respect of the years of assessment 2022 – 2025 inclusive. ***(14)***

473C Mortgage Interest Tax Credit

Summary

Finance Bill 2023 introduced a tax relief for taxpayers who have made payments in respect of a qualifying loan for a principal private residence. Finance Act 2024 extended the relief to 2024.

The relief is available to homeowners with an outstanding mortgage balance between €80,000 and €500,000 as of 31 December 2022.

The relief is available in respect of the 2023 and 2024 years of assessment:

- for the 2023 year of assessment the relief is available on the increase in interest paid in 2023 over interest paid in 2022,
- for the 2024 year of assessment the relief is available on the increase in interest paid in 2024 over interest paid in 2022.

The amount qualifying for relief at the standard rate of tax is capped at €6,250 per residence per year. This is equivalent to a maximum tax relief of €1,250. Where conditions are met, the relief is granted, by means of a tax credit, on foot of a claim being made to Revenue by the claimant.

Details

Definitions

(1) "appropriate percentage", in relation to a year of assessment, means a percentage equal to the standard rate of tax for that year;

"claimant" has the meaning given to it by subsection (2);

"credit information provider" has the meaning given to it by section 2 of the Credit Reporting Act 2013;

"dependent relative", in relation to an individual, means any of the persons mentioned in paragraph (a) or (b) of subsection (2), or in paragraph (a) or (b) of subsection (2A), of section 466 in respect of whom the individual is entitled to a tax credit under that section;

"loan" means any loan or advance or any other arrangement whatever by virtue of which interest is paid or payable;

"local property tax number" means the unique identification number assigned to a residential property by the Revenue Commissioners under Section 27 of the Finance (Local Property Tax) Act 2012;

"mortgage interest tax credit" has the meaning given to it by subsection (2);

"personal representative" has the same meaning as in section 799;

"PPS Number", in relation to an individual, means the individual's Personal Public Service Number within the meaning of section 262 of the Social Welfare Consolidation Act 2005;

"qualifying interest" in relation to an individual, means the total amount of interest falling due in a year of assessment, and paid in that year of assessment, where such interest has been paid in respect of a qualifying loan;

"qualifying lender" means a credit information provider;

"qualifying loan", in relation to an individual and a qualifying property, means a loan or loans from a qualifying lender which, without being used for any other purpose, is or are used by the individual solely for the purpose of defraying money employed in the purchase, repair, development or improvement of the qualifying property or in paying off another loan or loans used for such purpose, and is or are secured by the mortgage of freehold or leasehold estate or interest in that qualifying property, and the amount of the aggregate of the balance remaining unpaid on the loan or loans in respect of that qualifying property on 31 December 2022 is—

(a) not less than €80,000, and

(b) not more than €500,000;

"qualifying period" means

(a) for the purpose of subsection (4) the period commencing on 1 January 2023 and ending on 31 December 2023, and

(b) for the purpose of subsection (4A) the period commencing on 1 January 2024 and ending on 31 December 2024;

"qualifying property", in relation to an individual, means a residential property which is used as the sole or main residence of—

(a) the individual,

(b) a former or separated spouse of the individual, or a former civil partner or a civil partner from whom the individual is living separately in circumstances where reconciliation is unlikely, or

(c) a person who, in relation to the individual, is a dependent relative, and which is, where the residential property is provided by the individual, provided rent-free and without any other consideration;

"relievable interest" has the meaning given to it-
by subsection (4) for the 2023 year of assessment, and
by subsection (4A), for the 2024 year of assessment;

"residential property" means—

(a) a building or part of a building located in the State which is used or suitable for use as a dwelling, and

(b) adjoining land which the occupier of the building or part of the building, referred to in paragraph (a), has for his or her own occupation and enjoyment with that building or part of that building as its gardens or grounds of an ornamental nature;

"separated" means separated under an order of a court of competent jurisdiction or by deed of separation or in such circumstances that the separation is likely to be permanent;

"specified amount", in relation to a year of assessment, means the lesser of—

(a) an amount equal to the relievable interest, and

(b) the upper limit or where two or more individuals are entitled to the relief the amount determined in accordance with subparagraph (9)(b)

"upper limit" means €6,250 or, where subsection (5) applies, the amount determined in accordance with paragraph (a)(i), (a)(ii) or (b), as the case may be.

Entitlement to the credit

The mortgage interest tax credit will be available in respect of the 2023 and 2024 year of assessment, where applicable, where an individual (the claimant): ***(2)***

1) proves that during the qualifying period he or she made a qualifying payment in respect of that qualifying property, and
2) makes a formal claim for the credit.

In such circumstances, the tax credit will be available in respect of the lesser of:

- an amount equal to the appropriate percentage of the specified amount, specified amount being defined above as the lesser of the relievable interest or the upper limit,

or

- an amount that reduces the claimant's liability to nil.

Payment of interest by spouse or civil partner

Where joint assessment applies, a payment of interest made by a spouse or civil partner, is considered a payment by the claimant. ***(3)***

Calculation of relievable interest

Relievable interest is the increase in relievable interest in 2023 over 2022. ***(4)***

The below formula provides the method for arriving at relievable interest, which is the increase in interest in 2023 over that in 2022. ***(4)(a)***

A-B

Where
A is the amount of qualifying interest for the year of assessment 2023, and
B is the amount of qualifying interest for the year of assessment 2022.

Where the periods in a year for which interest is paid is not the same the following formulae adjust the interest paid, in either year, to correspond with a period of equivalence. ***(4)(b)***

Where 2023 has a greater number of days interest paid the following formula is used

A x D/E

Where 2022 has a greater number of days interest paid the following formula is used

B x D/E

Where
D is the number of days in the year of assessment with the lesser number of days, and
E is the number of days in the year of assessment with the greatest number of days.

Calculation of relievable interest for 2024 claims

Relievable interest is the increase in relievable interest in 2024 over 2022. ***(4)(A)***

The below formula provides the method for arriving at relievable interest, which is the increase in interest in 2024 over that in 2022. ***(4A)(a)***

A-B

Where
A is the amount of qualifying interest for the year of assessment 2024, and
B is the amount of qualifying interest for the year of assessment 2022.

Where the periods in a year for which interest is paid is not the same the following formulae adjust the interest paid, in either year, to correspond with a period of equivalence. ***(4A)(b)***

Where 2024 has a greater number of days interest paid the following formula is used

A x D/E

Where 2022 has a greater number of days interest paid the following formula is used

B x D/E

Where
D is the number of days in the year of assessment with the lesser number of days, and
E is the number of days in the year of assessment with the greatest number of days.

Proration of the upper limit for 2023

Where there is less than a full year's interest paid in any year of assessment the upper limit must be prorated to reflect this. ***(5)***

Where either year of assessment has less than 365 days and the other year has the full 365 days the following formula is applied to apportion the upper limit ***(5)(a)***

F x G/H

Where both years of assessment have less than 365 days the upper limit is apportioned using the following formula ***(5)(b)***

F x I/J

Where
F is the upper limit
G is the number of days in the year with the lesser number of days
H is the number of days in the year with the greater number of days
I is the number of days in the year with the lesser number of days
J is 365 days

Proration of the upper limit for 2024

*2024, as a leap year, has 366 days therefore the formulae in this section are to be read as though references to 365 days for 2024 is 366 days. ***(5A)***

Where there is less than a full year's interest paid in any year of assessment the upper limit must be prorated to reflect this.

Where either year of assessment has less than 365* days and the other year has the full 365 days the following formula is applied to apportion the upper limit ***(5A)(a)***

F x G/H

Where both years of assessment have less than 365* days the upper limit is apportioned using the following formula ***(5A)(b)***

F x I/J

Where
F is the €6,250
G is the number of days in the year with the lesser number of days
H is the number of days in the year with the greater number of days
I is the number of days in the year with the lesser number of days
J is 365 days*

Interest payment refers to more than one year

Where an interest payment is made, and the payment refers to more than one year, the amount of interest paid must be apportioned to the relevant years. ***(6)***

Interest paid by personal representative

A payment of interest by a personal representative, where an individual dies during the qualifying period and the payment of interest is in respect of the principal private residence of the deceased individual's widow, widower or surviving civil partner, or a dependent relative of the deceased, is deemed to be a qualifying payment and relief applies under subsection (2). ***(7)(a)***

The definition of qualifying property extends to a residential property used to facilitate the individual's or their spouse/civil partner's attendance at work. ***(7)(b)***

Exclusions

There are a number of exclusions from the definition of a qualifying property being: ***(8)***

any residential property not compliant with Local Property Tax (LPT) obligations; ***(8)(a)***

any residential property not compliant with Planning Permissions; ***(8)(b)***

any residential property acquired from an individual who is a connected party where it appears that the purchase price of the residential property substantially exceeds the value of what is acquired. ***(8)(c)***

More than one claimant

Where there is more than one claimant the upper limit must be prorated. The apportionment is calculated using the following formula ***(9)***

K x L/M

where
K is the upper limit
L is the relievable interest for an individual
M is the relievable interest for all individuals on the same qualifying property

Oireachtas members exclusion ***(10)***

Members of the Oireachtas are excluded from relief under this section where an allowance under s836 TCA has been paid or is payable or relief under s836 TCA is allowed.

Information required to make a claim

The following information is required to make a claim for the mortgage interest tax credit. Revenue will make an electronic process available to facilitate claims for the mortgage interest relief credit and all claims made should set out the following information: ***(11)***

- The claimants name address (including the Eircode) and PPS number ***(11)(a)***
- The address (including the Eircode) and LPT number of the qualifying property ***(11)(b)***

If the property is used by a claimant's former or separated spouse or civil partner or a dependent relative; ***(11)(c)&(d)***

- the name, address (including the Eircode) and PPS Number of the claimant' dependant relative, spouse or civil partner,
- the address (including the Eircode) and LPT number of the qualifying property.

The claimant must provide full particulars of the qualifying loan or loans under which qualifying interest was paid, including but not limited to— ***(11)(e)***

- the qualifying interest paid by the claimant for the years of assessment 2022 and 2023 or 2024 as the case may be,
- where the property was acquired from a connected party, the total qualifying interest paid by all of the individuals concerned for the years of assessment 2022 and 2023 or 2024 as the case may be, and
- the amount of the aggregate of the balance remaining unpaid on the loan or loans as provided for in the definition of 'qualifying loan' at 31 December 2022.
- Any other information that may reasonably be required by the Revenue Commissioners to determine whether the requirements of this section are met. ***(11)(f)***

Revenue powers

Revenue has the power to require a qualifying lender to provide Revenue details referred to in subsection (11)(f). ***(12)***

Revenue has grounds to refuse a claim or to withdraw the credit if the claimant fails to furnish any of the information or documentation requested under subsection (11). ***(13)***

474 Relief for fees paid to private colleges for full-time third level education

Section 474 repealed by Finance Act 2001 section 29(3) with effect from 6 April 2001.

474A Relief for fees paid to publicly funded colleges in the European Union for full-time third level education

Section 474A repealed by Finance Act 2001 section 29(3)with effect from 6 April 2001.

475 Relief for fees paid for part-time third level education

Section 475 repealed by Finance Act 2001 section 29(3) with effect from 6 April 2001.

475A Relief for postgraduate and certain third level fees

Section 475A repealed by Finance Act 2001 section 29(3) with effect from 6 April 2001.

476 Relief for fees paid for training courses

Summary

This section provides income tax relief for tuition fees paid for training courses in the areas of information technology and foreign languages. The relief only applies where the courses and the course providers have been approved by FÁS. Courses can be up to 2 years in duration and must comply with a code of standards as to the quality and standard of training, etc. To qualify for the relief, the individual who attends the course of study must receive a certificate of competence on completion of the course. The tax relief is granted at the standard rate of income tax, and applies to fees ranging from €315 to €1,270. The relief can be claimed by an individual in respect of fees paid by him/her on provision of proof of payment of those fees.

Details

Definitions

"An Foras" is an Foras Áiseanna Saothair (FÁS). ***(1)***

"appropriate percentage" means, in relation to a year of assessment, a percentage equal to the standard rate of tax for that year.

"approved course provider" is a person approved by FÁS who operates in accordance with a code of standards agreed between FÁS and the Minister with the consent of the Minister for Finance.

"approved course" is a course of less than 2 years' duration in areas of information technology or foreign languages which are approved by the Minister. The course must be approved by FÁS in accordance with an agreed code of standards and must result in the awarding of a certificate of competence.

"certificate of competence" is a certificate to the effect that the recipient has achieved a minimum level of competence.

"foreign language" is a language other than an official language of the State.

"the Minister" is the Minister for Enterprise, Trade and Employment.

"qualifying fees" are fees in respect of an approved course which are not less than €315 and to the extent that they do not exceed €1,270.

Relief

Where an individual proves that he/she has made a payment in respect of qualifying fees in respect of an approved course and the person in respect of whom the fees are paid has been awarded a certificate of competence in respect of that course, the income tax chargeable on that individual (other than his/her liability in respect of tax withheld from annual payments under ***section 16(2)***) is to be reduced by an amount equal to the lesser of — ***(2)***

- the amount equal to the appropriate percentage of the aggregate of all qualifying payments made, and
- the amount which reduces the individual's tax charge to nil (that is, the relief cannot create a repayment).

The reference to ***section 16(2)*** ensures that tax deducted from annual payments is retained in charge against the person deducting it and that the tax deducted is not diluted by the relief provided by this section.

In the case of married persons or civil partners who are jointly assessed to tax, qualifying fees paid by a non-assessable spouse or other civil partner, are (except in cases of separate assessment) deemed to have been made by the assessable spouse or nominated civil partner. ***(3)***

Limits on relief

Relief will be granted in respect of an individual only in respect of one approved course in any one year of assessment. ***(4)***

Reimbursement of fees

If any part of the fees paid are or are to be met by way of grant, scholarship or otherwise, relief is not to apply to that amount of the fees. ***(5)***

Withdrawal of approval

FÁS may withdraw approval of a course provider or a course where it is satisfied that the course provider or course no longer meets the code of standards laid down. ***(6)***

Notification by FÁS

FÁS is to notify the Revenue Commissioners of approvals, or withdrawals of approvals, of course providers and courses. The Revenue Commissioners may consult with FÁS if a question arises as to whether a course provider or a course is an approved course provider or an approved course. ***(7)***

Bar on double relief

The relief is given in substitution and not in addition to any relief to which the individual may be entitled to in respect of the same payment under any other provision of the Income Tax Acts. ***(8)***

Commencement

The relief applies from such date as may be fixed by order of the Minister for Finance. ***(9)***

The Minister for Finance made such an order on 31 March, 1998, with effect from that date (S.I. No. 87 of 1998).

477 Relief for Service Charges

Summary

This section provides tax relief in respect of service charges to take account of the introduction of the "Pay by Use" principle for Local Authority Waste Charges. The relief is granted by reference to expenditure incurred in the previous financial year.

It provides for a general upper limit of €400 per annum expenditure on which relief can be claimed irrespective of how the charge is determined. At the standard rate of tax this will equate to a maximum tax credit of €80. This change took effect from 1 January 2006 in respect of charges paid in the financial year ended 31 December 2005.

A transitional arrangement applied in respect of those taxpayers who paid fixed charges in excess of €400 during 2005, granting them tax relief for 2006 on the full amount paid in 2005. In all cases the maximum ceiling of €400 applied for 2007 onwards.

The section has effect for years of assessment 2006 to 2010 inclusive.

Details

Definitions and construction

(1) "Appropriate percentage" is a percentage equal to the standard rate of income tax for any given year of assessment

"Claimant" has the meaning assigned to it by ***subsection (2)***.

"Financial year" is a calendar year.

"Group water scheme" is defined by reference to the Regulations in which such schemes are referred to, that is, the Housing (Improvement Grants) Regulations 1983 (S.I. 330 of 1983).

"Service" specifies the types of service charges which qualify for relief and mean the provision, by or on behalf of the local authority, of:

- domestic water supply,
- domestic refuse collection, and
- domestic sewage disposal.

"Service charge" is defined by reference to the statutory provisions under which a charge is imposed, that is —

- the Local Government (Financial Provisions) (No. 2) Act 1983, or
- section 65A (inserted by the Local Government (Sanitary Services) Act 1962, and amended by the Local Government (Financial Provisions) (No. 2) Act 1983) of the Public Health (Ireland) Act 1878.

"Specified amount", for the purposes of the relief, is the general cap of €400 or the lesser amount actually incurred for the year of assessment 2006 and subsequent years. An exception is made in cases where there was a fixed charge in excess of €400 paid in the financial year ended 31 December 2005. In that instance, that higher fixed charge will be allowed for 2006.

(2) For a year of assessment where an individual proves that for the preceding financial year he or she has paid service charges, relief will be granted to the individual for that year of assessment in an amount that reduces the tax he or she would otherwise be liable to pay by the lesser of —

- the appropriate percentage of the amount paid, and

- the amount that reduces his or her tax to nil.

Excluded from the individual's liability to tax for this purpose is tax which the individual is liable for under ***section 16(2)***. This is tax which the individual is obliged to deduct on payment from, for example, annual payments, and account to Revenue for it.

There is provision for relief in joint assessment cases. In the case of a married couple or civil partners taxed jointly on their incomes under ***section 1017 or section 1031C***, the allowance is given whether the service charges are paid by either the husband or wife or either of the civil partners. ***(3)(a)***

Where service charges are paid on behalf of the person liable for them by another person who resides in the premises, the relief may be disclaimed by the person so liable in favour of the individual actually paying the charges. ***(3)(b)***

A claimant is entitled to relief in respect of the amount of service charges paid to a person or body of persons (i.e. a private contractor) other than a local authority for the provision of refuse collection or disposal services. The conditions that apply are that such a person or body of persons has — ***(4)***

- notified its provision to the local authority in whose functional area such service is provided, and
- furnished to that local authority such information as the local authority may from time to time request concerning that person or body of persons.

If these conditions are satisfied then the service provided is be deemed to have been provided on behalf of the local authority and a payment in respect of such a service will qualify for relief as if the payment had been made to the local authority itself.

The section provides that payments to persons under group water schemes also qualify for relief under this section. Payments by individual members under such schemes are treated as payments of service charges to a local authority. ***(5)***

The Revenue Commissioners may require an individual who has made a claim for relief to provide them with details of the local authority, or other person who has provided a service in place of the local authority, and a breakdown of how the service charge was determined i.e. by way of fixed charge, tags, or any other method. ***(6)***

A person is prevented from obtaining double relief (for example, as a deduction in arriving at taxable profits) in respect of the same payment of service charges. ***(7)***

This section ceases to have effect as respects service charges paid in the financial year 2011 for that financial year and subsequent financial years for those financial years. ***(8)***

477A Relief for energy efficient works

This section has been repealed by section 5 of the Finance (No. 2) Act 2013.

477B Home renovation incentive

Summary

This section was introduced initially to provide tax relief for homeowners by way of a tax credit at 13.5% of qualifying expenditure incurred on repair, renovation or improvement work carried out on an individual's only or main residence. For homeowners, the scheme is due to run from 25 October 2013 to 31 December 2018. The Finance Act 2014 extended the relief to include rental properties. For landlords, the scheme is due to run from 15 October 2014 to 31 December 2018. In order to avail of the relief the landlord must register the tenancies on their properties with the Private Residential Tenancies Board (PRTB).

The Finance Act 2016 extended the relief to include tenants of local authority houses. Tenants who have received prior consent from the local authority to carry out works and who are liable to income tax can avail of the incentive from 1 January 2017.

Qualifying expenditure is expenditure subject to the 13.5% VAT rate. The work must cost a minimum of €4,050 excluding VAT (i.e. €5,000 including VAT). Where the cost of the work exceeds €30,000 (excluding VAT), only qualifying expenditure up to €30,000 (excluding VAT) will qualify for relief. Therefore, the minimum credit is €595 and the maximum credit is €4,050. If work is grant aided or, if any form of insurance or compensation is received in respect of the work, the amount of relief will be reduced accordingly. The credit is payable over the two years following the year in which the work is paid for.

Homeowners and landlords must be LPT compliant in order to qualify under the Incentive. The LPT requirement does not however apply to local authority tenants. Building contractors must be VAT registered and tax compliant in order to carry out works. The Incentive will be administered through Revenue's online systems. Contractors will be required to inform Revenue in advance of details of works to be carried out and will also be required to notify Revenue in relation to any payments received in respect of works. Homeowners, local authority tenants, and landlords will be able to view the information provided to Revenue by the contractor through the Revenue online systems and will also claim the relief through those systems.

Details

Definitions

"contractor" means a person engaged by an individual to carry out qualifying work, and who is an accountable person for VAT and has been assigned a VAT registration number; ***(1)***

"PPS number" means the individual's personal public service number within the meaning of the Social Welfare Consolidation Act 2005;

"qualifying contractor" means a contractor who satisfies the obligations set out in ***section 530G*** or ***530H*** i.e. he or she is zero or 20% rated for the purposes of Relevant Contracts Tax (RCT). However, in the case of a contractor to whom RCT does not apply, the contractor must satisfy the obligations set out in ***section 530G*** or ***530H***, other than the obligations referred to in paragraphs (a) and (b) of subsection (1) of those sections. Paragraph (a) is not relevant as it relates to being engaged in the business of carrying out relevant operations under RCT while paragraph (b) refers to operating from a fixed place of business. The latter requirement is not obligatory for the Home Renovation Incentive.

"qualifying expenditure" means expenditure incurred by the individual on qualifying work carried out by a qualifying contractor on a qualifying residence;

"qualifying residence" means a residential premises situated in the State–

- which is owned by the individual and which is occupied by the individual as his or her only or main residence; or

- which has previously been occupied as a residence and which has been acquired by the individual for the purposes of occupation by the individual as his or her only or main residence on completion of the qualifying work and which is so occupied upon completion.

From 15 October 2014 a 'qualifying residence' also includes a residential premises situated in the State-

- which is owned by an individual, occupied by a tenant and registered with the (PRTB); or
- which is owned by an individual, is intended to be occupied by a tenant, and is registered with the PRTB and occupied by a tenant within 6 months of completion of the qualifying work.

In short, from 15 October 2014 a 'qualifying residence' includes a rental property where the landlord is subject to income tax on the rental incomes.
From 1 January 2017, a "qualifying residence" also includes a residential property which is owned by a local authority, occupied by a tenant who is paying rent for the property to the local authority and who has received prior written consent from the local authority to carry out works under HRI.

"qualifying work" means any work of repair, renovation or improvement to which the 13.5% rate of VAT applies, and which is carried out on a qualifying residence;

"residential premises" means-

(a) a building or part of a building used, or suitable for use, as a dwelling, and

(b) land which the occupier of a building or part of a building used as a dwelling has for the occupier's own occupation and enjoyment with that building or that part of a building as its garden or grounds of an ornamental nature;

"rental unit" means part of a building used, or suitable for use, as a dwelling, which is occupied by a tenant and registered with the PRTB, or which is intended to be occupied by a tenant, and is registered with the PRTB and occupied by a tenant within 6 months of completion of the qualifying works.

"specified amount", in relation to a payment, means 13.5% of the amount of the VAT exclusive element of the payment, subject to a maximum amount of €4,050. Where more than one payment is made in respect of qualifying expenditure, the aggregate of the specified amounts in respect of those payments shall not exceed €4,050;

"tax reference number", means in the case of an individual, the individual's PPS number or in the case of a company, the reference number stated on any return of income form or notice of assessment issued to that company by the Revenue Commissioners;

"tenancy" has the same meaning as it has in the Residential Tenancies Act 2004

"tenant" has the same meaning as it has in the Residential Tenancies Act 2004

"unique reference number" has the meaning given to it by ***subsection (4)(b)***;

"VAT registration number" means the registration number assigned to the person under section 65 of the Value-Added Tax Consolidation Act 2010.

"housing authority has the same meaning as it has in the Housing (Miscellaneous Provisions) Act 1992".

1A Where as a result of qualifying works carried out, a residential premises is converted into one or more rental units, each such rental unit is regarded as a 'qualifying residence' This is provided that each such rental unit is owned by a landlord, occupied by a tenant and registered with the (PRTB) or which is owned by a landlord, and is intended to be occupied by a tenant, and is registered with the PRTB and occupied by a tenant within 6 months of completion of the qualifying works.

Application

This section applies to a principal private residence in respect of qualifying expenditure incurred on qualifying work carried out during the period from 25 October 2013 to 31 December 2018 ***(2)(a)(i)***

This section applies in respect of rental properties for qualifying expenditure incurred on qualifying work during the period from 15 October 2014 to 31 December 2018. ***(2)(a)(ii)***

This section applies to a local authority property in respect of qualifying expenditure incurred on qualifying work carried out during the period from 1 January 2017 to 31 December 2018. ***(2)(a)(iii)***

Where payments in respect of qualifying work on property principal private residence are made during the period from 25 October 2013 to 31 December 2013, those payments will be deemed to have been made in the year of assessment 2014. ***(2)(b)***

Where payments in respect of qualifying work are made on a rental property during the period from 15 October 2014 to 31 December 2014, those payments will be deemed to have been made in the year of assessment 2015. ***(2)(c)***

Where qualifying work for which planning permission is required is carried out during the period from 1 January 2019 to 31 March 2019, then provided such permission is granted on or before 31 December 2018, that work shall be deemed to have been carried out in the year of assessment 2018. ***(2)(d)***

Relief (tax credit)

Where a claimant proves that in a year of assessment, he or she has made a payment or payments to a qualifying contractor or qualifying contractors in respect of qualifying expenditure, the claimant will have his or her income tax reduced as follows: ***(3)(a)(i)& (ii)***

- in the first tax year after the tax year in which the payment is made (or deemed to be made) to the qualifying contractor, by the lower of-
    - 50 per cent of the relief due, and
    - the amount which reduces the income tax of that tax year to nil,

  and
- in the second tax year after the tax year in which the payment is made to the qualifying contractor, by an amount which is the lesser of-
    - that part of the relief due that was not used in the first tax year, and
    - the amount which reduces the income tax of that tax year to nil.

If relief due cannot be used in the first two tax years after the tax year in which the payment is made for the qualifying works, due to the insufficiency of income tax charged on the claimant in the those two tax years, this unused relief called "excess relief" can be used to reduce the income tax liability in subsequent tax years until the relief is fully utilised. However, the amount of the excess relief used in any tax year cannot be greater than the amount which reduces the income tax charged on the claimant in that tax year to nil. ***(3)(b)***

The maximum amount of relief available in respect of a qualifying residence is €4,050. ***(3)(c)***

Where qualifying work results in the conversion of a residential premises into more than one rental unit, the individual is entitled to the relief in respect of each such unit. This is provided that the premises is owned by a landlord, occupied by a tenant and registered with the (PRTB) or which is owned by a landlord, and is intended to be occupied by a tenant, ***(3)(c)(a)***

and is registered with the PRTB and occupied by a tenant within 6 months of completion of the qualifying works.

A claim cannot be made until the total of all payments made to a qualifying contractor or qualifying contractors exceeds €5,000 (i.e. including VAT). ***(3)(d)***

Where an individual engages a contractor to carry out qualifying work, it is the responsibility of that individual to satisfy himself or herself that the contractor is a qualifying contractor for the purposes of the Incentive. ***(3)(e)***

Notification of work

The contractor must provide the following to the Revenue Commissioners before commencing qualifying work. The information required is: ***(4)(a)***

(i) the contractor's name,

(ii) the contractor's tax reference number and VAT registration number,

(iii) the Local Property Tax reference number of the property on which the qualifying work is to be carried out,

(iv) the name of the claimant,

(v) the address of the property at which the work will be carried out,

(vi) a description of the work to be carried out,

(vii) the estimated cost of the work to be carried out, separately identifying the amount of VAT,

(viii) the estimated duration of the work, including the estimated start date and estimated end date, and

(ix) indicate if a property is a rental property and

(x) where such property will be converted into more than one rental unit, the number of rental units.

When the Revenue Commissioners receive the information required, they will notify the contractor whether or not the contractor is or is not a qualifying contractor for the purposes of the Incentive. If the contractor is a qualifying contractor, the contractor will also receive a unique reference number for the work. ***(4)(b)(i) & (ii)***

If the contractor is a qualifying contractor, the Revenue Commissioners will notify the property owner of this fact and this notification will also contain the unique reference number for the work.

If a qualifying contractor commences qualifying work before electronic systems are made available by the Revenue Commissioners, the contractor must provide the information required by ***subsection (4)(a)*** within 28 days of the electronic systems being made available. ***(4)(c)***

Notification of payment

A contractor must provide the following information to the Revenue Commissioners when the contractor receives payment for qualifying work from the claimant: ***(5)(a)(i)***

(i) the contractor's name,

(ii) the contractor's tax reference number and VAT registration number,

(iii) the unique reference number for the work,

(iv) the amount of the payment, separately identifying the VAT element,

(v) the name of the individual from whom the payment was received,

(vi) the date of the payment,

The contractor must also give a statement to the claimant showing the amount of the payment separately identifying the amount of VAT. ***(5)(a)(ii)***

If a qualifying contractor receives a payment in respect of qualifying work before electronic systems are made available by the Revenue Commissioners, the contractor must provide the required information within 28 days of the electronic systems being made available. ***(5)(b)***

Making a claim

A claimant must provide the following information to the Revenue Commissioners when making a claim: ***(6)(a)***

(i) the claimant's name and tax reference number;

(ii) the unique reference number for the work,

(iii) the Local Property Tax reference number of the property on which the qualifying work was carried out, and

(iv) details of any grants, insurance or compensation received,

(v) indicate if the property is a rental property, and

(vi) where a rental property is converted into more than one rental unit, the number of rental units and the address of each rental unit.

On making the claim, the claimant must make a declaration (where the following is the case) in relation to certain matters, namely that: ***(6)(b)***

(i) the amount of the payment that the contractor advised to the Revenue Commissioners accords with the amount of the payment made by the claimant to that contractor,

(ii) the date of the payment provided by the contractor is correct,

(iii) the work in respect of which payment was made was qualifying work carried out on the claimant's qualifying residence,

(iv) the work in respect of which payment was made to the contractor has been completed,

(v) the contractor has received full payment from the claimant in respect of the work, and

(vi) the property on which the qualifying work was carried out was occupied by the individual as his or her only or main residence on completion of the work or, ***(I)***

In the case of a rental property, the landlord must declare that each rental unit was occupied by a tenant within 6 months of completing the works and that each such tenancy is registered with the PRTB. ***(II)&(III)***

Grants, Insurance and compensation payments

If a claimant has received or will receive, any amount directly or indirectly in respect of qualifying work- ***(7)(i)&(ii)***

(a) from the State or from any public body or local authority, or

(b) under any contract of insurance or by way of compensation or otherwise

then the amount of any payment or payments which are taken into account for the purposes of calculating the relief (tax credit) shall be reduced. Depending on the nature of the receipt, the reduction will apply as follows:

(i) in the case of any amount received from the State or any public body or local authority, the reduction will be 3 times the amount received or receivable, and

(ii) in the case of a payment received under any contract of insurance or by way of compensation or otherwise, the reduction will be the amount received or receivable.

Local Property Tax compliance

Relief will not be given to a claimant unless all Local Property Tax obligations in respect of making returns and paying local property tax have been met in respect of (i) the qualifying residence and (ii) any other residential property in relation to which the claimant is a liable person. ***(8)(a)(i) & (ii)***

The obligation to pay LPT does not apply in the case of a residential premises which is owned by a local authority. ***(8)(c)***

Joint assessment

In cases of married couples and civil partners who are jointly assessed for income tax purposes, any payments made by the non assessable spouse/civil partner in respect of qualifying expenditure will be deemed to have been made by the assessable spouse/civil partner. ***(9)(a) & (b)***

Electronic system

Any claim, notification, information or declaration required by this section must be given by electronic means and through such electronic systems as the Revenue Commissioners may make available. ***(10)***

Joint owners

Where qualifying expenditure on a qualifying residence is incurred by two or more claimants, then, except in the case of, a married couple or, civil partners who are jointly assessed, the specified amount shall be allocated among the claimants on the basis of the qualifying expenditure incurred by each claimant. ***(11)***

Prevention of double relief

A claimant is not entitled to a deduction, relief, or allowance under this Incentive if he or she is entitled to a deduction, relief or allowance in respect of the same expenditure under any other provision of the Tax Acts. ***(12)***

This restriction is only confined to a principal private residence. It does not apply in the case of rental properties.

Revenue implementation

Anything required to be done by or under this section by the Revenue Commissioners, other than the making of regulations, may be done by any Revenue officer. ***(13)***

Regulations

The Revenue Commissioners may make regulations for the purposes of this section. ***(14)***

477C Help to Buy

Summary

This section provides for the Help to Buy (HTB) scheme which assists first-time buyers purchasing or building their first home.

The HTB scheme provides for a refund of Income Tax and DIRT paid in the State in the four tax years prior to making an application for the refund.

To qualify for HTB, the purchase value of the property must not exceed €500,000.

In July 2020 the scheme was amended so that the level of assistance available to first time buyers was increased to the lesser of: €30,000 (increased from €20,000), 10 per cent of the purchase price of a new home/self-build property (increased from 5 per cent) and the amount of Income Tax and DIRT paid in the previous four years.

The section provides for the registration of contractors with the Revenue Commissioners for participation in the scheme. It also provides for the refund to be clawed back in certain circumstances.

This provision applies in respect of qualifying properties purchased or built in the period commencing 19 July 2016 and ending 31 December 2029.

Details

Definitions ***(1)***

"Act of 2021" means the Affordable Housing Act 2021.

"affordable dwelling contribution" is defined in section 12(2) of the Affordable Housing Act 2021. This is the contribution a local authority provides towards the purchase of a home under the Local Authority Affordable Purchase Scheme.

"appropriate payment" is the term given to the HTB refund.

"appropriate tax" has the meaning assigned to it by section 256.

"approved valuation" is the valuation of a self-build residence at the time the loan is entered into with a qualifying lender and as approved by the qualifying lender.

"first-time purchaser" means an individual who, at the time of a HTB claim, has not, either individually or jointly with any other person, previously purchased or built a dwelling.

"income tax payable" has the meaning assigned to it by section 3.

"loan" means any loan or advance, or any other arrangement whatever, by virtue of which interest is paid or payable.

"loan-to-value ratio" means—

(a) in the case of a contract entered into prior to 11 October 2023, the amount of the qualifying loan as a proportion of the purchase value of the qualifying residence, and
(b) in all other cases, the combined amount of the qualifying loan and the local authority affordable dwelling contribution, if any, as a proportion of the purchase value of the qualifying residence.

"PPS number" means an individual's personal public service number.

"purchase value" means—
(a) the price paid for a qualifying residence, which is not less than the market value, or
(b) the approved valuation of a self-build qualifying residence.

"qualifying contractor" has the meaning assigned to it by subsection (2).

"qualifying lender" has the meaning assigned to it by section 244A(3).

"qualifying loan" means a loan which—

(a) is used by the first-time purchaser wholly and exclusively for–

(i) the purchase of a qualifying residence, or

(ii) the provision of a self-build qualifying residence (including the acquisition of land required for its construction),

(b) is entered into solely between a first-time purchaser and a qualifying lender, (but can include a loan to which a guarantor is a party), and

(c) is secured by a mortgage.

"qualifying period" means the period commencing on 19 July 2016 and ending on 31 December 2029.

"qualifying residence" means—

(a) a new building which was not, at any time, used, or suitable for use, as a dwelling,

(b) a building which was not, at any time, in whole or in part, used, or suitable for use, as a dwelling and which has been converted for use as a dwelling, or

(c) a building which was not at any time used as a dwelling and was purchased by a first-time purchaser in accordance with an affordable dwelling purchase arrangement (within the meaning of section 12 the Affordable Housing Act 2021)

and—
(i) which is occupied as the sole or main residence of a first-time purchaser,

(ii) in respect of which the construction work is subject to 13.5% VAT, and

(iii) where the purchase value is not greater than –

(I) €600,000 in respect of contracts entered into, or mortgages drawn down in the case of a self-build, in the period from 19 July 2016 to 31 December 2016, and

(II) €500,000 in all other cases.

"relevant tax year" means a year of assessment within the 4 tax years immediately preceding the year in which an application for a repayment is made by an individual.

"Revenue officer" means an officer of the Revenue Commissioners.

"self-build qualifying residence" means a qualifying residence which is built, directly or indirectly, by a first-time purchaser on his or her own behalf.

"tax reference number" means in the case of an individual, the individual's PPS number or in the case of a company, the reference number stated on any return of income form or notice of assessment issued to that company by the Revenue Commissioners.

"tax year" means a year of assessment within the meaning of the Tax Acts.

"VAT registration number" in relation to a person, means the registration number assigned to the person under section 65 of the Value-Added Tax Consolidation Act 2010.

A "qualifying contractor" means a person who applies to the Revenue Commissioners for registration as a qualifying contractor and who the Revenue Commissioners are satisfied is entitled to so register and who satisfies the conditions set out in section 530G or 530H of the Taxes Consolidation Act i.e., is a zero rated or 20% rated contractor for RCT purposes, ***(2)(a)***

who holds an up-to-date tax clearance certificate in accordance with section 1095 of the Taxes Consolidation Act 1997, and ***(2)(b)***

who provides to the Revenue Commissioners, ***(2)(c)***

(i) details of the qualifying residences which the contractor offers, or proposes to offer, for sale within the qualifying period,

(ii) details of any planning permission sought in respect of the qualifying residences,

(iii) details of freehold or leasehold estate or interest in the land on which the qualifying residences are constructed or to be constructed, and

(iv) any other relevant information that may be required by the Revenue Commissioners for the purposes of registration of the person as a qualifying contractor.

An individual may make a claim for an appropriate payment (i.e., HTB refund) where, in the qualifying period: ***(3)***

(a) he or she has entered into a contract with a qualifying contractor for the purchase of a qualifying residence, that is not a self-build, or

(b) in the case of a self-build, he or she has drawn down the first tranche of a qualifying loan for that individual's qualifying residence.

(4) On making a claim for a HTB refund, in this section referred to as an "appropriate payment", payment will be made in accordance with subsection (16).

(5)(a) &(b) The appropriate payment will be capped at the lower of:

(i) €20,000,

(ii) income tax and DIRT paid for the previous 4 years, or

(iii) 5% of the purchase value, or valuation in the case of a self-build.

The above caps apply where an applicant signed a contract for the purchase of a new house or made the first draw down of a mortgage in the case of a self-build, prior to 23 July 2020 (see subsection (5A) below).

(5)(c) The figure for DIRT shall be reduced by any amount of DIRT repaid under section 266A (which provides for a refund of DIRT for first-time buyers of both new and 2nd hand dwellings).

(5)(d) In the case of jointly assessed individuals, the amount of income tax paid by each individual will be determined by reference to the total income of each individual as a proportion of the combined total income of both individuals. The amount will be determined by the following formula:

$$\frac{A \times C}{B}$$

Where –

A is the amount of total income (if any) of the claimant for a tax year,
B is the sum of the amount of the total income (if any) of the claimant and the amount of the total income (if any) of the claimant's spouse or civil partner, and
C is the amount of income tax paid for a tax year.

(5)(e) Commencing with the earliest of the 4 years selected by the claimant, the appropriate payment will firstly comprise a refund of income tax for each year selected and subsequently, commencing with the earliest of the 4 years selected by the claimant, a refund of DIRT for each year selected.

(5A) Where an applicant signs a contract for the purchase of a new house or makes the first draw down of a mortgage in the case of a self-build on or after 23 July 2020, the appropriate payment will be capped at the lower of:

- €30,000 (increased from €20,000),

- income tax and DIRT paid for the previous 4 years, or
- 10% of the purchase price or valuation in the case of a self-build (increased from 5%).

Before submitting a claim under subsection (3) an individual must make an application to the Revenue Commissioners which will include: ***(6)(a)***

(i) an indication that he or she intends to make a claim under this section,

(ii) his or her name and PPS number, and

(iii) confirmation by the individual that the conditions specified in subsection (6)(b) have been met.

The conditions referred to in subsection (6)(a)(iii) are that: ***(6)(b)***

(i) he or she is a first-time buyer,

(ii) where the individual is a chargeable person for any of the 4 years immediately preceding the year in which the application is made, he or she has completed tax return forms and is tax compliant for each such year as selected by the individual for the purposes of calculating the HTB refund,

(iii) where the individual is not a chargeable person for any of the 4 years immediately preceding the year in which the application is made, he or she has completed tax return forms and is tax compliant for each such year as selected by the individual for the purposes of calculating the HTB refund, and

(iv) in the case of a person who is a chargeable person for any of the 4 tax years immediately preceding the year in which the application is made, he or she has been issued with a tax clearance certificate and such certificate has not been rescinded.

In joint assessed cases, the person who must comply with the conditions referred to in paragraphs (b)(ii) and (iii) (i.e. file income tax returns and pay all income tax and USC due) is the assessable spouse or the nominated civil partner. ***(6)(c)***

If, in the period from 19 July 2016 to 31 December 2016, an individual enters into a contract to purchase a qualifying residence or draws down the first tranche of a qualifying loan (in the case of a self-build), he or she may elect to be deemed to have made his or her HTB application in the tax year 2016 if the application is made on or before 31 March 2017. ***(7)(a)(i)***

If, in the period commencing on 1 January and ending on 31 March 2017, an individual enters into a contract to purchase a qualifying residence or draws down the first tranche of a qualifying loan (in the case of a self-build), he or she may elect to be deemed to have made ***(7)(a)(ii)***

his or her HTB application in 2016 but only where the application is made on or before 31 May 2017.

Notwithstanding the obligation on an individual under paragraph (a)(i) to, as appropriate, make an application on or before 31 March 2017, where such an individual makes an application in 2018 or 2019, the application shall be deemed to have been made in the tax year 2017, and the corresponding claim will also be deemed to have been made in the tax year 2017. ***(7)(b)***

An application under subsection (6) shall cease to be valid at the earlier of: ***(8)(a)***

(i) a failure by an individual to satisfy the conditions specified in subsection (6)(b),

(ii) the recission of an applicant's tax clearance certificate, and

(iii) 31 December in the tax year in which the application is made.

Where an application is made between 1 October and 31 December in any of the tax years in the qualifying period (except 2016) there is some flexibility around the making of a claim. In such cases, where the corresponding claim is made between 1 January and 31 March of the following year, the claim will be deemed to be made in the prior year. ***(8)(b)***

No claim can be made on foot of an application which ceases to be valid in accordance with subsection (8)(a). ***(8)(c)***

Each party to a Help to Buy claim must: ***(9)***

- confirm that he or she is a first-time buyer,
- satisfy the conditions specified in subsection (6)(b),
- consent to provide to the other parties his or her name, address and PPS number, and
- agree with each of the other parties as to the allocation between the parties of the amount of the appropriate payment and notify the Revenue Commissioners of such allocation.

Revenue will notify the applicant of the maximum appropriate payment available to, or in respect of, the applicant subject to all necessary conditions of the incentive being met. ***(10)***

The minimum loan-to-value ratio is 70%. ***(11)***

The information that a claimant is required to submit to Revenue when making a claim in respect of a qualifying residence other than a self-build is: ***(12)(a)***

(i) his or her name and PPS number,

(ii) the address of the qualifying residence,

(iii) the purchase value of the qualifying residence,

(iv) details of the qualifying lender,

(v) confirmation that a qualifying loan has been entered into,

(vi) the qualifying loan application number or reference number used by the qualifying lender,

(vii) the amount of the qualifying loan,

(viii) evidence of the qualifying loan entered into,

(viiia) the amount of the affordable dwelling contribution (within the meaning of the Affordable Housing Act 2021), if any,

(viiib) evidence of the affordable dwelling purchase arrangement, entered into, if any,

(ix) evidence of the contract entered into with a qualifying contractor,

(x) the amount of deposit payable by the claimant to the qualifying contractor,

(xi) the amount, if any, of deposit paid by the claimant to the qualifying contractor,

(xii) confirmation that, on its completion, the qualifying residence will be occupied by the claimant as his or her only or main residence, and

(xiii) details of the claimant's bank account for claims in respect of the period from 19 July 2016 to 31 December 2016)

A claimant must satisfy himself or herself that the contractor is a qualifying contractor. ***(12)(b)***

Following a claim under subsection (12), a qualifying contractor is required to submit certain information to the Revenue Commissioners, which is: ***(13)***

(a) the contractor's name

(b) the contractor's tax reference number and VAT registration number,

(c) the name of the claimant,

(d) the address of the qualifying residence,

(e) the purchase value of the qualifying residence,

(f) the amount of deposit payable by the claimant to the qualifying contractor,

(g) the amount, if any, of deposit paid by the claimant to the qualifying contractor, and

(h) details of the qualifying contractor's bank account.

Following the making of a claim in respect of a self-build qualifying residence, a claimant is required to submit certain information to the Revenue Commissioners which is: ***(14)***

(a) his or her name and PPS number,

(b) the address of the self-build qualifying residence,

(c) the purchase value of the self-build qualifying residence,

(d) details of the qualifying lender,

(e) confirmation that a qualifying loan has been entered into,

(f) the amount of the qualifying loan,

(g) confirmation that, on its completion, the self-build qualifying residence will be occupied by the claimant as his or her only or main residence, and

(h) details of the qualifying loan bank account.

(15) Following the making of a claim under subsection (14), a solicitor, acting on behalf of the claimant, is required to submit certain information to the Revenue Commissioners, which is:

(a) the name of the claimant,

(b) the address of the self-build qualifying residence,

(c) evidence of the qualifying loan entered into between the claimant and the qualifying lender,

(d) evidence of the drawdown of the first tranche of the qualifying loan, and

(e) confirmation of the purchase value of the self-build qualifying residence.

(16)(a) This subsection sets out to who will receive the appropriate payment made by the Revenue Commissioners. The party to which payment will be made depends on the timing of the claim and whether the property is a qualifying residence or a self-build qualifying residence.

(i) Claims in respect of the period 19 July 2016 to 31 December 2016 were made directly to the claimant.

(ii) Payment will be made directly to the contractor where, in the period from 1 January 2017 to 31 December 2029, a contract for the purchase of a qualifying residence is entered into.

(iii) Payment will be made directly to the claimant's qualifying loan bank account where the first tranche of the qualifying loan is drawn down by the claimant (in the case of a self-build) on or after 1 January 2017.

(16)(b) Where an appropriate repayment is made in respect of a claimant to a qualifying contractor, the contractor must treat the appropriate repayment as a credit against the purchase price of the qualifying residence.

(16)(c) As appropriate, a claimant must consent to the appropriate payment being made to the qualifying contractor.

On completion, a qualifying residence must be occupied by the claimant as his or her only or main residence. ***(17)(a)***

A clawback of the appropriate payment, or part thereof, will apply where the qualifying residence ceases to be occupied within 5 years of the occupation of the residence by the claimant. Where more than one individual is a party to the claim, no clawback will apply where at least one of the purchasers continues to occupy the qualifying residence. The claimant must notify the Revenue Commissioners where occupation ceases. ***(17)(b)(i)***

The appropriate payment must be paid to the Revenue Commissioners within 3 months from the date the residence ceases to be occupied. The rate of clawback depends on the year in which the dwelling ceases to be occupied. ***(17)(b)(ii)***

Year Occupation Ceases	Rate of clawback of the appropriate payment
1	100%
2	80%
3	60%
4	40%
5	20%

There will be a clawback of an appropriate payment, or part thereof, where it transpires that a claimant was not entitled to it. ***(18)(a)***

In such circumstances, the appropriate payment, or part thereof, must be repaid to the Revenue Commissioners within 3 months from the date on which the appropriate payment is made.

There will be a clawback from the claimant of the full amount of the appropriate payment in respect of a self-build qualifying residence where: ***(18)(b)(i)***

(I) the self-build residence is not completed within 2 years from the date on which the appropriate payment was made, or

(II) if within that 2-year period, the Revenue Commissioners have reasonable grounds to believe that the self-build qualifying residence will not be completed within that period.

Payment of the clawback by the claimant in respect of a self-build qualifying residence shall be made to the Revenue Commissioners within 3 months from the end of the 2-year period referred to in subsection (18)(b)(i)(I) or within 3 months of the Revenue Commissioners issuing notice to the individual that they have formed an opinion in accordance with subsection 18(b)(i)(II). ***(18)(b)(ii)***

There will be a clawback of the appropriate payment from the claimant in the case of the purchase of a qualifying residence in the period from 19 July 2016 to 31 December 2016 (where the payment is made directly to the claimant) where: ***(18)(c)(i)***

(I) the purchase does not happen within 2 years from the date on which the appropriate payment was made, or

(II) if within that 2-year period, the Revenue Commissioners have reasonable grounds to believe that the purchase will not be completed within that period.

Payment of the clawback by the claimant referred to in subsection (18)(c)(i) shall be made to the Revenue Commissioners within 3 months from the end of the 2-year period referred to in subsection (18)(c)(i)(I) or within 3 months of the Revenue Commissioners issuing notice to the individual that they have formed an opinion in accordance with subsection (18)(c)(i)(II). ***(18)(c)(ii)***

There will be a clawback from the contractor of the full amount of the appropriate payment in the case of an intended purchase of a qualifying residence in the qualifying period from 1 January 2017 to 31 December 2025 period where: ***(18)(d)(i)***

(I) the purchase does not happen within 2 years from the date on which the appropriate payment was made, or

(II) if within that 2-year period, the Revenue Commissioners had reasonable grounds to believe that the purchase will not be completed within that period.

Payment of the clawback from a contractor of the appropriate payment in respect of a qualifying residence shall be made to the Revenue Commissioners within 3 months form the end of the 2-year period referred to in 18(d)(i)(I) or within 3 months of the Revenue Commissioners issuing notice to the individual that they have formed an opinion in accordance with section 18(d)(i)(II). ***(18)(d)(ii)***

For the purposes of paragraph (d), an individual may notify the Revenue Commissioners where he or she has reasonable grounds to believe that the purchase of the qualifying residence will not be completed within the required 2-year period. ***(18)(e)***

Where a qualifying residence or a self-build qualifying residence is not completed within the required 2 years, the Revenue Commissioners may extend this period, where they are satisfied that the residence is substantially completed and is likely to be completed within a reasonable period of time. ***(18)(f)***

Where more than one individual is party to a claim for an appropriate payment and a liability arises in terms of a clawback under subsection (17) or (18), each party to the claim shall be liable jointly and severally in respect of the appropriate payment or part thereof. ***(19)***

These are the provisions regarding recovery of an appropriate payment, or part thereof, where the relevant person fails to pay Revenue. ***(20)(a) to (e)***

Where a person who is liable to pay to the Revenue Commissioners an appropriate payment, or part thereof, fails to pay that amount, a Revenue officer may make an assessment or an amended assessment on that person. ***(20)(a)***

A person aggrieved by an assessment, or an amended assessment may appeal the assessment or the amended assessment to the Appeal Commissioners within the period of 30 days after the date of the notice of assessment or amended assessment. ***(20)(b)***

Where a Revenue officer makes an assessment or an amended assessment on a person in an amount that, according to the best of that officer's judgement, ought to be charged on that person, the amount so charged shall, for the purposes of paragraph (a) and Part 42 ***(20)(c)***

(Collection and Recovery), be deemed to be tax due and payable in respect of the tax year in which the person is liable to pay the amount involved to the Revenue Commissioners. The amount due shall carry interest as determined in accordance with section 1080(2), with interest applying from the date the tax becomes due and payable to the Revenue Commissioners.

Any liability arising under this subsection and unpaid by a qualifying contractor shall be and remain a charge on the freehold or leasehold estate or interest in the land on which the qualifying residence was to be constructed but only where the contractor retains such estate or interest in the land. ***(20)(d)***

The charge on the estate or land under subsection (d) is not subject to the time limits under section 36 of the Statute of Limitations 1957. ***(20)(e)***

A person aggrieved by a decision by the Revenue Commissioners to refuse a claim for HTB may appeal to the Appeal Commissioners within a period of 30 days of the notice of the decision. ***(21)***

Anything required to be done under this section by the Revenue Commissioners may be done by any Revenue officer. ***(22)***

Any application, claim, information, confirmation, declaration or documentation required by this section shall be given by electronic means and through such electronic systems as the Revenue Commissioners may make available for the time being for any such purpose. ***(23)***

Section 1021 of the Taxes Consolidation Act 1997 will not apply to a refund under this section, so that, in the case of a jointly assessed couple, an appropriate payment claimed solely by one of them will not be split between them. ***(24)***

No application or claim may be made after 31 December 2029. ***(25)***

478 Relief for payments made by certain persons in respect of alarm systems

Summary

This section provides a relief from income tax in respect of expenditure incurred on the purchase and/or installation of an alarm system in the home of a person who is aged 65 years of age or over and who lives alone. The relief, which may be claimed by either the person personally or a relative (including a relation by marriage), is at the standard rate of tax on expenditure of up to €1,015.79 and is available in respect of expenditure incurred in the period 23 January, 1996 to 5 April, 1998.

Details

Definitions

"appropriate percentage" is a percentage equal to the standard rate of income tax for a year of assessment. ***(1)***

"installation" is the placing in position of a relevant alarm system, including any necessary ancillary work.

"qualifying expenditure" is expenditure incurred in the qualifying period in connection with the provision and/or installation of a relevant alarm system in a premises which is the qualifying individual's sole or main residence. It does not include any expenditure in so far as it is in respect of the repair, maintenance or monitoring of such an alarm system. This latter part of the definition is designed to exclude optional expenditure commonly available to alarm purchasers.

"qualifying period" is the period beginning on 23 January, 1996 and ending on 5 April, 1988.

"relative" includes, in addition to the usual persons covered by the term relative (namely, blood relations), a relation by marriage and a person in respect of whom the individual is or was the legal guardian.

"relevant alarm system" is an electrical apparatus which is designed to give notice that there is an intruder present or attempting to enter the premises in which it is installed.

Relief

The relief takes the form of a reduction in the income tax payable by the claimant (other than his/her liability in respect of tax withheld from annual payments under ***section 16(2)***) who, depending on who incurs the expenditure, may be the qualifying individual himself/herself or a relative. The reduction in tax is the lesser of — ***(2)***

- the cost of the installation at the standard rate of income tax, and
- €1,015.79 at the standard rate of income tax, and
- the amount which reduces the tax payable to nil.

The reference to ***section 16(2)*** ensures that tax deducted from annual payments is retained in charge against the person deducting it and that the tax deducted is not diluted by the reduction in tax provided by this section.

Claims

A claim for relief must be made in a form prescribed for that purpose by the Revenue Commissioners and must be accompanied by a receipt or receipts in respect of qualifying expenditure. Where relief is claimed in respect of installation expenditure, the receipt for such expenditure must contain the installer's name, address and tax reference number. ***(3)***

Bar on double relief

An individual is not entitled to double relief for the same expenditure. ***(4)***

478A Stay and Spend Tax Credit

Summary

The section provides for a tax credit in respect of qualifying expenditure incurred on accommodation, food and drink, subject to certain conditions being met.
Qualifying expenditure includes expenditure on holiday accommodation, where the premises is registered with Fáilte Ireland, and food and drink (excluding alcohol), where it is served in premises such as or similar to a hotel, a restaurant, a café or licensed premises.
The services must be provided by a qualifying service provider. Service providers will qualify for participation in the scheme if they provide the services described above, are VAT registered, hold a current tax clearance certificate, and are registered for the scheme with the Revenue Commissioners.
The tax credit is equal to the lesser of 20 per cent of the expenditure incurred and €125 or, in the case of a jointly assessed couple, €250. Where the claimant does not have sufficient income tax liability to fully absorb the tax credit to which they are entitled, any excess may be set against the universal social charge payable by the claimant for that same year of assessment.

Details

Definitions ***(1)***

"eligible service provider" means a person who—
(a) provides a qualifying service in the course of carrying on a business,
(b) has been issued with a tax clearance certificate in accordance with section 1095 and such tax clearance certificate has not been rescinded under subsection (3A) of that section, and
(c) is an accountable person under section 5 of the Value-Added Tax Consolidation Act 2010 and has been assigned a VAT registration number under section 65 of that Act;

"food and drink" means food with or without drink, but does not include drink without food;
"holiday accommodation" means accommodation at—
(a) premises that are registered in a register maintained and kept by the National Tourism Development Authority under Part III of the Tourist Traffic Act 1939, or
(b) premises that are listed in the list published or caused to be published by the National Tourism Development Authority under section 9 of the Tourist Traffic Act 1957;

"PPS Number", in relation to an individual, means the individual's Personal Public Service Number within the meaning of section 262 of the Social Welfare Consolidation Act 2005;
"qualifying expenditure" means expenditure on a qualifying service provided by a qualifying service provider but does not include expenditure incurred—
(a) on the provision of any alcoholic drink provided as part of the qualifying service, or
(b) on a particular instance of the provision of a qualifying service where the expenditure so incurred is less than €25;

"qualifying period" means the period beginning on 1 October 2020 and expiring on the day that is the later of—
(a) 30 April 2021, and

(b) where the Minister for Finance makes an order for the purposes of this paragraph, the day specified in the order;

"qualifying service" means—

(a) the provision of holiday accommodation, or

(b) the provision of food and drink, in a form suitable for human consumption without further preparation, in a hotel, restaurant, café, licensed premises (within the meaning of section 2 of the Public Health Alcohol Act 2018) or other similar establishment, where the food and drink so provided is consumed in the establishment in which it is provided;

"qualifying service provider" means an eligible service provider who has provided to the Revenue Commissioners (through such electronic means as the Revenue Commissioners make available) the information specified in subsection (2) and to whom a notice has been issued by the Revenue Commissioners in accordance with subsection (3)(a);

"tax reference number" means, in the case of an individual, the individual's PPS Number and, in the case of a company, the reference number stated on any return of income form or notice of assessment issued to the company by the Revenue Commissioners;

"tax year" means a year of assessment for income tax purposes.

Qualifying service providers

Eligible service providers must provide certain information to the Revenue Commissioners in an electronic format in order to qualify for participation in the Stay and Spend scheme. The information to be provided to the Revenue Commissioners includes the service provider's name (including any trading name if different), business address, tax reference number, VAT registration number and tax clearance access number. ***(2)(a) – (e)***

Where the service provider provides holiday accommodation, they must provide to the Revenue Commissioners details of the type of accommodation provided and details of the service provider's registration or listing with the National Tourism Development Authority. ***(2)(f)***

Where the service provider provides food and drink, they must provide to the Revenue Commissioners details of the type of establishment in which the food and drink is provided. ***(2)(g)***

Service providers must also make a declaration that they are an eligible service provider for the purposes of this scheme. ***(2)(h)***

Once the Revenue Commissioners have received the above information, they will review it and consider if they are satisfied that the information provided is complete and accurate. ***(3)***

Where the Revenue Commissioners are satisfied that the information provided is complete and accurate, they will issue a notice to the service provider specifying that they are a qualifying service provider for the purposes of this scheme. ***(3)(a)***

Where the Revenue Commissioners are not satisfied that the information provided is complete and accurate, they will issue a notice to the service provider specifying that they are not a qualifying service provider for the purposes of this scheme. The Revenue Commissioners will specify in this notice the reasons why they are not satisfied that the information provided is complete and accurate. ***(3)(b)***

The trading name, business address and nature of the business of all qualifying service providers will be published on the website of the Revenue Commissioners. ***(4)***

Entitlement to the tax credit

In a tax year, where an individual (known as the claimant) makes a claim and proves that he or she has incurred qualifying expenditure in the part of that tax year that falls within the qualifying period, he or she will be entitled to the stay and spend tax credit. ***(5)***

Where the claimant is a married person or civil partner and is assessed to tax under section 1017 or section 1031C respectively in that tax year, the qualifying expenditure may be ***(5)(a)***

incurred by the individual themselves or by his or her spouse or civil partner. In any other case the claim submitted must relate to qualifying expenditure incurred by the claimant themselves. ***(5)(b)***

Where the claimant is a married person or civil partner and is assessed to tax under section 1017 or section 1031C respectively in that tax year, the claimant is entitled to a tax credit equal to the lesser of €250 and 20% the total qualifying expenditure incurred by the claimant themselves and his or her spouse or civil partner, in that tax year. ***(5)(i)***

In any other case the claimant is entitled to a tax credit equal to the lesser of €125 and 20% the total qualifying expenditure incurred by the claimant in that tax year. ***(5)(ii)***

Where the claimant is entitled to the stay and spend tax credit in both the 2020 and 2021 tax years, the aggregate tax credit a claimant can receive under the scheme (in respect of both years) shall not exceed €250 where the claimant is a married person or civil partner assessed to tax in accordance with section 1017 or section 1031C in respect of both years. ***(6)(a)(i)***

In all other cases where the claimant is entitled to the stay and spend tax credit in both the 2020 and 2021 tax year, the aggregate tax credit a claimant can receive under the scheme (in respect of both years) shall not exceed €125. ***(6)(a)(ii)***

Notwithstanding the above, where the claimant is entitled to the stay and spend tax credit in both the 2020 and 2021 tax years, the aggregate tax credit a claimant can receive under the scheme (in respect of both years) shall not exceed €250 where the claimant is a married person or civil partner assessed to tax in accordance with section 1017 or section 1031C in respect of one of the years only (i.e. they can't claim €125 in the first year and €250 in the second year). ***(6)(b)***

Application

The tax credit to which a claimant is entitled under the scheme in either the 2020 or 2021 tax year shall be used to reduce the claimant's liability to income tax in that tax year, after any other allowance, deduction or relief specified in the Table to section 458 has been given to the claimant. ***(7)***

Where the claimant's liability to income tax in the relevant tax year, after any other allowance, deduction or relief specified in the Table to section 458 has been given, is less than the tax credit to which they are entitled under this section, the difference between the amount of the tax credit and the amount of income tax payable may be set against a charge to universal social charge which is due and payable by the claimant in that same tax year.

Making a claim

Claimants shall make a claim for this tax credit electronically and shall provide their name, address and PPS number to the Revenue Commissioners. Where the individual is a married person or civil partner who is jointly assessed to tax in accordance with section 1017 or 1031C respectively, they shall also provide the name, address and PPS number of their spouse or civil partner to the Revenue Commissioners. ***(8)(a) – (b)***

Claimants shall also provide full details of the qualifying expenditure incurred, including the trading name and business address of the qualifying service provider and details of the qualifying service received. The claimant shall also provide a copy of the receipt issued by the qualifying service provider upon payment for the qualifying service. ***(8)(c)***

Furnishing of information

The Revenue Commissioners may require qualifying service providers to furnish them with such information as they consider necessary to determine that the requirements of this section have been met. Where the Revenue Commissioners require qualifying service providers to furnish them with such ***(9)***

information they will issue a notice in writing and specify the timeframe within which the qualifying service provider must reply. This timeframe will not be less than 30 days.

Extension of qualifying period

The qualifying period commences on 1 October 2020 and ends on the later of 30 April 2021 or the day specified in an order made by the Minister for Finance. The Minister for Finance may make an order specifying an end date other than 30 April 2021 where it is deemed necessary in order to mitigate the adverse economic consequences resulting, or likely to result, from the spread of Covid-19. ***(10)(a)***

Where any such order is made the end date specified therein will not be a day that falls after 31 December 2021. ***(10)(b)***

Any such order made shall be laid before Dáil Éireann as soon as may be after it has been made. The order will only be annulled if a resolution annulling the it is passed by Dáil Éireann within the next 21 days on which Dáil Éireann has sat after the order is laid before it. ***(10)(c)***

479 Relief for new shares purchased on issue by employees

Summary

This section gives an employee or director a deduction for income tax purposes up to a lifetime limit of €6,350 in respect of money subscribed by him/her for new ordinary shares in the company with which he/she is employed or for new ordinary shares issued by the holding company of the employing company, where the employing company is a 75 per cent subsidiary of the holding company. The €6,350 does not have to be invested all at once and can be spread over a number of years of assessment.

The company issuing the shares must be one whose business consists wholly or mainly of the carrying on in the State of one or more trades or a holding company for such companies. A company which is both a holding company for such subsidiaries and a trading company also qualifies. The shares must be new ordinary shares issued at full market value which are fully paid up and not subject to any restrictions beyond restrictions which apply to all shares in the company of the same class.

To qualify for the relief, the employee or director must take up new shares on issue and must hold them for a period of 3 years. Provision is made for a claw back of the relief given where the shares are disposed of within 3 years of their acquisition.

An income tax deduction is not allowed in respect of shares that are subscribed for on or after 8 December 2010 (Budget day).

Details

Definitions and construction

"director" has the same meaning as in ***Chapter 3*** of ***Part 5***. This is the definition which applies to the benefit in kind provisions and includes a person in accordance with whose directions the directors of the company are accustomed to act. ***(1)(a)***

"eligible employee" is a director or employee of a qualifying trading company or, in the case of a qualifying holding company, a director or employee of that company or of a 75 per cent subsidiary of that company.

"eligible shares" are new shares forming part of the ordinary share capital of a qualifying company which —

- are fully paid up,
- throughout the period of 3 years beginning with the date on which they are issued, carry no present or future preferential right to dividends or to the company's assets on its winding up and no present or future preferential right to be redeemed,

- are not subject to any restrictions other than restrictions which attach to all shares of the same class, and
- are issued to and acquired by an eligible employee in relation to a company at not less than their market value at the time of issue.

"holding company" is a company whose business consists wholly or mainly of the holding of shares or securities of trading companies which are its 75 per cent subsidiaries.

"market value" has the same meaning as in ***section 548*** (that is, it is the price which the shares would fetch on sale on the open market).

"qualifying company" is a company which, at the time the eligible shares are issued, is incorporated in the State, resident in the State and not resident elsewhere, and either a trading company or a holding company.

"trading company" is a company whose business consists wholly or mainly of the carrying on wholly or mainly in the State of one or more trades.

"75 per cent subsidiary" has the same meaning as in ***section 9*** as that section is applied for the purposes of group relief by ***paragraphs (b)*** and ***(c)*** of ***subsection (1)*** of ***section 411*** (that is, it is extended to include industrial and provident societies).

References to a disposal of shares includes references to a disposal of an interest or right in or over shares, and an individual is to be treated as disposing of any shares which under ***section 587*** he/she would be treated as exchanging for other shares. ***(1)(b)***

Shares are not treated as belonging to the same class unless they would be so treated if dealt in on a stock exchange in the State. ***(1)(c)***

Relief

The relief applies where an eligible employee in a qualifying company subscribes for eligible shares in that company. The relief takes the form of a deduction from total income for the year of assessment in which the shares are subscribed for, and is subject to a lifetime cap of €6,350. Shares in the employing company do not have to be subscribed for all at once. This is subject to ***subsection (9)*** which disallows relief where eligible shares are subscribed for on or after 8 December 2010. ***(2)***

Claw back of relief

A claw back of relief occurs where, within 3 years of acquisition, the eligible shares are disposed of by the eligible employee or where he/she receives, in respect of the shares, any money or money's worth which is not regarded as income in his/her hands for income tax purposes. There is no claw back after the third anniversary. ***(3)***

Shares

The shares made available to employees must not be special issue shares created for the purpose of the relief. This measure is necessary to ensure that employees get genuine shares in the company which have an equal standing with shares issued to non-employees. Accordingly, except where the company has one class of shares only, the majority of the shares in the same class as the eligible shares must be shares other than eligible shares and shares held by persons who acquired them in pursuance of a right conferred on them or of an opportunity afforded to them as a director or employee of the company or any of its 75 per cent subsidiaries. ***(4)***

Identification of shares

To determine which shares have been disposed of where shares have been acquired at different times the provisions of ***section 498*** are to be applied. Where the employee has other ordinary shares in the company in addition to eligible shares within the meaning of ***(5)***

this section, any disposal (except where the disposal is one to which ***section 512(2)*** applies) is treated as made firstly out of eligible shares and only when no eligible shares are left out of the other shares. Eligible shares acquired earlier are to be regarded as disposed of first so that the employee suffers claw back of relief where eligible shares are concerned only when all such shares over 3 years in issue have been cleared and only shares acquired within 3 years remain for identification.

Company reconstructions and reorganisations

(6) Where, in consequence of company reconstructions or reorganisations, the eligible shares purchased by an employee are replaced by new shares or securities, the new shares or securities are to stand in place of the eligible shares and are to be dealt with in the same manner. Accordingly, where there is a transaction in relation to an employee's eligible shares (called the "original holding") which, for capital gains tax purposes, would result in a new holding (as defined in ***section 584***) being equated with the original holding, then, for the purposes of ***subsection (3)*** —

- the new holding is to be treated as shares in respect of which relief has been given,
- the transaction is not to be treated as involving a disposal of the original holding (and so constituting a disposal for claw back purposes),
- the consideration for the disposal of the original holding to the extent that it consists of the new holding is not to be treated as money or money's worth, and
- the disposal of the whole or part of the new holding is to be treated as a disposal of the whole or a corresponding part of shares in respect of which relief has been given under the section.

The scope of the transactions envisaged includes bonus issues, rights issues, alterations of rights attaching to a share class, conversion of securities, including exchanges, and company amalgamations and take-overs.

Capital gains tax

(7) The normal rules apply for capital gains tax purposes in determining the acquisition cost of eligible shares when sold, that is, expenditure which qualified as a deduction in computing income for income tax purposes is not allowed as a deduction for capital gains tax purposes.

Anti-avoidance

(8) Shares qualifying for relief under this section must be issued for bona fide commercial reasons and not as part of a tax avoidance scheme.

Termination of relief

(9) An income tax deduction is not allowed in respect of eligible shares that are subscribed for on or after 8 December 2010.

480 Relief for certain sums chargeable under Schedule E

Summary

This section provides a measure of relief from income tax in respect of certain lump sum payments which are chargeable to tax under Schedule E. The payments in question are those made to employees to compensate them for a reduction or possible reduction in future remuneration arising from a reorganisation of a business or change in work procedures, work methods or a change of place where the duties of the office or employment are performed. The relief is given by repayment of tax. The relief does not

apply to a payment to which ***section 123*** applies. Also, the relief is not available to proprietary directors or employees or to part-time directors or employers.

Details

Definitions and construction

"director" is — ***(1)(a)***

- where a company is managed by a board of directors or other similar body, a member of that board or other body,
- where a company is managed by a single director or similar person, that director or similar person,
- where a company is managed by its members, a member of the company,

and includes any person who is or has been a director.

"proprietary director" is a director who is either the beneficial owner of, or is able directly or indirectly to control, more than 15 per cent of the ordinary share capital of a company.

"part-time director" is a director who is not required to devote substantially the whole of his/her time to the service of a company.

"proprietary employee" is an employee who is either the beneficial owner of, or is able directly or indirectly to control, more than 15 per cent of the ordinary share capital of a company.

For the purpose of the definitions of "proprietary director" and "proprietary employee", any ordinary share capital of a company which is owned or controlled by a spouse, a civil partner, a minor child or a minor child of the civil partner of such an employee or director, or which is owned or controlled by a trustee of a trust set up for the benefit of persons including any such person or such director or employee, is deemed to be owned and controlled by the director or employee. ***(1)(b)***

Application

The section applies to any payment chargeable to tax under Schedule E which is made to an employee to compensate for — ***(2)(a)***

- a reduction or possible reduction of future remuneration arising from a reorganisation of the employer's business or from a change in work procedures, methods, duties or rates of remuneration, or
- a change in the place where the duties of the office or employment are performed.

Exclusion

The section does not apply to — ***(2)(b)***

- a termination lump sum payment to which ***section 123*** applies,
- a payment made to —
  - a proprietary director,
  - a part-time director,
  - proprietary employee, or
  - a part-time employee.

Relief

An individual on receiving a payment to which this section applies is entitled, on making a claim and proving the relevant facts to the satisfaction of an inspector, to have the total ***(3)***

amount of tax payable by him/her for the year of assessment for which the payment is chargeable reduced to the total of the following amounts —

- the amount of income tax which would be payable by him/her if he/she had not received the payment, and
- an amount equal to tax on the whole of the payment computed at a special rate.

(4) The special rate at which the whole of the payment is to be taxed is determined by ascertaining the additional tax payable if 1/3rd of the payment where included in his/her total income for the relevant year, and then dividing this additional income tax figure by a sum equal to 1/3rd of the whole payment.

(5) Relief under this section is given by repayment. Relief is not available in respect of income the tax on which the claimant is entitled to charge against any other person, or to deduct retain or satisfy out of any payment which he/she is liable to make to any other person.

Example

Mr. A is a single person entitled to the basic personal tax credit and PAYE tax credit only. He receives a sum of €6,000 during the year 2018 in consequence of his employer reorganising his business. Mr. A's income for the year 2018 is €38,000 (that is, salary €32,000 plus €6,000 compensation). The relief applies as follows —

	Income for year	**Income including 1/3 of payment only**	**Income excluding payment**
	€	€	€
Salary	32,000	32,000	32,000
Compensation			
Full amount	6,000		
1/3rd of the amount	—	2,000	—
	38,000	**34,000**	**32,000**
Tax due			
First €34,550 @ 20%	6,910	6,800	6,400
Remainder @ 40%	1,380	—	—
	8,290	6,800	6,400
Less tax credits			
Personal	(1,650)	(1,650)	(1,650)
PAYE	(1,650)	(1,650)	(1,650)
	€4,990	**€3,500**	**€3,100**

The additional tax due by including 1/3rd of the lump sum in Mr A's total income for the year is €400 (i.e. €3,500 – €3,100).

The special rate is ascertained by taking the additional income tax figure of €400 and dividing it by 1/3rd of the lump sum and multiplying by 100 giving a rate of 20% (i.e. 400 ÷2000 x 100 = 20%).

Mr A's tax for the year is —

Tax on lump sum €6,000 @ 20%	=	€1,200
Tax on income excluding lump sum	=	€3,100

Total tax due	=	**€4,300**

As Mr A paid tax of €4,990 in respect of his overall emolument, he will be entitled to be reclaim €690 (i.e. €4,990 – €4,300).

480A Relief on retirement for certain income of certain sportspersons

Summary

This section makes provision for relief from income tax in respect of certain earnings of sportspersons listed in ***Schedule 23A***. The sportspersons concerned are: athlete, badminton player, boxer, cricketer, cyclist, footballer, golfer, jockey, motor racing driver, rugby player, squash player, swimmer and tennis player.

The earnings to which the relief applies are earnings deriving directly from actual participation in the sport concerned such as prize money, performance fees etc, but not other earnings such as sponsorship fees, advertisement income or income from endorsements etc. The relief takes the form of a deduction from earnings equal to 40 per cent of those earnings for any 10 years of assessment in the relevant period consisting of the year of retirement and the 14 years of assessment immediately preceding that year. The sportsperson must be resident in the State, an EU state or an EEA state at the time of retirement.

The relief will be given by way of repayment of tax and is to be claimed in the year in which the sportsperson ceases permanently to be engaged in that sport. Provision is made to withdraw the relief by way of a Case IV assessment for the years in respect of which the relief was originally given if the person subsequently recommences to be engaged in that sport, though this does not prevent a subsequent claim for the relief if and when the sportsperson finally does retire at a later time.

Details

Definitions

"basis period", is defined as the period in respect of which profits or gains of the sportsperson are charged for a year of assessment. ***(1)***

Other definitions are self-explanatory.

The meaning of "wholly and exclusively" is refined to include — ***(6)***

- wages, salaries and fees etc. received as a direct consequence of playing the game, in the cases of an employed person, and
- all prize money, performance fees etc. received directly from playing the game in the case of a self employed person,

but does not include monies received from sponsorship, advertisements or endorsements etc.

Application of section

Subject to ***section 960H*** (offset between taxes), the section applies where a sportsperson, specified in ***Schedule 23A*** (a relevant individual) satisfies the Revenue Commissioners that he/she has ceased permanently in a year of assessment to be engaged in that occupation or to carry on that profession (specified occupation and specified profession, respectively) where the person was resident in the State for that year of assessment. ***(2)***

A claim to avail of the deduction must be made within 4 years of the end of the year in which the sportsperson retires ***(3)***

Subsection (3) is to apply notwithstanding the general time limit for making a claim for a repayment of tax contained in ***section 865***. Any excess tax paid may be repaid on foot of a valid claim within the meaning of ***section 865(1)(b)***. (The meaning of a valid claim is dealt with in ***section 865***). ***(4)***

The relief

The amount of the deduction is set at 40% of the gross receipts for each year, before deducting expenses, which arose wholly and exclusively from engaging in the sport. ***(5)***

The claim is to be submitted in the return of income for the year in which the person ceases to play the game. If the person is not required to submit a return for that year, the relief can be claimed by submitting a claim for relief. ***(7)***

The relief will be given by way of tax repayment in all cases, no interest will be due to the taxpayer in respect of the payment and the relief cannot create a loss for the purposes of ***Chapter 1*** of ***Part 12*** (loss relief). ***(8)***

Interaction with Retirement Annual Relief

The giving of the relief will not affect the persons income for the years in respect of which the relief is given for the purposes of ***sections 787 and 787B*** (level of allowable contributions for the purposes of retirement annuity contracts, occupational pension schemes and personal retirement savings accounts). ***(9)***

Withdrawal of relief

Any relief given may be withdrawn if the person recommences to engage in the sport, by making an assessment under Case IV of Schedule D for the years in respect of which the relief was originally given. These assessments may be made at any time. ***(10)***

480B Relief arising in special circumstances

Summary

This section provides for increased tax credits and rate band where a PAYE taxpayer is paid in a week 53 situation in a tax year.

Week 53 arises when a payday falls on the last day of a tax year, or the penultimate and last days of a leap year, and the individual has an extra payday in that year compared to a normal year.

A similar provision is in place for USC – [section 531AN(5), (6) and (7)].

This section applies for the year of assessment 2018 and subsequent years.

Details

This section applies where emoluments are - ***(1)***

- chargeable to income tax in accordance with Section 112(3) i.e. chargeable to tax under Schedule E on the basis of the income paid to the individual,
- subject to PAYE (Chapter 4 of Part 42), and

paid on 31 December, or 30/31 December in a leap year.

The deduction and tax credits specified in subsection (3) are to be increased by– ***(2)***

- 1/52 where the individual is paid weekly, and
- 1/26 where the individual is paid fortnightly.

The tax credits that are to be increased in a Week 53 scenario are-

Section 461 – Basic Personal Tax Credit
Section 461A – Additional Tax Credit for Certain Widowed Persons
Section 462B – Single Person Child Carer Credit
Section 463 – Widowed Parent Tax Credit
Section 464 – Age Tax Credit
Section 465 – Incapacitated Child Tax Credit
Section 466 – Dependent Relative Tax Credit
Section 466A – Home Carer Tax Credit
Section 468 – Blind Person's Tax Credit
Section 470 – Medical Insurance
Section 472 – Employee Tax Credit
Section 472AB – Earned Income Tax Credit
Section 472B – Seafarer Allowance
Section 472BA – Fisher Tax Credit
Section 472BB – Sea-Going Naval Personnel Credit (from 1 January 2023) ***(3)***

This sub-section operates to limit the benefit under subsection (2) to the amount of emoluments paid on the relevant day (30/31 December). The amount of the increase is limited to the sum arrived at as follows: ***(4)***

- The amount of any increased deduction (A) and
- The taxable equivalent of any tax credit (B), i.e. the tax credit regrossed at the standard rate.

Where the amount of the emoluments paid in week 53 is less than the amount calculated above, the amount of the benefit under sub-section (2) is limited to an amount equal to the amount of the week 53 income.

Where the individual is in receipt of both weekly and fortnightly emoluments in a week 53 pay day, (e.g. where the individual has emoluments from more than one employment and both have a week 53 pay day), the extent of the increase in subsection (2), or where appropriate subsection (4), is granted against the income arising from only one of the sources i.e. whichever is the most beneficial to the individual. ***(5)***

An individual is also entitled to an increase in the relevant rate band. ***(6)***

In the case of married couples or civil partners, where both spouses have Week 53 pay days, the amount of the additional rate band is also to be increased. ***(7)***

The increase in the rate bands under subsections (6) and (7) are limited to the amount of the emoluments paid on the week 53 pay day. ***(8)***

Where the individual and his/her spouse or civil partner are both in receipt of weekly and fortnightly emoluments in a week 53 pay day, (e.g. where an individual and his/her spouse or civil partner have emoluments from more than one source and each source has a week 53 pay day), the extent of the increase in subsection (6), (7) and (8), is granted against the income arising from only one of each of their sources i.e. whichever is the most beneficial to the individuals. ***(9)***

Where an individual is entitled to marginal relief, the exemption provided for in Section 188 is also increased by 1/52 where the individual is paid weekly, or 1/26 where the individual is paid fortnightly. The increase is limited to the amount of emoluments paid in week 53. ***(10)***

Where an individual is claiming the Home Carer Tax Credit the income threshold specified in S.466A is increased in Week 53 cases. In such cases, the income threshold of €7,200 applicable to the 'home carer' will be increased by one 1/52 for those paid weekly and one 1/26 for those paid fortnightly. ***(10A)***

Where the individual is in receipt of both weekly and fortnightly emoluments in a week 53 pay day, (e.g. where an individual has emoluments from more than one source and both sources have a week 53 pay day), the extent of the increase in subsections (10) and (10A), ***(11)***

is granted against the emoluments arising from only one of the sources i.e. whichever is the most beneficial to the individual.

There is an anti-avoidance provision to stop the manipulation of pay dates to cause unscheduled Week 53 years. Where the pay date of an employee has been changed in a year, or a preceding year, this section will not apply. Also, if the normal pay day of the individual is not on 31 December, or 30/31 December in a leap year, the section will not apply. (See section 531AN(7) for USC). ***(12)***

For the purposes of subsection (12), the normal pay day is the day on which weekly or fortnightly pay is normally/usually paid to the individual. ***(13)***

480C Residential Premises Rental Income Relief

Summary

Section 480C provides income tax relief to individual landlords of residential rental property. The relief is known as the "Residential Premises Rental Income Relief".

Details

Definitions

A "person chargeable" is defined as an individual who is a person chargeable within the meaning of section 96. The definition in section 96 is amended for the purposes of this section to restrict it to individuals only. ***(1)***

A "qualifying premises", means a residential premises situated in the State that is, on 31 December in a year of assessment, owned by the landlord and occupied by a tenant

(i) under a tenancy registered with the Residential Tenancies Board,
(ii) and is a property to which Part II of the Housing (Private Rented Dwellings) Act 1982 applies, or
(iii) and is let to a public authority.

A property that is not currently being rented may nevertheless come within the definition of a "qualifying premises" where it is being actively marketed for rent as a residential property.

"relevant amount" is defined as the amount of profits or gains from all qualifying premises owned by the landlord and on which the landlord is charged to tax under Case V of Schedule D, after capital allowances and losses have been deducted.

"total Case V income" means the total amount of Case V income on which the person chargeable is assessed to income tax after deducting any capital allowance and rental losses carried forward. It is the overall Case V position of the person chargeable.

The terms "rent" and "rented residential premises" both take their meaning from section 96.

A landlord of residential rental property who is eligible for residential premises rental income relief is entitled to a credit of the lowest of — ***(2)***

For 2024—

- €600,
- 20% of the landlord's case V profits from qualifying premises, or
- 20% of the landlord's overall case V income

For 2025—

- €800
- 20% of the landlord's case V profits from qualifying premises, or
- 20% of the landlord's overall case V income

For 2026 and 2027—

- €1000,
- 20% of the landlord's case V profits from qualifying premises, or

20% of the landlord's overall case V income.

(3) The tax credit will not be available where any of the landlord's residential premises is occupied by a tenant who is—

- connected to the landlord by virtue of section 10, or
- an uncle, aunt, niece or nephew of the landlord or of a spouse or civil partner of the landlord.

(4) This subsection sets out the circumstances that will give rise to a clawback of relief claimed. These are, where during the 4-year period beginning with the first year in which a credit is claimed, the landlord —

1. ceases to be the owner of any of their qualifying premises. This includes where a landlord disposes of any of the qualifying premises or otherwise takes any of these properties out of the rental market. This may include where a landlord changes the use to let the property as a short-term letting. Income from short-term lettings is taxable under Case I or Case IV (depending on the circumstances) rather than Case V and therefore is not eligible for a credit under this section.
2. rents any of their qualifying premises to a connected party (within the meaning of section 10) or to certain relatives, including an uncle, aunt, niece or nephew of the landlord or of the landlord's spouse or civil partner.

(4A) A clawback of relief claimed will not arise where a landlord dies during a relevant year of assessment.

(5) Where an event resulting in a clawback of relief claimed occurs, a Revenue officer will make or amend an assessment to withdraw the credit claimed by the landlord. Any additional tax due on foot of this assessment will be due and payable on the same date as the tax was due for the year of assessment in which the event triggering the clawback took place.

(6) The tax credit will not be available unless the landlord has, on 31st December in the relevant year of assessment, complied with their LPT obligations in respect of all qualifying premises and holds a valid Tax Clearance Certificate.

(7) Where a qualifying premises is owned by more than one person the credit will be divided between the owners in proportion to the amount of rental income they are each entitled to receive in respect of that property.

(8) Where a landlord co-owns or jointly owns one qualifying premises but also owns another qualifying premises in their sole name, that landlord will be entitled to a full credit under subsection (2).

(9) Where a landlord co-owns or jointly owns a number of qualifying premises, that landlord will be entitled to a credit in respect of the property in which that landlord has the largest ownership share. For example, a landlord co-owns three properties - in the first property, the landlord has a 50% ownership, 30% in the second property and 70% in the third. The landlord can claim 70% of the credit under this section as this is the largest percentage ownership that landlord has in any one property.

(10) The tax credit is available for the years of assessment 2024, 2025, 2026 and 2027.

CHAPTER 2

Income tax and corporation tax: reliefs applicable to both

Overview

Chapter 2 of ***Part 15*** provides relief from income tax and corporation tax in respect of certain investments, expenditure and gifts.

481 Relief for investment in films

Summary

This section provides relief for expenditure on qualifying films by film producer companies. The relief takes the form of a payable Corporation Tax credit. The credit is calculated at a rate of 32 per cent of the lowest of the eligible expenditure incurred on the production of the film; 80 per cent of the total cost of production of the film; or €125,000,000. An increased rate of film corporation tax credit, the regional film development uplift, may be granted by the Minister and claimed where

(I) the production is largely undertaken in an assisted region,

(II) there is a limited availability of qualified personnel in that immediate area, and

(III) additional expenditure is incurred training individuals within that area.

A producer company must enter into a contract with a qualifying company in relation to the production of a qualifying film. A qualifying company is a special purpose production company. A producer company must hold all of the shares in the qualifying company. The qualifying company must exist solely for the production of one qualifying film.

The amount of a film budget, which qualifies for relief under the scheme, will generally be restricted to the amount expended in the State on the production of the film. This is achieved by the inclusion of a requirement, in section 481, that a minimum amount must be expended on the employment of eligible individuals, the provision of labour only services by individuals and on the provision of certain goods, services and facilities in the State.

Regulations are made by the Revenue Commissioners in relation to the operation of the relief. These Regulations are made with the consent of the Minister for Finance and the Minister for Culture, Heritage and the Gaeltacht (Tourism, Culture, Arts, Gaeltacht, Sport and Media).

Details

Definitions ***(1)***

"assisted region" is defined with reference to a decision by the Commission on the areas of Ireland that can receive regional aid. The purpose of the definition is to define the geographic areas where producer companies may be entitled to the regional uplift.

"broadcast" and "broadcaster" have the meanings assigned to them by section 2 of the Broadcasting Act 2009.

"certificate" means the formal confirmation issued by the Minister for Arts, Heritage and the Gaeltacht certifying that a film may be treated as a qualifying film for the purposes of the film tax credit.

"director" shall be understood within the meaning of ***section 433(4)*** of the TCA 1997.

"eligible expenditure" means the portion of the total cost of production of a qualifying film expended in the State:

- directly by the qualifying company on the employment of eligible individuals,
- directly by the qualifying company in relation to individuals providing labour only services, and
- directly or indirectly by the qualifying company on the provision of certain goods, services and facilities.

"eligible individual" means an individual employed by a qualifying company for the purposes of the production of a qualifying film.

"film" means a film that is eligible for certification within certain categories that are set out in the Film Regulations. The film must be made as a genuine commercial venture to be shown in the cinema or for broadcast. This requirement is necessary to ensure that private films or films made for some incidental purpose other than the profitable exploitation of the film are excluded. Advertising films are also excluded.

"film corporation tax credit" is calculated at 32% of whichever of the following is the lowest –

(a) the eligible expenditure amount,

(b) 80 per cent of the total cost of production of the film, and

(c) €125,000,000*.

* The increased the cap on expenditure from €70,000,000 to €125,000,000 is available to films certified following commencement of section 41 of Finance (no. 2) Act 2023 on 28 March 2024

"producer company", means an Irish incorporated and resident company, or a company incorporated or resident in another EEA state which is carrying on a trade of producing films in the State through a branch or agency. It cannot be, or be connected to a company that is a broadcaster or a company whose main business is transmitting films on the internet. It must hold all the shares in the qualifying company that is making the film. It must be trading for a minimum period of 21 months in advance of making a claim for the credit and be fully tax compliant. Furthermore, for the purposes of State Aid, it must not be part of an undertaking in difficulty as understood by the Rescuing and Restructuring guidelines.

"qualifying company" means an Irish incorporated and resident company, or a company incorporated or resident outside the State but which is carrying on a trade in the State through a branch or agency, which has been set up for the production of only one qualifying film. This ensures that the relief granted is clearly targeted for the production of a specific film so that the Revenue Commissioners are aware of how the relief is to be utilised. The qualifying company cannot have in its name the words "Ireland", "Irish", "Éireann", "Éire" or "National".

"qualifying film" is a film in respect of which the Minister has issued a certificate .

"qualifying period" refers to the most recent accounting period of the producer company, for which the specified return date for corporation tax has already occurred, that falls before the date the claim for the credit . Where the accounting period is less than 12 months, then the last 12 month accounting period before the short accounting period immediately preceding the claim date should be used.

"Rescuing and Restructuring Guidelines" refers to the 2014 Commission Guidelines for State aid for rescuing and restructuring non-financial undertakings in difficulty.

"specified amount" means the amount by which a claim for the film corporation tax credit exceeds the corporation tax paid by the producer company in the qualifying period.

"specified relevant person" means any director or secretary of the producer company at any time during the period commencing when the qualifying period commences and ending 12 months after the date referred to in subsection (2C)(d) being the date of completion of the production of the qualifying film.

"the Minister" means the Minister for Arts, Heritage and the Gaeltacht.

"total cost of production" means the part of the global expenditure of a qualifying film that meets the qualifications set out in the Film Regulations and that was wholly, exclusively and necessarily incurred to produce the qualifying film.

"undertaking" refers to an economic group or entity within the meaning used by the Commission Rescuing and Restructuring guidelines.

"undertaking in difficulty" is given the same meaning as in the Rescuing & Restructuring Guidelines.

Application by a producer company for certification

A producer company may apply to the Minister for Certification that a film may be treated as meeting the cultural criteria for the purposes of Section 481. ***(1A)(a)***

The information to accompany the application is specified in regulations. ***(1A)(b)***

After 1 January 2019 a producer company may also apply when making its application to the Minister for certification for an increased rate of film corporation tax credit known as a "regional film development uplift" where certain conditions are met. These conditions are that the production is largely undertaken in an assisted region, where there is a limited availability of qualified personnel, and the company provides and incurs additional expenditure training individuals within the immediate area the film is being made. ***(1B)(a)***

The availability of the regional film development uplift tapered over a five-year period as follows: ***(1B)(b)***

(i) for qualifying claims made on or before 31 December 2021 the film corporation tax credit was calculated at a rate of 37%

(ii) for qualifying claims made after 31 December 2021 but on or before 31 December 2022 the credit was calculated at a rate of 35%

(iii) for qualifying claims made after 31 December 2022 but on or before 31 December 2023 the credit was calculated at a rate of 34%

(iv) for all new claims made after 31 December 2023 the maximum rate is 32%.

Certificate to be issued by the Minister for Arts, Heritage and the Gaeltacht

The Minister may, following receipt of an application from a producer company and consideration in accordance with regulations, certify that a film is a qualifying film and specify whether or not the regional film development uplift applies. ***(2)(a)***

The Minister for Arts, Heritage and the Gaeltacht in considering whether to issue the certificate must consider: ***(2)(b)***

- the categories of films eligible for certification (as set out in the regulations), and
- any contribution which the film is expected to make to the development of the Irish film industry and/or the promotion and expression of Irish culture
- the timing of the application i.e. the application must be received in advance of the commencement of production in the State
- for certificates issued before 31 December 2023, the criteria specified in subsection (1B)(a)(ii) that must be met for a film to qualify for the regional film development uplift.

Additionally, the Minister for Arts, Heritage and the Gaeltacht must specify certain conditions in any certificate given, including: ***(2)(b)(II)***

- a condition in relation to the employment and responsibilities of the producer and the producer company for the production of the film and
- a condition in relation to the employment of other personnel, including trainees.
- a condition in relation to the nature and detail of acknowledgement of the support from the incentive in the opening titles or closing credits of the film ***(2)(b)(III)***

- conditions in respect of Communication from the Commission (2013/C/332/01)[1] regarding ***2)(b)(IV)***
  - the maximum state aid intensity which may be availed of for the production of the film and
  - whether or not the film may be regarded as difficult audiovisual work

There is no obligation on the Minister to issue a certificate. ***(2)(b)(c)***

Alteration of conditions in a certificate

The Minister for Arts, Heritage and the Gaeltacht may amend or revoke any condition specified in a certificate or add to such conditions, by giving notice in writing to the producer company and in those circumstances this section will apply as if any amended, additional or revoked condition was always reflected in the certificate. ***(2)(b)(d)***

Claim by a producer company for Film Corporation Tax Credit

A producer company may not make a claim for film corporation tax credit if any of the following conditions apply: ***(2A)(b)***

(i) A certificate has not been issued by the Minister for Arts, Heritage and the Gaeltacht for the film.

(ii) The producer company, the qualifying company, any company controlled by the producer company and the majority shareholders of the producer company or qualifying company is not tax compliant

(iii) The eligible expenditure amount is less than €125,000, or

(iv) The total cost of production of the film is less than €250,000

(v) The company is an undertaking in difficulty

(vi) Any company in an undertaking of which the producer company is part is the subject of an outstanding recovery order made by the Commission for illegal state aid

(vii) Where when making a claim under subsection (2G)(b)(i), for 90% of the budgeted film corporation tax credit in advance of completion of the film,

(I) if the financing agreements for the film have not been executed, or the conditions precedent to the commencement of the funding have not been satisfied, and

(II) where an amount not less than 68% of the amount on which the film corporation tax credit is based has not been lodged to an account held by the qualifying company with a financial institution where that amount is to be expended by the qualifying company on the production of the film unless other acceptable confirmations of financing as set out in regulations are available.

A producer company shall not make a claim for the film corporation tax credit if ***(2A)(f)***

[1] OJ C 332, 15.11.2013, p. 1-11

(i) when making a claim under subsection (2G)(b)(i), for 90% of the budgeted film corporation tax credit in advance of completion of the film, if the budget, or any particular item of proposed expenditure in the budget, is inflated,

(ii) there is no commercial rationale for the corporate structure proposed for either the production, financing, distribution or sale of the film, or for all of those purposes.

(iii) the corporate structure would hinder the Revenue Commissioners in verifying compliance with the conditions governing the relief.

A producer company is required to have such information and records available in advance of making a claim as the Revenue Commissioners may require to determine that any claim made is in compliance with the section. ***(2A)(i)***

Consultation by the Revenue Commissioners with other persons

In carrying out their functions under the section, the Revenue Commissioners may consult with any person, agency or body of persons and may disclose any detail of the company's application, where necessary, for the purposes of such consultations. This includes where there is reason to believe that financial arrangements not allowed under subsection (2C)(b) have be entered into. ***(2B)***

Conditions in relation to producer companies

A company will not be regarded as a producer company if any of the following apply: ***(2C)***

- if the financial arrangements which the company enters into in relation to the film are: ***(2C)(b)***
  - financial arrangements of any type with a person resident, registered or operating in a country other than a Member State of the European Communities, or other than a country with which Ireland has a Double Taxation Agreement under ***section 826(1)***, or,
  - financial arrangements under which funds are channelled, directly or indirectly, to or through a territory other than a Member State of the European Communities, or other than a country with which Ireland has a Double Taxation Agreement unless subclauses (A), (B) and (C) apply.

  These subclauses set out the circumstances in which a producer company or a qualifying company that enters into the type of financial arrangements to which subsection (2C)(b)(i) and (ii) relate shall nonetheless be regarded as a producer company which are as follows:

  (A) where the arrangements relate to the filming of a part of a film in a territory other than a Member State of the European Communities, or a country with which Ireland has a Double Taxation Agreement under ***section 826(1)***,

  (B) the producer company has sufficient records to verify the amount of each item of expenditure in the territory and

  (C) the producer company has such records in place to substantiate such expenditure in advance of making a claim for the film corporation tax credit.

Vouching of expenditure and maintenance of records generally

A company will not be regarded as a producer company unless it provides evidence to vouch each item of expenditure in the State, or elsewhere, on the production and distribution of the film when requested to do so by the Revenue Commissioners, for the purposes of verifying compliance with the provisions governing the relief. This ***(2C)(c)***

requirement applies whether expenditure is by the company or by any other person engaged, directly or indirectly, by the company to provide goods, services or facilities in relation to the film. In particular the evidence provided must include:

- records required to be kept or retained by the company by virtue of ***section 886*** (for example, accounts, books of account, documents etc. relating to all sums of money received or expended in the course of the carrying on of the trade, all purchases and sales of goods and services, the assets and liabilities of the trade and all transactions which constitute the acquisition or disposal of an asset for CGT purposes).
- similar records required to be maintained by any other person under ***section 886***, or which would be so required if that other person was subject to the provisions of that section.

Provision of copies of film

A company shall not be a producer company unless the company provides a copy of the film to the Revenue Commissioners when requested to do so for the purposes of verifying compliance with the section or with any condition specified in a certificate issued by the Minister. ***(2C)(ca)***

Notification of Completion

A company will not be regarded as a producer company unless the company ***(2C)(d)***

- notifies the Minister in writing of the date of completion of the film.
- provides to the Minister copies of the film in the format and manner specified in regulations.
- provides to the Revenue Commissioners a compliance report, in the format and manner specified in those regulations, which proves to their satisfaction that the provisions of this ***section*** which relate to the company and the film have been met and that any conditions attaching to a certificate have been fulfilled.

Compliance report

Where a producer company makes a claim for film corporation tax credit, the company must have a compliance report available within the time specified in Regulations which proves that

(I) the provisions of the section have been complied with, and
(II) any conditions attaching to a certificate have been fulfilled. ***(2C)(da)***

A company will not be regarded as a producer company if it ceases to carry on the trade of producing films or disposes of its shares in the qualifying company within 12 months of submitting a compliance report. ***(2C)(e)*** ***(2C)(f)***

A company shall not be regarded as a producer company unless it enters into a contract with the qualifying company for the production of the film and provides it with an amount not less than the specified amount. ***(2C)(g)***

Regulations to be made by the Revenue Commissioners

The Revenue Commissioners will make regulations relating to the administration of the relief with the consent of the Minister for Finance and with the consent of the Minister for Arts, Heritage and the Gaeltacht in relation to the matters to be considered by that Minister regarding the issue of authorisations. ***(2E)***

The regulations may include provisions as follows:

- governing applications for certification, the timing of such application, and the information and documents to be provided with an application. ***(2E)(a)***

- specifying the categories of films eligible for certification ***(2E)(b)***
- governing the records that a producer company and a qualifying company must maintain and provide to the Revenue Commissioners, the period for which and place at which such records must be maintained. ***(2E)(d) and (e)***
- specifying the time within which a producer company must notify the Minister of the completion of the production of a qualifying film, the time within which and the format, number and manner in which copies of the film shall be provided to the Minister ***(2E)(f) and (g)***
- specifying the form, content, manner of the making and verification, of the compliance report to be available to the Revenue Commissioners and the documents to accompany the report. ***(2E)(h)***
- governing the type of expenditure which may be treated as qualifying or eligible by the Revenue Commissioners on the production of a qualifying film. ***(2E)(i)***
- governing the provision of the goods, services and facilities referred to in the definition of eligible expenditure used on the production of the qualifying film, including the place of origin, the place in which they are provided and the location of the supplier. ***(2E)(j)***
- specifying the currency exchange rate to be applied to expenditure on the production of a qualifying film. ***(2E)(k)***
- specifying the criteria to be considered by the Minister for Culture , Heritage and the Gaeltacht in deciding whether to issue a certificate and in specifying any conditions in such certificate , and the information required for those purposes to be included in the application by a producer company. ***(2E)(l)***
- specifying the criteria to be considered in deciding if the regional film development uplift shall apply, and in specifying the conditions in that regard to be included in the Certificate. ***(2E)(la)***
- governing financial arrangements in accordance with ***subsection (2C)(b)***. ***(2E)(m)***
- specifying the confirmations of financing that are acceptable in the case of a claim for 90 per cent of the credit where the financing agreements are not fully executed or less than 68 per cent of the Irish cost of the film has been lodged to the qualifying company's account. ***(2E)(ma)***
- governing the employment of eligible individuals and the circumstances in which expenditure by a qualifying company would be regarded as being on the employment of those individuals in the production of a qualifying film. ***(2E)(n)***
- Governing the payment of the specified amount by the Revenue Commissioners to the producer company. ***(2E)(o)***

Claiming the film corporation tax credit

Where the Minister has issued a certificate, and the provisions of Section 481 have been complied with, a producer company may make a claim for the following: ***(2G)(a) and (b)***

Either

(i) no more than 90% of the budgeted film corporation tax credit in advance of completion of the film, or

(ii) the balance of the budgeted film corporation tax credit, where a claim for 90% has already been made, or the entire film corporation tax credit where a claim for 90% has not been made, and the film has been completed.

The budgeted film corporation tax credit is the amount of the film corporation tax credit that would be payable if the amounts as set out in the budget of a qualifying film were incurred on the production of that film.

A claim for the film corporation tax credit shall be made in the corporation tax return which immediately precedes the making of the claim, being the last corporation tax return that the producer company was required to file. ***(2G)(c)***

Corporation Tax relief for producer companies

Where a claim has been made in accordance with the provisions of the section, the corporation tax of the producer company for the qualifying period will be reduced by an amount equal to the film corporation tax credit. The corporation tax of an earlier period will be reduced in priority to a later period. ***(3)(a)***

Where the amount of the film corporation tax credit exceeds the corporation tax of the producer company for the qualifying period, the excess, known as the "specified amount", shall be paid to the producer company by the Revenue Commissioners ***(3)(b)***

Any amount payable by the Revenue Commissioners to the company by virtue of subsection (3)(b) shall be deemed to be an overpayment of corporation tax, for the purpose only of section 960H(2). ***(3A)(a)***

Any claim in respect of a specified amount shall be deemed for the purposes of section 1077E to be a claim in connection with a credit and, for the purposes of determining an amount in accordance with section 1077E(11) or 1077E(12), a reference to an amount of tax that would have been payable for the relevant periods by the person concerned shall be read as if it were a specified amount. ***(3A)(b)***

Where the Revenue Commissioners have paid a specified amount and it is subsequently found that all or part of the amount is not as authorised then the company, any director of the company, or the majority shareholders of the producer company or qualifying company shall be liable to tax in an amount equal to 4 times, in the case of a company, or one hundred fortieths in the case of an individual, of the unauthorised amount. ***(3A)(c)***

The circumstances in which an unauthorised amount arises shall include any circumstances where the amount was claimed by the producer company or paid by the Revenue Commissioners and ***(3A)(d)***

(i) the company made a claim contrary to the section,

(ii) the producer company or qualifying company failed to comply with any conditions or obligations imposed by section 481, the Film Regulations or the certificate issued or fails to remain tax compliant for at least 12 months after the date of provision of a compliance report, or

(iii) where there has been a reduction in the budget subsequent to the making of the claim for 90% of the credit such that the amount claimed exceeds 90% of the reduced budget or where an amount equal to the budgeted eligible expenditure following a claim for 90% of the credit has not been expended on the production of the film without unreasonable delay. ***(3A)(e)***

Where the Revenue Commissioners make or amends an assessment in respect of a specified amount, the assessment will be deemed to be tax due and shall carry interest as determined in accordance with section 1080. ***(3B)(a)***

The amount which is provided by the producer company to the qualifying company shall not be deducted in computing the profits or gains to be charged to tax or otherwise reduce the income of the producer company. Nor shall it be used to reduce the corporation tax of the producer company or be provided in a manner for the purpose of securing a tax advantage or be income of the qualifying company for any tax purpose. ***(3B)(b)***

A failure by a qualifying company to repay any amount to a producer company shall not be a sum that may be deducted in computing the profits or gains of, or shall not otherwise reduce the income of the producer company . ***(3B)(c)***

The producer and the qualifying companies shall be deemed not to be members of the same group of companies for the purposes of section 411 or, except for the purposes of section 626, section 611. ***(3B)(d)***

A loss for the purposes of section 546, shall not be treated as arising on the disposal by the producer company of shares in the qualifying company. ***(3B)(e)***

Section 626B shall not apply to the disposal by the producer company of shares in the qualifying company. ***(3B)(f)***

For the purposes of section 538(2) the value of the shares held by the producer company in the qualifying company, shall not, at any time, be negligible. ***(3C)***

The Revenue Commissioners shall not pay a specified amount to a producer company in respect of a film certificate issued after 31 December 2028.

Laying of regulations before Dáil Éireann

Every regulation made by the Revenue Commissioners under this ***section*** shall be laid before Dáil Éireann as soon as may be after it is made. This is in line with the customary procedure in relation to the laying of statutory instruments and provides Dáil Éireann with the opportunity to annul the regulations, if it so wishes, within the next 21 days on which Dáil Éireann has sat after the regulations are laid before it. ***(23)***

Transition arrangements

Following commencement of the provisions of the Finance Act 2018 all claims for the film corporation tax credit are made on a self-assessment basis. The transitional arrangements for applications on hand on the date of commencement are as follows:

For qualifying films in respect of which the Minister had already provided the Revenue Commissioners with authorisation, that authorisation is treated as if it were a Minister's certificate and the project will continue under self-assessment. ***(24)***

For qualifying films in respect of which the Revenue Commissioners had issued a certificate that certificate is treated as if it were a Minister's certificate and the project will continue under self-assessment. ***(25)***

For qualifying films where the Revenue Commissioners had issued a payment under subsection (3)(b) but a full compliance report had not been received prior to commencement of the 2018 provisions the amount paid will be treated as if it had been made under the revised process and the final claim will continue under self-assessment ***(26)***

For qualifying films in respect of which the Revenue Commissioners had approved financial arrangements prior to the commencement of the Finance Act 2018 provisions, notwithstanding such approval, a company shall not be a producer company if the financial arrangements contravene subsection (2C)(b). ***(27)***

481A Relief for investment in digital games

Summary

Digital games relief is an incentive to digital games developers to produce digital games that contribute to the promotion and expression of Irish and European culture.

The relief is a corporation tax credit for digital games development companies. The rate of the credit is 32% of the lowest of eligible expenditure, 80% of qualifying expenditure, or €25 million per game.

The credit is available on expenditure incurred in the design, production and testing stages of the development of qualifying digital games, provided certain conditions are met.

The qualifying expenditure in respect of a completed game must not be less than €100,000.

A cultural test also applies. In order to claim the credit, a company must first apply for cultural certification as a qualifying digital game by the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media.

An interim cultural certificate may be applied for at any point before or during the development of the digital game and will allow relief to be claimed on an interim basis. A final cultural certificate is applied for on completion of the digital game and will allow the company claim either the full amount of the credit or, if the company has previously claimed relief on an interim basis, the balance of the credit due.

Details

Definitions ***(1)***

"date of completion" means when the qualifying digital game is made available to the public or, if commissioned, when the game has been provided to the commissioning entity.

"digital game" means a game which integrates digital technology and incorporates at least three of the following classes of information, in digital form: text, sound, still images and animated images. The game must be capable of being published on an electronic medium, and controlled by software enabling the person playing the game to interact fully with the dynamics of the game, including by providing feedback to the person, enabling control over elements of the game by the person and allowing the person to adapt elements of the game.

"digital games corporation tax credit" in relation to a qualifying digital game, means an amount equal to 32 per cent of the lowest of—

(a) the eligible expenditure amount,

(b) 80 per cent of the qualifying expenditure, and

(c) €25,000,000.

"digital games development company" means a company that—

(a) is resident in the State, or is resident in an EEA State,

(b) carries on a trade of developing digital games on a commercial basis with a view to the realisation of profit, and that are wholly or principally to be made available to the public, and

(c) is not part of an undertaking which would be regarded as an undertaking in difficulty.

"eligible digital game" means a digital game which —

(a) is developed on a commercial basis with a view to the realisation of profit,

(b) is wholly or mainly to be made available to the public,

(c) is an exempted work within the meaning of the Video Recordings Act 1989, and

(d) is not a digital game produced solely or mainly for promotional or gambling purposes.

"eligible expenditure" means the portion of the qualifying expenditure that is expended on the development of the digital game in the State or the European Economic Area (EEA) as set out in regulations.

"final certificate" means a certificate issued by the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media under ***subsection (9).***

"interim certificate" means a certificate issued by the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media under ***subsection (4).***

"interim digital game" means a digital game which is proposed to be developed or is in the process of development in respect of which an interim certificate has been issued by the Minister, and no final certificate has been issued.

"interim digital games corporation tax credit", in relation to an interim digital game, means an amount of expenditure incurred in an accounting period equal to 32 per cent of the lowest of—

(a) the eligible expenditure amount,

(b) 80 per cent of the qualifying expenditure, and

(c) €25,000,000.

"qualifying digital game" means a digital game in respect of which the Minister has issued a final certificate.

"qualifying expenditure", in relation to a qualifying digital game, is expenditure incurred by the digital games development company on design, production and testing of a digital game and the types of which are specified regulations. Design, production and testing of a digital game are stages of the development of the digital game.

"Rescuing & Restructuring Guidelines" is defined as the 2014 Commission Guidelines for State aid for rescuing and restructuring non-financial undertakings in difficulty.

"the Minister" means the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media.

"undertaking" is defined as meaning a business grouping that would be regarded as an undertaking for the purposes of the Rescuing & Restructuring Guidelines.

"undertaking in difficulty" is given the same meaning as in the Rescuing & Restructuring Guidelines.

"valid claim", in relation to an interim digital games corporation tax credit or a digital games corporation tax credit, means a claim which is made under and in accordance with section 481A, and in respect of which all information which may reasonably be required to enable the Revenue Commissioners to determine if, and to what extent, the credit is due to a digital games development company in respect of an accounting period, has been provided by that company.

Application for certification

Interim certification

(2) A digital games development company may apply to the Minister for either an interim certificate, in respect of a digital game to be developed by the company, or a final certificate in the case of a digital game developed and completed by the company.

(3) Applications for interim or final certificates are to be made on forms approved by the Minister and contain such information as is set out in regulations.

(4) The Minister may issue an interim certificate following receipt of an application from a digital games development company, subject to ***subsection (5)*** and in accordance with regulations, stating

- that the certificate is an interim certificate,
- that the digital game may be treated as an interim digital game for the purposes of the section, and

the expiry date of the interim certificate.

In considering whether to issue an interim certificate, the Minister must consider ***(5)***

- whether the digital game as proposed is likely to be an eligible digital game when completed, and, ***(5)(a)***
- any contribution which the development of the digital game is expected to make to the promotion and expression of Irish and European culture by reference to the following factors: ***(5)(b)***
    - the cultural content of the game, including its setting, principal characters, language and subject matter;
    - any cultural creativity employed in the development of the game, including innovation in the portrayal of Irish or European culture, the use of materials written or created in Ireland or Europe as the basis for the game, technological innovation or the use of music created by a composer who is a national of or ordinarily resident in Ireland or another EEA state;
    - the contribution of the game to the development of a concentration of cultural activity, by reference to such matters as the proportion of the creative work carried out in Ireland or another EEA state, the number of key positions in the development of the game occupied by persons who are nationals of or ordinarily resident in Ireland or another EEA state, and the proportion of the members of the development team who are nationals of or ordinarily resident in Ireland or another EEA state;
    - the concomitant cultural contribution of the game, by reference to matters including the educational content of games aimed at children and the inclusion of themes relating to diversity and equality,
    - whether the content of the game promotes the protection, restoration and promotion of sustainable use of Irish or European terrestrial ecosystems or the raising of awareness of the exigencies of increasing environmental sustainability and minimising climate change.

The Minister may specify conditions in the interim certificate including ***(6)***

- in relation to the employment responsibilities of the digital games development company for the development of that digital game, and
- the maximum aid intensity which may be availed of for the development of the digital game by reference to the "Cinema Communication" being the Communication from the Commission (2013/C 332/01).

The Minister may amend or revoke any condition specified in an interim certificate or add to such conditions, by giving notice in writing to the digital games development company and in those circumstances ***section 481A*** will apply as if any amended, additional or revoked condition was always reflected in the interim certificate. ***(7)***

On the expiry of an interim certificate, the interim certificate will cease to have effect and is treated as never having had effect unless ***(8)***

- an application has been made in advance of the expiry date to the Minister for a final certificate, and
- on the determination of that application, a final certificate is issued by the Minister.

Final certification

The Minister may issue a final certificate following receipt of an application from a digital games development company, subject to ***subsection (10)*** and in accordance with regulations, stating ***(9)***

- that the certificate is a final certificate,

- that the digital game may be treated as a qualifying digital game for the purposes of ***section 481A*.**

When considering whether to issue a final certificate the Minister must consider ***(10)***

- whether the digital game meets the eligibility criteria for certification, ***(10)(a)***
- any contribution which the development of the digital game makes to the promotion and expression of Irish and European culture having regard to the factors set out in ***subsection 5,*** and ***(10)(b)***
- where an interim certificate has been issued in respect of the digital game, whether the conditions specified in the interim certificate have been satisfied. ***(10)(c)***

The Minister may specify conditions in the final certificate including ***(11)***

- in relation to the employment responsibilities of the digital games development company for the development of that digital game, and
- the maximum aid intensity which may be availed of for the development of the digital game by reference to the "Cinema Communication" being the Communication from the Commission (2013/C 332/01).

The Minister may amend or revoke any condition specified in a final certificate or add to such conditions, by giving notice in writing to the digital games development company and in those circumstances ***section 481A*** will apply as if any amended, additional or revoked condition was always reflected in the certificate. ***(12)***

Claims for the digital games corporation tax credit

A digital games development company may not make a claim for an interim digital games corporation tax credit under ***subsection (19)*** or a digital games corporation tax credit under ***subsection (20)*** if any of the following apply: ***(13)***

(i) there has not been issued to the digital games development company either an interim certificate, as respects claims under ***subsection (19)*** for the interim digital games corporation tax credit, or a final certificate, as respects claims under ***subsection (20)*** for the digital games corporation tax credit, by the Minister in respect of that digital game, ***(13)(a)***

(ii) the interim certificate, if issued, has expired and a final certificate has not been issued by the Minister in respect of that digital game, ***(13)(b)***

(iii) the digital games development company, any company controlled by the digital games development company and the majority shareholders of the digital games development company is not tax compliant, ***(13)(c)***

(iv) the qualifying expenditure amount is less than €100,000, ***(13)(d)***

(v) the company is an undertaking in difficulty, ***(13)(e)***

(vi) any company in an undertaking of which the digital games development company is part is the subject of an outstanding recovery order made by the Commission for illegal State aid, ***(13)(f)***

(vii) the digital games development company is resident in an EEA State other than the State and does not carry on business in the State through a branch or agency, or ***(13)(g)***

(viii) has not been carrying on the trade of developing digital games on a commercial basis with a view to the realisation of profit, and that are wholly or principally to be made available to the public, for a period of less than 12 months prior to making a claim. ***(13)(h)***

Conditions in relation to producer companies

A digital games development company may not make a claim for an interim digital games corporation tax credit under ***subsection (19)*** or a digital games corporation tax credit under ***subsection (20)*** if ***(14)***

(e) there is no commercial rationale for the corporate structure proposed for either the production, financing, distribution or sale of the digital game, or for all of those purposes, ***(14)(e)***

(f) the corporate structure would hinder the Revenue Commissioners in verifying compliance with the conditions governing the relief, or ***(14)(f)***

(g) the company does not have such information and records available in advance of making a claim as the Revenue Commissioners may require to determine that any claim made is in compliance with the section. ***(14)(g)***

Expenditure which may not be included in a claim ***(14A)***

A claim for either the interim digital games corporation tax credit or the digital games corporation tax credit shall not include expenditure where:

- the expenditure or any particular item of expenditure in the claim is inflated, ***(14A)(a)***
- the company has obtained relief under Part 29 Patents, Scientific and Certain Other Research, Know-How and Certain Training in respect of the expenditure, ***(14A)(b)***
- the company has obtained relief under section 481 Relief for investment in films in respect of the expenditure, ***(14A)(c)***
- the expenditure has been or is to be met directly or indirectly by grant assistance or any other assistance which is granted by or through— ***(14A)(d)***
  - (i) the State or another Member State of the European Union,
  - (ii) any board established by statute, any public or local authority or any other agency of the State or another Member State or an institution, office, agency or other body of the European Union, or
  - (iii) a state, other than the State or a Member State and any board, authority, institution, office, agency or other body in such a state.

Consultation by the Revenue Commissioners with other persons

In carrying out their functions under the section, the Revenue Commissioners may consult with any person, agency or body of persons and may disclose any detail of the company's application, where necessary, for the purposes of such consultations. This includes where there is reason to believe that financial arrangements not allowed under ***subsection (16)(a)*** have be entered into. ***(15)***

Circumstances in which a company will not be regarded as a digital games development company

Subsection 16 provides that a company will not be regarded as a digital games development company if any of the following apply: ***(16)***

(a) if the financial arrangements which the company enters into in relation to the digital game are: ***(16)(a)***

- financial arrangements of any type with a person resident, registered or operating in a country other than an EEA State, or other than a country with which Ireland has a Double Taxation Agreement under ***section 826(1)***, or,

- financial arrangements under which funds are channelled, directly or indirectly, to or through a territory other than an EEA State, or other than a country with which

Ireland has a Double Taxation Agreement unless ***subclauses (A), (B)*** and ***(C)*** apply.

These subclauses set out the circumstances in which a digital games development company that enters into the type of financial arrangements to which ***subsection 16*** relate shall nonetheless be regarded as a digital games development company which are as follows:

(A) where the arrangements relate to the development of the game in a territory other than an EEA State, or a country with which Ireland has a Double Taxation Agreement under ***section 826(1),***

(B) the digital games development company has sufficient records to verify the amount of each item of expenditure in the territory and

(C) the digital games development company has such records in place to substantiate such expenditure in advance of making a claim for the digital games corporation tax credit.

(b) a company will not be regarded as a digital games development company unless it provides evidence to vouch each item of expenditure in the State, or elsewhere, on the development of the digital game when requested to do so by the Revenue Commissioners, for the purposes of verifying compliance with the provisions governing the relief. This requirement applies whether expenditure is by the company or by any other person engaged, directly or indirectly, by the company to provide goods, services or facilities in relation to the digital game. In particular the evidence provided must include: ***(16)(b)***

a. records required to be kept or retained by the company by virtue of ***section 886*** (for example, accounts, books of account, documents etc. relating to all sums of money received or expended in the course of the carrying on of the trade, all purchases and sales of goods and services, the assets and liabilities of the trade and all transactions which constitute the acquisition or disposal of an asset for CGT purposes).

b. similar records required to be maintained by any other person under ***section 886,*** or which would be so required if that other person was subject to the provisions of that section.

(c) a company shall not be a digital games development company unless the company provides a copy of the game to the Revenue Commissioners when requested to do so for the purposes of verifying compliance with the section or with any condition specified in a certificate issued by the Minister. ***(16)(c)***

(d) a company will not be regarded as a digital games development company unless the company: ***(16)(d)***

- notifies the Minister in writing of the date of completion of the game, and
- provides to the Minister copies of the game in the format and manner specified in regulations.

(e) a company will not be regarded as a digital games development company unless the company makes a claim under subsection (20) and has available prior to making such a claim a compliance report, in the format and manner specified in regulations, which proves to the satisfaction of the Revenue Commissioners that the provisions of this section which relate to the company and the digital game have been met and that any conditions attaching to an interim or final certificate have been met, and, ***(16)(e)***

(f) a company will not be regarded as a digital games development company if it ceases to carry on the trade of developing digital games within 12 months of submitting a compliance report. ***(16)(f)***

Regulations

The Revenue Commissioners may make regulations relating to the administration of the relief with the consent of the Minister for Finance, and with the consent of the Minister for for Tourism, Culture, Arts, Gaeltacht, Sport and Media in relation to the matters to be considered by that Minister regarding the issue of interim and final certificates. ***(17)***

The regulations may include provisions as follows:

(a) governing the application for interim certification or final certification, the timing of such applications, and the information and documents to be provided in or with such applications, ***(17)(a)***

(b) the information required to be included in the application made to the Minister by a digital games development company, ***(17)(b)***

(c) specifying the time within which a digital games development company shall notify the Minister of the completion of the development of a qualifying digital game, ***(17)(c)***

(d) specifying the time within which, and the format, number of copies and manner in which, a qualifying digital game shall be provided to the Minister, ***(17)(d)***

(e) governing the records that a digital games development company shall maintain or provide to the Revenue Commissioners, ***(17)(e)***

(f) governing the period for which, and the place at which, such records shall be maintained, ***(17)(f)***

(g) specifying the form and content of the compliance report that must be available in accordance with ***subsection (16)(f)***, the manner in which such report shall be made and verified, and the documents to accompany the report, ***(17)(g)***

(h) governing the type of expenditure which may be treated as qualifying or eligible expenditure on the development of a qualifying digital game, ***(17)(h)***

(i) specifying the currency exchange rate to be applied to expenditure on the production of a qualifying digital game, ***(17)(i)***

(j) governing financial arrangements in accordance with ***subsection (7)(a).*** ***(17)(j)***

Regulations governing qualifying and eligible expenditure ***(18)***

When making regulations under ***subsection (17)(h)*** governing the type of expenditure which may be treated as qualifying or eligible expenditure on the development of a qualifying digital game, shall have regard to—

(a) whether the type of expenditure relates to design, production or testing and the stage of development of the game in which the expenditure is incurred, ***(18)(a)***

(b) whether the type of expenditure is directly related to design, production and testing, and ***(18)(b)***

(c) the extent to which the type of expenditure is incurred directly by the digital games development company on design, production or testing. ***(18)(c)***

Making a claim for the interim digital games corporation tax credit

Where the Minister has issued an interim certificate, and the provisions of ***section 481A*** have been complied with, a digital games development company may make a claim in ***(19)***

advance of the completion of the game for the interim digital games corporation tax credit provided—

(i) the interim certificate has not expired, and

(ii) the aggregate of all claims made pursuant to the interim certificate does not exceed 32% of €25,000,000.

Timing of a claim for the interim digital games corporation tax credit

Claims for the interim digital games corporation tax credit must be made within 12 months of the end of the accounting period in which the expenditure, giving rise to the claim, is incurred and must be made in the return in respect of the accounting period in which the expenditure giving rise to the claim is incurred. ***(19A)***

Making a claim for the digital games corporation tax credit

Where the Minister has issued a final certificate, and the provisions of ***section 481A*** have been complied with, a digital games development company may make a claim following completion of the game for the digital games corporation tax credit less any amount already claimed pursuant to ***subsection 19.*** ***(20)***

Corporation tax return

A claim for the digital games corporation tax credit under *subsection 20* is made in the corporation tax return in respect of the accounting period in which the last of the expenditure giving rise to the claim is incurred, as provided for in ***paragraph (a)*** of ***subsection (21A)***. ***(21)***

Timing of a claim for the digital games corporation tax credit

A digital games development company has until 12 months from the end of the accounting period in which the last of the expenditure giving rise to a claim for the digital games corporation tax credit is incurred to make a claim. Where, however, a digital games development company receives the final cultural certificate in respect of the game after a date which is 3 months before the expiry of the 12-month period, the company has an extended period of 3 months from the date on which the final certificate is issued to make a claim. ***(21A)***

Treatment of the credit as overpayment or payment of the credit to the company

The digital games development company shall specify in relation to a claim for either the interim digital games corporation tax credit or the digital games corporation tax credit whether the amount or any portion of the amount of the credit is to be: ***(22)***

(i) treated as an overpayment of tax, for the purposes of ***section 960H***, or ***(22)(a)***

(ii) paid to the company by the Revenue Commissioners. ***(22(b)***

Where a digital games development company has made a claim for either the interim digital games corporation tax credit or the digital games corporation tax credit, the amount of the credit shall be paid or offset in full by the Revenue Commissioners within 48 months of a valid claim being made. ***(22A)***

No amount of the interim digital games corporation tax credit or the digital games corporation tax credit shall be paid or offset unless a valid claim has been made. ***(22B)***

The Revenue Commissioners may examine a claim subsequent to any payment or offset having been made, and make or amend an assessment, as the case may be, under ***Chapter 5*** of ***Part 41A***. ***(22C)***

Neither the interim digital games corporation tax credit nor the digital games corporation tax credit, if any, will be income of the company or another company for corporation tax purposes. ***(22D)***

Any claim for either the interim digital games corporation tax credit or the digital games corporation tax credit, will be treated as an amount of tax refundable, for the purposes of ***section 851A*** and ***851B***, ***Chapter 4*** of ***Part 38*** and ***Part 47***. ***(22E)***

Where a company specifies that either the interim digital games corporation tax credit or the digital games corporation tax credit is to be offset against the company's corporation tax liability for the accounting period, then this amount may be taken into account for the purposes of calculating preliminary corporation tax. ***(22F)***

Where a claim for the interim digital games corporation tax credit or the digital games corporation tax credit has been made and an amount has not yet been paid out by Revenue, the amount for the purposes of ***section 1077F*** (the section providing for penalties for deliberately or carelessly making incorrect returns, failing to make certain returns, etc.) which will attract a penalty, will be the amount so claimed and not yet paid out. ***(25)***

Where the Revenue Commissioners have paid an amount in respect of a claim for the interim digital games corporation tax credit or the digital games corporation tax credit, and it is subsequently found that the claim is not as authorised by this section, then the company, any director of the company, or the majority shareholders of the company shall be liable to tax in an amount equal to 4 times, in the case of a company, or one hundred fortieths in the case of an individual, of the amount of the interim digital games corporation tax credit or the digital games corporation tax credit as is not authorised. ***(26)(a)***

Where an amount is charged to tax under this subsection, then no loss, deficit, expense or credit shall be allowed to shelter the liability raised and this Case IV amount will not form part of the close company surcharge calculation. ***(26)(b)***

The circumstances in which a claim is not authorised include any circumstances where the amount was claimed under either or both ***subsection (19)*** and ***subsection (20)*** or paid or offset under ***subsection (22A).*** ***(27)***

Where a claim has been made for either the interim digital games corporation tax credit or the digital games corporation tax credit that is not as authorised by ***section 481A,*** and an assessment is made, the amount charged shall carry interest as determined in accordance with ***subsection (2)(c)*** of ***section 1080*** as if a reference to the date when the tax became due and payable were a reference to the date the amount was paid or offset under ***section 960H*** by the Revenue Commissioners. ***(28)***

Publication requirements

Revenue's publication obligations in accordance with State aid transparency requirements are as follows: ***(29)***

(a) the name of the company;

(b) the name of the digital game;

(c) the number of the certificate of incorporation of the company;

(d) in respect of the principal activity carried on by the company, the NACE classification code

(e) the amount of interim digital games corporation tax credit or digital games corporation tax credit, as the case may be,

(f) whether the company is—

(i) a category of enterprise referred to in Article 2.1 of Annex 1 to

Commission Regulation (EU) No. 651/2014 of 17 June 2014[2],

or

(ii) a category of enterprise which is larger than the categories of enterprise referred to in subparagraph (i);

(g) the territorial unit, within the meaning of the NUTS Level 2 classification specified in Annex 1 to Regulation (EC) No. 1059/2003 of the European Parliament and of the Council of 26 May 2003[3].

The Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media is deemed to be a service provider with respect to the administration of the credit for the purposes of *section 851A*. ***(30)***

No amount of an interim digital games corporation tax credit or a digital games corporation tax credit may be paid or offset under ***subsection (22A)*** by the Revenue Commissioners in respect of an interim or final certificate issued after 31 December 2025. ***(31)***

Every regulation made by the Revenue Commissioners under *section 481A* shall be laid before Dáil Éireann as soon as may be after it is made. This is in line with the customary procedure in relation to the laying of statutory instruments and provides Dáil Éireann with the opportunity to annul the regulations, if it so wishes, within the next 21 days on which Dáil Éireann has sat after the regulations are laid before it. ***(32)***

482 Relief for expenditure on significant buildings and gardens

Summary

This section provides relief for expenditure incurred on the repair, maintenance or restoration of a building which is intrinsically of significant scientific, historical, architectural or aesthetic interest and to which reasonable access is afforded to the public or which is a guest house approved by the National Tourism Development Authority (trading as Fáilte Ireland). The relief also applies to expenditure incurred on the maintenance or restoration of a garden which is intrinsically of significant horticultural, scientific, historical, architectural or aesthetic interest. A building or garden must have received a determination from the Minister for Arts, Heritage, Gaeltacht and the Islands (now the Minister for Environment, Heritage and Local Government) to the effect that it is such a building or garden. In addition, the building or garden must afford reasonable access to the public and the dates and times it is open to the public must be advertised. In the case of a guest house, it must be registered or listed by the National Tourism Development Authority (trading as Fáilte Ireland) and must be in use as a guest house for at least 6 months of the year, 4 months of which must be in the period 1 May to 30 September.

Relief is also available in respect of an approved building or garden for expenditure of up to an aggregate of €6,350 per annum on —

- the repair, maintenance or restoration of the contents of the building or garden subject to the contents being on display in the building or garden,
- the installation, maintenance or replacement of a security alarm system,
- the provision of public liability insurance for the building or garden.

Qualifying expenditure which cannot be offset against a person's income for a chargeable period may be carried forward to the 2 subsequent chargeable periods.

[2] OJ No. L187, 26.6.2014, p. 70
[3] OJ No. L154, 21.6.2003, p. 1

Section 409C restricts the use by passive investors of relief under ***section 482.*** Up until 2009 an individual participating in a passive investment scheme could claim relief limited to €31,750 under ***section 482*** as owner of such a building. From the tax year 2010 no relief is available to passive investors, except for the years 2010 and 2011 in respect of work which was underway on or before 4 February 2010 and in respect of work which begins after that date, where such work is carried out under a written contract which was entered into before that date.

The scope of this section is affected by the limitation on certain reliefs used by certain high income individuals in ***Chapter 2A*** of ***Part 15*** and ***paragraph 46*** of ***Schedule 25B.***

Details

Definitions and construction

"the Minister" is the Minister for Arts, Heritage and the Gaeltacht . ***(1)(a)***

"approved building" is a building which has satisfied the requirements for the granting of relief as set out in ***subsection (5)***.

"approved garden" is a garden (not attached to an approved building as such a garden would already qualify for relief) which is determined by the Minister to be a garden which has as its characteristic attribute significant horticultural, scientific, historical, architectural or aesthetic interest, and is determined by the Revenue Commissioners to be a garden to which the public has reasonable access.

"approved object" has the meaning assigned to it by ***subsection (6)***.

"authorised person" includes nominees of both the Revenue Commissioners and the Minister.

"chargeable period" has the same meaning as in ***section 321(2)*** (that is, it is an accounting period of a company or a year of assessment, as appropriate).

"public place", in the case of an approved building in use as a tourist accommodation facility, is a part of the building to which all the patrons of the facility have access.

"qualifying expenditure" relates to expenditure on an approved building and covers expenditure on the repair, maintenance or restoration of the building and includes expenditure on the maintenance or restoration of any land occupied or enjoyed with the building as part of its gardens or grounds of an ornamental nature. In addition, qualifying expenditure includes expenditure of up to €6,350 per chargeable period in respect of —

- the repair, maintenance or restoration of an approved object in the approved building,
- the installation, maintenance or replacement of a security alarm system in the approved building, and
- public liability insurance for the approved building.

The expenditure must be incurred by the person who owns or occupies the approved building.

"relevant expenditure" relates to expenditure on an approved garden and covers expenditure incurred by the person who owns or occupies the garden on the maintenance or restoration of the garden. In addition, relevant expenditure includes expenditure of up to €6,350 per chargeable period in respect of —

- the repair, maintenance or restoration of an approved object in the approved garden,
- the installation, maintenance or replacement of a security system in the approved garden,
- public liability insurance for the approved garden.

"security alarm system" is an alarm system installed in an approved building or in an approved garden.

"tourist accommodation facility": this definition applies in the case of a building in respect of which approval is sought on the basis that it is used as a tourist accommodation facility; the definition requires such a building to be either —

- registered in the register of guest houses maintained and kept by the National Tourism Development Authority (trading as Fáilte Ireland) under Part III of the Tourist Traffic Act, 1939, or
- listed in the list published by the National Tourism Development Authority (trading as Fáilte Ireland) under section 9 of the Tourist Traffic Act, 1957.

"weekend day" means a Saturday or a Sunday.

Excluded from the scope of the relief is expenditure for which the owner of the approved house or garden is entitled to be reimbursed from another source such as the State or a local authority or under any insurance contract. ***(1)(b)***

References to an approved building includes a reference to any land occupied and enjoyed with the approved building as part of its garden or grounds of an ornamental nature. ***(1)(c)***

Relief

Where a claimant proves that the conditions for relief have been met, the claimant's expenditure incurred in a chargeable period is treated as if it were a loss incurred in a separate trade carried on by the claimant. ***Paragraph (a)*** is to apply notwithstanding the general time limit for making a claim for a repayment of tax contained in ***section 865***. Any excess tax paid by the claimant may be repaid on foot of a valid claim within the meaning of ***section 865(1)(b).*** (The meaning of a valid claim is dealt with in ***section 865***). ***(2)(a)***

The conditions for relief which must be met are that — ***(2)(b)***

- the claimant has incurred qualifying expenditure in a chargeable period in respect of an approved building owned or occupied by the claimant, and
- the claimant has on or before 1 November in the chargeable period in which the claim is made, and on or before 1 November in each of the chargeable periods comprising the shortest of the following periods, namely —
  - the period consisting of all chargeable periods after 23 May 1994,
  - the period consisting of all chargeable periods from the time a determination was made under ***subsection (5)(a)(ii)*** by the Revenue Commissioners,
  - the period consisting of all chargeable periods from the time the building was purchased or occupied by the claimant,
  - the period consisting of the 5 chargeable periods immediately preceding the chargeable period in which the claim is made,

  given the National Tourism Development Authority (trading as Fáilte Ireland) details of the name and address of the building and its opening times or, where the approved building is in use as a tourist accommodation facility, the times of the year during which it is so used. This information is given to the National Tourism Development Authority (trading as Fáilte Ireland) on the understanding that it or another body concerned with the promotion of tourism may publish such information.

In the case of an approved building used as a tourist accommodation facility, a claim for relief is not to be allowed unless the claimant also proves that the building was registered in the register of guest houses maintained by the National Tourism Development Authority (trading as Fáilte Ireland), or listed in the list published or caused to be published by the Authority, continuously for whichever of the periods is applicable for the purpose of

providing the Authority with the details of the building and of the times during which it operates as a tourist accommodation facility (this includes also the period in which the claim is made).

Relief is not to be given in respect of expenditure in chargeable periods before the chargeable period in which the person makes an application to the Revenue Commissioners under ***subsection (5)(a)*** for a determination that the building is one in respect of which reasonable access is afforded to the public or one which is in use as a tourist accommodation facility for the required period. ***(2)(c)***

Relief for a chargeable period in respect of qualifying expenditure is limited to the amount of that expenditure attributable to work actually carried out during that period. ***(2)(d)***

Loss in a separate trade

By treating the qualifying expenditure incurred in a chargeable period as a loss incurred in a separate trade (that is, the loss is treated as arising in an artificial or notional trade), the section effectively gives the taxpayer relief for the expenditure incurred by means of the loss relief provisions.

In the case of a taxpayer liable to income tax, the "loss" so created may be utilised in the year of assessment in which the loss is sustained by set-off against the other income of the taxpayer for that year under ***section 381***. As the qualifying expenditure is treated as a loss in a separate trade, any unutilised expenditure carried forward under ***section 382*** to a future year of assessment would be unrelievable but for ***subsection (3)*** (which allows for a limited carry forward of relief) as the trade is notional (that is, non-existent) and therefore there can be no future income of the trade against which the "losses" forward may be set.

In the case of a company liable to corporation tax, the "loss" created by the section is relievable in accordance with ***section 396(2)*** against other profits of the company arising in the accounting period in which the "loss" is treated as arising. Normally under ***section 396(2)*** the loss would also be relievable against profits of the company arising in a preceding accounting period of the same length. However, as the company could not have been carrying on a notional (that is, non-existent) trade in a previous accounting period, this aspect of loss relief cannot apply. Any unrelieved expenditure carried forward under ***section 396(1)*** to a further accounting period would be unrelievable but for ***subsection (3)*** (which allows for a limited carry forward of relief) as the trade is non-existent and therefore there can be no future income of the trade against which the "losses" forward may be set.

Carry-forward of unrelieved qualifying expenditure

Where qualifying expenditure is incurred in a chargeable period but due to insufficiency of income in that period it cannot be fully utilised, it may be carried forward to the next chargeable period and if still not fully utilised in that period it may be carried forward to next subsequent chargeable period, but no further. The amount carried forward in each such case is treated as a loss in a separate trade carried on by the claimant in the chargeable period into which the relief is carried forward. The net effect of the creation of separate trades in each of the chargeable periods into which the unrelieved expenditure is carried forward is to ensure that the unrelieved income may only be set against other income of the person arising in each of those chargeable periods and any residue cannot be brought forward to offset against any other income arising in chargeable periods subsequent to those 2 chargeable periods. ***(3)***

Any unutilised relief carried forward must be utilised in priority to any relief due in the current chargeable period. Relief carried forward from an earlier period must also be utilised in priority to relief carried forward from a later period.

Bar on double relief

If relief for expenditure is due under any other provision of the Tax Acts, then relief for that expenditure cannot be claimed under this section. ***(4)***

Approved building

The Minister (for Arts, Heritage and the Gaeltacht) is the authority who determines whether a building has as its characteristic attribute the significant scientific, historical, architectural or aesthetic interest necessary to qualify as an approved building. The Revenue Commissioners are the authority for determining in the case of such a building whether reasonable access is afforded to the public or, in the case of a tourist accommodation facility, whether it is open for at least 6 months in any calendar year of which 4 months must be the period 1 May to 30 September. ***(5)(a)***

Reasonable access to a building

The term "reasonable access to the public" means — ***(5)(b)***

- access by the public to the whole or a substantial part of the building at the same time,
- subject to temporary closure for repairs, etc, access to the public must be afforded for not less than 60 days per year —
  - for determinations made before 23 March 2000 (the date of passing of the Finance Act, 2000), at least 40 of those 60 days must be in the period 1 May to 30 September, and
  - for determinations made after 23 March 2000 (the date of passing of the Finance Act, 2000), at least 40 of those 60 days must be in the period 1 May to 30 September, and at least 10 of the 40 days must be weekend days.

  On each such day access must be afforded in a reasonable manner and at reasonable times for a period, or periods in aggregate, of not less than 4 hours,
- the access price to the public, if any, must be reasonable and,
- the Revenue Commissioners must be satisfied that:
  - details regarding that access are advertised,
  - a prominent notice containing details of the dates and times of opening must be displayed at or near the public entrance to the building,
  - any conditions regarding access must not discourage the public from visiting the building.

  As part of the 40 day opening requirement during the period 1 May to 30 September, access must be available during all of National Heritage Week (National Heritage Week usually takes place towards the end of August) ***(5)(ba)***

Revocation of determinations

Where the Minister determines a building to be an approved building and, subsequent to that determination, the Minister, by reason of an alteration or deterioration of the building, considers the building no longer so qualifies, the Minister may, by notice in writing, given to the owner or occupier of the building, revoke the determination given. The revocation takes effect from the date the Minister considers the building not to be an approved building. ***(5)(c)***

Where the Revenue Commissioners determine a building to have reasonable access and, subsequent to that determination, reasonable access ceases to be afforded to the public or the building ceases to be used as a tourist accommodation facility for the required period, ***(5)(d)***

the Revenue Commissioners may, by notice in writing given to the owner or occupier of the building, revoke the determination with effect from the date on which they consider that such access or such use so ceased.

Clawback of relief

Any relief given in the period of 5 years ending on the date the revocation of the determination of the Revenue Commissioners takes effect must be withdrawn. Any assessments or amended assessments required to give effect to the clawback may be made. ***(5)(d)***

Alteration of determinations

Where a person wishes to change the nature of the determination made in respect of a building, the person may do so without suffering the clawback of relief. This applies where — ***(5)(e)***

- the Revenue Commissioners have already made a determination in relation to a building that it meets one or other of the qualifying tests, and
- public access or use as a tourist accommodation facility, as may be appropriate, ceases to apply in respect of that building, and
- following an appropriate application by the owner or occupier of the building in the chargeable period when such access or such use ceases, the Revenue Commissioners revoke the original determination and make a further determination, effective from the date of the revocation of the first determination, that the building meets the alternative test.

Where this applies the provisions governing the clawback of relief on the revocation of a determination do not apply in respect of such a revocation. However, should there be any further revocation of a determination where the building ceases to meet its new criteria, the date of the first determination applies for the purposes of calculating the clawback period and not the date of the second determination.

Approved object

An approved object in relation to an approved building is an object (including a picture, sculpture, print, book, manuscript, piece of jewellery, furniture or other similar object) or a scientific collection owned by the owner/occupier of an approved building which is determined — ***(6)(a)***

- by the Minister to have as its characteristic attribute significant national, scientific, historical or aesthetic interest, and
- by the Revenue Commissioners to be an object to which reasonable access is afforded, and in respect of which reasonable facilities for viewing are provided, in the building to the public.

Reasonable access to an object

Reasonable access to an object is — ***(6)(b)***

- where the object is in a building which is as a tourist accommodation facility, display in a part of the building to which all patrons have access, or
- in the case of any other approved building, access to the public and facilitation for viewing of the object are provided at a reasonable price on the same days and at the same times as the building/garden in which the object is housed.

Revocation of determinations for approved objects

The Minister and the Revenue Commissioners may each revoke their determinations if the conditions for approval cease to be complied with. ***(6)(c) & (d)***

Where the Revenue Commissioners revoke their determination, any relief granted in the previous 2 years is withdrawn. Any assessments or amended assessments required to give effect to the clawback may be made.

Authorised person

An authorised person may at any reasonable time inspect a building or object in respect of which a claim has been made and to ensure that the conditions relating to reasonable access are being met. The authorised person is obliged, on request, to produce his/her authorisation. Any person obstructing or interfering with the work of an authorised person is liable for a fine not exceeding €630. ***(7)***

Pre-23 March 2000 determinations

In relation to determinations made prior to 23 March 2000 (the date of passing of the Finance Act 2000), the relief under this section in respect of qualifying expenditure in a chargeable period beginning on or after 1 January 1995 is not available unless the owner/occupier satisfies the Revenue Commissioners on or before 1 November in that chargeable period that reasonable public access is afforded to the public on the following basis — ***(8)***

- for qualifying expenditure which is incurred in chargeable periods beginning before 1 October 2000, the property must be open to the public for 60 days per year including 40 in the period 1 May to 30 September, inclusive;
- for qualifying expenditure which is incurred in chargeable periods beginning on or after 1 October 2000, the property must, in addition to the above, be open on 10 weekend days in the period 1 May to 30 September.

Qualifying garden

In respect of qualifying expenditure incurred on or after 6 April 1993, this section applies in relation to an approved garden as it applies in relation to an approved building. ***(9)***

Information

A claim for relief must be made on the prescribed form. The claimant must give such statements as regards expenditure, including receipts, as may be indicated by the prescribed form. ***(10)***

Relief under this section (which, as already indicated, is given by treating the qualifying expenditure as a trading loss) is not affected by ***sections 396A*** and ***420A*** which relate to the ring fencing of trading losses. ***(11)***

483 Relief for certain gifts

Summary

This section provides relief from income tax or corporation tax in respect of gifts of money accepted by the Minister for Finance for use by the Minister for any purpose for or towards the cost of which public moneys are provided.

Details

Definition

"public moneys" are moneys charged on or issued out of the Central Fund provided by the Oireachtas. ***(1)(a)***

Application

This section applies to a gift of money made and accepted by the Minister for Finance for use by the Minister for any purpose for or towards the cost of which public moneys are provided. ***(1)(b)***

Relief

Where for a year of assessment an individual makes a qualifying gift, he/she is entitled, on making a claim, to deduct the amount of the gift from his/her income chargeable to income tax for the year in which the gift is made. Where a married person or civil partner is jointly assessed, the assessable spouse or civil partner is entitled to deduct the amount of the gift from his/her chargeable income (the assessable spouse's income includes the income of his/her spouse). The relief may be granted either by discharge or repayment of tax. ***(2), (3)***

Where a company makes a qualifying gift, the amount of the gift is deemed to be a loss incurred in a separate trade for the accounting period in which the gift is made. Such a loss is allowable under ***section 396(2)*** as a deduction from the company's profits for the accounting period in which the gift is made and for a previous accounting period of the same length. The provision of ***sections 396A*** and ***420A*** do not apply of such a loss. ***(2),(4),(5)***

484 Objectives of section 485, purposes for which its provisions are enacted and certain duty of Minister for Finance respecting those provisions' operation

Summary

This section contains the objectives of section 485, the purpose for which the provisions are enacted and certain duties of the Minister for Finance in respect of the operating of those duties.

Details

Objectives and purposes of Section 485

The main objectives of section 485 on introducing the Covid Restrictions Support Scheme("CRSS") are as follows: ***(1)(a)***

- firstly, to provide a necessary additional stimulus to the economy to help mitigate the effects on the economy of the continuing Covid-19 pandemic. This is in addition to measures already provided for by Part 7 of the Emergency Measures in the Public Interest (Covid-19) Act 2020 and the Financial Provisions (Covid-19) (No. 2 Act) Act 2020, and,

- secondly, to mitigate the effects to the economy from the possibility that, as of 1 January 2021, no agreement has been reached between the European Union and the United Kingdom with respect to a future relationship on relevant matters as prescribed in the Political declaration setting out the framework for the future relationship between the European Union and the United Kingdom on the United Kingdom's withdrawal from the European Union.

The term "relevant matters" as referred to in subsection (1)(a)(ii) is defined as being the matters as described in Part II of the Political declaration setting out the framework for the future relationship between the European Union and the United Kingdom which is contained in the Official Journal of the European Union C3841 Volume 62 dated 12 November 2019. ***(1)(b)***

The key purposes of section 485 with reference to the stated main objectives as outlined in subsection (1)(a) are ***(1)(c)***

- to ensure that CRSS is used efficiently to minimise the cost to the Exchequer of the

scheme. This is balanced by, and in addition to fulfilling the objectives of the scheme which is to provide the necessary stimulus to the economy.

- to ensure that resources under CRSS are not used by sectors of the economy that do not need any direct stimulus or by any sectors which may reasonably be expected to be restored to financial viability and growth by the indirect effects of the scheme.

- to protect the general public finances by ensuring that there are appropriate mechanisms in place to discontinue or amend the CRSS payments as required in defined circumstances.

- to take account of and reflect any changes in circumstances of persons and businesses who are receiving support under CRSS and who are also availing of other financial supports provided by the state.

- to take account of any changes in circumstances in the State's economic and financial resources, and relevant demands on same into the future.

The Minister for Finance has a duty to monitor the CRSS and is responsible for the management and arrangement of the scheme. This duty is separate to, and does not derogate, any responsibilities for the care and management of the scheme held by the Revenue Commissioners as conferred on them by Section 485(21). ***(1)(d)***

The Minister for Finance will ensure that an assessment of a number of the relevant matters in relation to the scheme is made at regular intervals. The Minister shall consider the appropriate timing of those assessments, but they shall be at least every three months beginning on 13 October 2020. The Minister is to consider all relevant matters in relation to the scheme but specifically the following: ***(1)(e)***

(i) up-to-date data compiled by the Department of Finance relating to the State's receipts and expenditure;

(ii) up-to-date data from the "Live Register" as compiled by the Department of Business, Enterprise and Innovation;

(iii) any other data as may be considered relevant by the Minister for Finance for the purposes of the scheme objectives and purposes;

and by reference to any assessment on economic grounds as commissioned by the Minister in this regard.

The Minister for Finance, after carrying out any assessments as provided for in subsection (1)(e) and after consultation with the Minister for Public Expenditure and Reform, shall determine whether it is necessary to exercise any or all powers as conferred on him under subsection (2)(a). Any such powers as exercised must be as appropriate to fulfil the objectives of the scheme and facilitate the furtherance of the scheme purposes. ***(1)(f)***

Orders that may be made by the Minister for Finance

The Minister for Finance is provided with the necessary powers to make appropriate and necessary Ministerial orders to amend certain operational aspects of the scheme. Any such orders must be made on foot of a determination made under subsection (1)(f) to exercise appropriate powers to fulfil the objectives of the scheme and facilitate the furtherance of the scheme purposes. ***(2)***

In particular the Minister for Finance, as he/she deems fit and necessary, shall make Ministerial orders to amend the following specific aspects of section 485:

- the definition of "Covid restrictions" in section 485(1), that a business must be impacted ***(2)(a)***

to a specified extent;

- the definition of "specified period" in section 485(1);

- the percentage amount referred to in section 485(4)(b)(i);

- the percentage amounts referred to in subparagraph (i)(I) or subparagraph (ii)(I) of section 485(7)(a);

- the percentage amounts referred to in subparagraph (i)(II) or subparagraph (ii)(II) of section 485(7)(a) and

- to cease the operation of section 485 (8) or to set out the circumstances in which an election pursuant to that section will be exercisable.

A draft of any and all such orders which are proposed to be made must be laid before Dáil Éireann and any such order shall not be made unless a resolution approving same has been passed by that House. ***(2)(b)***

485 Covid Restrictions Support Scheme

Summary

This section outlines the detail of the Covid Restrictions Support Scheme.

Details

Definitions

"applicable business restrictions provision" is to be construed in the manner provided for in the definition of "Covid restrictions period". ***(1)***

"business activity" is a trade carried on solely or in partnership and means either:

- the activities of the trade, where customers attend one business premises, or
- the activities of the trade relevant to each business premises, where customers attend multiple business premises.

In circumstances where customers of the trade acquire goods or services in a manner other than by attending the business premises (e.g. by online or other means), the portion of the trade which relates to transactions effected in that other manner shall be treated as relating to the business premises. Where there is more than one business premises, the portion of the trade which relates to transactions effected in that other manner shall be treated as relating to the multiple business premises and apportioned between each premises on a just and reasonable basis.

"business premises" is the building or a similar fixed physical structure from which the business activity is ordinarily carried on.

"chargeable period" has the same meaning as it has in ***section 321(2)***.

"claim period" means a "Covid restrictions period" or a "Covid restrictions extension period", as the context requires.

"Covid-19" has the same meaning as it has in the Emergency Measures in the Public Interest (Covid-19) Act 2020.

"Covid restrictions" means the restrictions imposed by Government provided for in regulations under section 5 and 31A of the Health Act 1947 (No. 28 of 1947) which have the effect of restricting the conduct of certain business activity during the specified period.

"Covid restrictions extension period" has the meaning assigned to it in ***subsection (2).***

"Covid restrictions period" means the period for which a person who carries on a relevant business activity is required by the provisions of Covid restrictions to prohibit, or significantly restrict, members of the public from having access to the business premises in which the relevant business activity is carried on, which provisions are referred to in the section as "applicable business restrictions provisions". The period commences on the Covid restrictions period commencement date and ends on the Covid restrictions period end date.

"Covid restrictions period commencement date" means the later of—

(a) 13 October 2020, or

(b) the day on which applicable business restrictions provisions come into operation (not having been in operation on the day immediately preceding that day).

"Covid restrictions period end date" means the earlier of—

(a) the day which is three weeks after the Covid restrictions period commencement date,

(b) the day that is specified in the Covid restrictions (being those restrictions in the terms as they stood on the Covid restrictions period commencement date) to be the day on which the applicable business restrictions provisions shall expire,

(c) the day preceding the first day following the Covid restrictions period commencement date, on which the applicable business restrictions cease to be in operation, or,

(d) the date on which the specified period shall expire.

"partnership trade" has the same meaning as in ***section 1007***.

"precedent partner" has the same meaning as in ***section 1007*** as it relates to a partnership and a partnership trade.

"relevant business activity" has the meaning assigned to it in ***subsection (4).***

"relevant geographic region" means a geographic location for which Covid restrictions are in operation.

"specified period" means the period commencing on 14 October and ending on 31 January 2022,

"tax" means income tax or corporation tax.

"trade" means a trade any profits or gains arising from which is chargeable to tax under Case I of Schedule D.

Covid Restrictions Extension Period

When applicable business restrictions provisions continue to apply to a relevant business activity on the day after the end of a Covid restrictions period, the period for which those restrictions continue to apply is referred to as a 'Covid restrictions extension period'. This period commences on the day after the end of a Covid restrictions period, referred to in this section as a 'Covid restrictions extension period commencement date' and ends on the Covid restrictions extension period end date. ***(2)(a)***

The "covid restrictions extension period end date" is the date the covid restrictions extension period is due to expire, or if earlier, the day it ceases to be in operation, but in all cases no longer than 3 weeks from the covid restrictions extension period commencement date, and no later than 31 March 2021. ***(2)(b)***

When applicable business restrictions provisions continue to apply to a relevant business activity on the day after the end of a Covid restrictions extension period, the period for which those restrictions continue to apply is also referred to as a 'Covid restrictions extension period'. This period commences on the day after the end of a Covid restrictions extension period and ends on the Covid restrictions extension period end date. ***(2)(c)***

Modifications to the Covid Restrictions Support Scheme

If an order is made in respect of section 484(2)(a) the provisions of this section shall be construed and operate subject to the modification in force, a modification shall be made in respect of the following: ***(3)***

(a) the definition of Covid restrictions

(b) the definition of the specified period

(c) the 25 per cent amount as referred to in ***subsection (4)(b)(i)***

(d) the 10 per cent amount as referred to in ***subsections (7)(a)(i)(I)*** or ***(ii)(I)***

(e) the 5 per cent amount as referred to in ***subsections (7)(a)(i)(II)*** or ***(ii)(II),*** and

(f) the election referred to in ***section 484(8)(b)***

Establishing turnover for the purposes of making a claim

Certain key terms regarding making a claim under the scheme are defined as follows ***(4)(a)***

"average weekly turnover from the established relevant business activity" means the average weekly turnover of the person carrying out an established business activity in the period 1 January 2019 to 31 December 2019.

"average weekly turnover from the new relevant business activity" means the average weekly turnover of a person carrying out a new relevant business activity in the period from the date of commencement of the business activity to 12 October 2020.

"established relevant business activity" means a business activity commenced before 26 December 2019.

"new relevant business activity" means a business activity commenced on or after 26 December 2019 and before 13 October 2020.

New businesses are specifically defined given that they do not have comparable 2019 turnover and therefore for the purposes of establishing a reduction in turnover, the comparable period will be based on their turnover in the period from the date they commenced to 13 October 2020.

"relevant business activity" means a business activity carried on by a person in a business premises wholly located in a geographical location for which Covid restrictions are in operation.

"relevant turnover amount" is an amount as calculated by multiplying the average weekly turnover of the relevant business activity by the total number of full weeks in the claim period.

For established businesses, the amount is determined by the formula

A x B

Where -

A is the average weekly turnover from the established relevant business activity, and

B is the total number of full weeks in the claim period.

For new businesses the amount is determined by the formula

A x B

where

A is the average weekly turnover from the new relevant business activity, and

B is the total number of full weeks that comprise the claim period.

(4)(b)

In order to make a claim under the scheme, a claimant must, in addition to satisfying the conditions under ***subsection (5) and (6),*** carry on a relevant business activity and demonstrate that during the claim period their business activity was temporarily suspended or disrupted directly as a result of imposed Covid restrictions. The claimant must further demonstrate that the temporary suspension or disruption of the business activity was a direct result of members of the public being completely prohibited or significantly restricted from accessing the business premises from which the business activity operates, and as a result, the turnover of the claimant from their relevant business activity for the claim period is an amount that is 25 per cent (or less) of the relevant turnover amount, as defined.

Claimants must follow guidance issued by the Revenue Commissioners and must demonstrate their eligibility requirements to the satisfaction of the Revenue Commissioners.

All claimants must satisfy the further criteria as laid out in ***subsection (5)***.

Any person who meets the criteria required to make a claim under this scheme is referred to as a qualifying person throughout the remainder of the section.

Conditions to be satisfied in order to make a claim

The following conditions must be satisfied in order to make a claim:

A person must register on the ROS system for the scheme and provide all items of information as required by the Revenue Commissioners at the registration stage including those specified in ***subsection (14).*** ***(5)(a)***

In making a claim, a person must submit an electronic claim form on the ROS system for a specified claim period. A person must provide all items of information as required by the Revenue Commissioners at the claim stage including those specified in ***subsection (14)***. ***(5)(b)***

Claimants must make a declaration on ROS, at the claim stage, that for the claim period they satisfy all required conditions of the scheme and that they are a qualifying person for the claim period. ***(5)(c)***

A person must be in compliance with all Value Added Tax obligations that may apply to it inclusive of registration and furnishing of returns. ***(5)(d)***

A person must be eligible for a tax clearance certificate to be issued to them, in accordance with ***section 1095***, for the duration of the claim period. ***(5)(e)***

Claimants must be persons who would be carrying on a business activity but for the Covid restrictions imposed and who intend to continue to do so once the restrictions are lifted. ***(5)(f)***

Apportionment of turnover where the relevant business activity is part of trade only

Where the relevant business activity of a qualifying person does not constitute a whole trade carried on by that person (i.e. not all of the trade is carried on from a single business premises), for the purposes of determining whether the turnover requirement is met in relation to the relevant business activity (being the trading activities carried on from the business premises concerned), the turnover of the entire trade must be apportioned, on a just and reasonable basis, between the relevant business activity and the other part of the trade. In such instances the relevant business activity is to be treated as a separate trade and the amount of the turnover to be attributed to the separate trade during the claim period is to be determined as if it were carried on by a distinct and separate person engaged in that relevant business activity. This ensures that an arm's length approach applies for the purposes of allocating turnover to the relevant business activity. ***(6)***

Weekly amount that may be claimed

Subject to the conditions contained in ***subsections (10) and (11),*** the amount that can be claimed for each full week by a qualifying person is the lower of: ***(7)***

(I) 10 per cent (or, where the claim relates to a period specified in subsection (8)(b)(ii)(I) or (II) or to any full week falling within the period beginning on 5 July 2021 and ending on 18 July 2021, 20%) of so much of the average weekly turnover that does not exceed €20,000 and ***(7)(a)***

(II) 5 per cent (or, where the claim relates to a period specified in subsection (8)(b)(ii)(I) or (II) or to any full week falling within the period beginning on 5 July 2021 and ending on 18 July 2021, 10%) of any of the average weekly turnover as exceeds €20,000

subject to a maximum payable amount of €5,000 per week (or where the claim relates to a period specified in subsection (8)(b)(ii)(II), €10,000 per week). ***(7)(b)***

Average weekly turnover is calculated with reference to the definitions of "new relevant business activity" or "established relevant business activity" as appropriate.

The amount payable is referred to as an "advance credit for trading expenses".

Restart week

Where a qualifying person is entitled to make a claim for a continuous period of not less than three weeks, an additional claim may be made in respect of the week immediately following the date on which the applicable business restrictions provisions cease to be in operation. ***(8)***
This is referred to as the "restart week".

For certain time periods an enhanced restart week payment is available as follows:

- Where the "restart week" occurs between 29 April 2021 to 1 June 2021, the restart payment will be an amount equal to two weeks at double the normal rate of CRSS (subject to a maximum weekly amount of €5,000).

- Where the "restart week" occurs after 2 June 2021, and where the business has not made a claim for an enhanced restart week for the period 29 April 2021 and 1 June 2021 or made a claim for the three week restart week previously, then the restart payment will be an amount equal to three weeks at double the normal rate of CRSS (subject to a maximum weekly amount of €10,000).

- In all other cases, the standard restart week payment will apply, which is one week at the standard rates of CRSS (subject to a maximum weekly amount of €5,000).

Time limits for making claims

Claims must be made no later than 8 weeks from the date on which the claim period to which the claim relates commences. For claimants who apply to register within the 8-week period, and whose applications are registered after the expiry of the 8-week period, claims must be made within 3 weeks of the date of registration. ***(9)(a)***

Claims made under ***subsection (8)*** **(**the restart week) must be made no later than eight weeks from the date on which the applicable business restrictions provisions concerned cease to be in operation ***(9)(b)***

Claims in relation to more than one relevant business activity carried on from the same business premises

(10) Where a qualifying person makes a claim in respect of more than one relevant business activity carried on at the same business premises, the amount payable is limited to the amount payable as if it were a claim for one relevant business activity, calculated in accordance with ***subsection 7(b)***.

Partnerships

(11) Where a relevant business activity is being carried on by a partnership, the claims process is as follows.

(11)(a) The precedent partner in the partnership makes the claim for the advance credit for trading expenses in respect of the partnership the amount payable is limited to the lower of the amounts specified in ***subsection (7)(a)(i)*** or ***(a)(ii).***

(11)(b) For the purposes of ***subsections 15 and 16***, each partner is treated as having received a portion of the advance credit for trading expenses in accordance with the partnership profit sharing agreement. The precedent partner must provide a statement to each partner with the details of

(I) the partnership name and its business address,

(II) the amount of advance credit for trading expenses claimed by the precedent partner on behalf of the partnership and each partner,

(III) the profit percentage for each partner,

(IV) the portion of the advance credit for trading expenses allocated to each partner,

(V) the commencement and cessation date of the claim period, and

(VI) the chargeable period of the partnership trade in which the claim period commences.

For the purposes of ***subsections (17)*** and ***(18),*** references to a person making a claim shall be taken as references to the precedent partner, and for the purposes of ***subsection (19), section 1077E*** or ***section 1077F***, as appropriate, shall apply as if references to a person were references to each partner and the references to a claim were a reference to a claim deemed to have been made by each partner under ***subparagraph (i)***.

Turnover

(12) "Turnover" for the purposes of the scheme is to be construed in line with the correct rules of commercial accounting and is to exclude any amount that might relate to changes in accounting policies.

Calculation of profits or gains: reduction of disbursements or expenses by amount of advance credit for trading expenses

(13) The amount of an advance credit for trading expenses claimed shall be taken into account in calculating the profits of gains for a chargeable period by way of reducing the amount of any disbursement or expense which is an allowable deduction under ***section 81*** and shall not otherwise be taken into account for tax purposes.

Information to be provided at registration stage and claim stage

The information to be provided to the Revenue Commissioners at both the registration stage ***(subsection (5)(a))*** and claim stage ***(subsection (5)(b))*** is as follows: ***(14)***

- Name, address, Eircode and tax registration number of the qualifying person

- In relation to a relevant business activity - ***(14)(a)***

(I) Name under which the business activity is carried on

(II) Description of the business activity

(III) Address and Eircode of the business premises where the business activity is carried on

(IV) Average weekly turnover of the qualifying person for the period 1 January 2019 to 31 December 2019 (where the business activity was commenced prior to 26 December 2019)

(V) Average weekly turnover of the qualifying person in respect of each business premises to which the relevant business activity relates for the period 1 January 2019 to 31 December 2019 (where a trade is carried on in more than one business premises)

(VI) Date of commencement of the activity and the amount of turnover for the period from commencement date to 12 October 2019 (where the business activity was commenced on or after 26 December 2019)

(VII) Average weekly turnover in relation to relevant business activities (for both established and new business activities)

(VIII) The amount of Value Added Tax that became due and payable for the period 1 January 2019 to 31 December 2019 (for established business activities) and commencement date to 12 October 2020 (for new business activities) with reference to taxable periods as prescribed under the Value-Added Tax Consolidation Act 2010.

(IX) The amount of other total income excluding the relevant business turnover in respect of which Value Added Tax was charged for the period 1 January 2019 to 31 December 2019 (for established business activities) and commencement date to 12 October 2020 (for new business activities).

(X) Expected percentage reduction in turnover of the qualifying person in respect of the business activity in the claim period

(XI) Any other information as deemed required by the Revenue Commissioners

The Revenue Commissioners, having received all information as outlined in ***subsection (14)(a)*** may seek any further information or evidence as might be deemed necessary by them for the purposes of determining claims. ***(14)(b)***

Claims by companies subsequently found to be ineligible

Where claims have been made by a company for a given claim period, and it subsequently transpires that the company did not meet the eligibility criteria to make a claim for that period and no repayment to the Revenue Commissioners has been made by the company in accordance with ***subsection (17)(a)(II***), then ***(15)***

- the company shall be charged to tax under Case IV of Schedule D for the chargeable period in which the claim period commences on an amount equal to four times so much of the amount of the claim received that was not permitted, and ***(15)(a)***

- any amount chargeable to tax under this section will be treated as income against which no loss, deficit, credit, expense or allowance may be set off and will not form part of the income of a company for the purposes of calculating surcharges under ***section 440***. ***(15)(b)***

Claims by individuals subsequently found to be ineligible

In circumstances where claims have been made by an individual, for a given claim period, and it subsequently transpires that the individual did not meet the eligibility criteria to make a claim for that period and where no repayment to the Revenue Commissioners has been made by the individual in accordance with ***subsection (17)(a)(II),*** then ***(16)***

- the individual shall be deemed to have received an amount of income equal to five times so much of the amount of the claim received that was not permitted, referred to as the "unauthorised amount", and, ***(16)(a)***

- the unauthorised amount will be deemed to be income which arises on the first day of the claim period and is subject to tax under Case IV of Schedule D. ***(16)(b)***

The unauthorised amount is subject to income tax at the standard rate of income tax in force at the time that the advanced credit for trading expenses was paid but will not be subject to PRSI or USC. ***(16)(c)***

No deduction, relief, tax credit or reduction in tax shall be allowed against the unauthorised amount in calculating the tax payable, notwithstanding any other provisions of the Tax Acts. ***(16)(d)***

Any income deemed to arise under ***subsection (16)*** will not be taken into account when applying ***sections 188*** or ***Chapter 2A of Part 15***. ***(16)(e)***

Invalid claims and overclaims

An "invalid claim" is one which has not met the qualifying criteria as referenced in ***subsection (4)(b).*** ***(17)***

An "overclaim" is one which is the excess of that which the person is entitled. ***(17)(a)***

In both these circumstances the person should notify the Revenue Commissioners without an unreasonable delay, that an invalid or overclaim has been made, and make a repayment to the Revenue Commissioners. The amount of the repayment is as follows:

- where an invalid claim has been made, the amount paid in respect of that claim, and

- where an overclaim has been made, the amount by which the amount paid in respect of that claim exceeds the amount the person was entitled to claim.

Interest in respect of an invalid or overclaim will apply in accordance with section ***1080(2)(c)*** from the date on which the payment is made by the Revenue Commissioners.

However, where the invalid or overclaim was made neither deliberately or carelessly within the meaning of ***section 1077E or section 1077F***, and the person repays the amount to the Revenue Commissioners in compliance with ***paragraph (a)(II),*** interest will be determined in accordance with s***ection 1080(2)(c)*** as if a reference to the date when the tax became due and payable were a reference to the date paragraph (a) is complied with and accordingly no interest payment will be due. ***(17)(b)***

The provisions of ***subsection (15)(b***) in relation to overpayments arising on incorrect or invalid claims is extended to tax payable on unauthorised amounts as constituted under ***subsections (15) and (16).*** ***(17)(c)***

Reduced claim periods

For the purposes of ***subsection 18***, 'claim' and 'overpayment' have the same meanings as in ***section 960H(1)***. ***(18)(a)***

A "reduced claim period" arises when a Covid restrictions period or a Covid restrictions extension period ends earlier than anticipated. ***(18)(b)***

If a qualifying person makes an overclaim in respect of a reduced claim period, and that claim is made before the end of the claim period, and the overclaim arises solely as a result of the reduced claim period, the Revenue Commissioners are entitled to recover the excess amount from that person. ***(18)(c)***

They may do so by either setting the amount of the advance credit for trading expenses in respect of ***subsection (7) or (8)*** against the excess amount. Where at the end of the specified period an excess amount remains, and a repayment is due to the person in respect of a claim or overpayment, this amount may be set against the excess amount. ***(18)(d)***

In such circumstances, and provided the excess amount is recovered in a reasonable time, the excess amount will not be an unauthorised amount under ***subsection (15) or (16).*** ***(18)(e)***

Interest will apply from the end of the specified period in respect of the excess amount. ***(18)(f)***

Claims deemed to claims in connection with a credit

Any claim under ***section 485*** is deemed to be a claim in connection with a credit and thereby falls within the scope of the tax penalties regime as per ***section 1077E*** or ***section 1077F*** as appropriatefor the purposes of determining an amount in accordance with ***section 1077E(11)*** or ***1077E(12)*** or ***section 1077(3)*** or ***section 1077F(5)***, a reference to an amount of tax that would have been payable for the relevant periods by the person concerned shall be read as if it were a reference to a claim in respect of a claim period made in connection with ***subsection (7).*** ***(19)***

Offences

A person shall be guilty of an offence in relation to delivering incorrect returns and information or assists in delivering such returns in relation to this scheme and ***subsections*** ***(20)***

(3) to ***(10)*** of ***section 1078*** and ***Section 1079*** shall apply to ***section 485*** with any necessary modifications as required.

Care and Management

The administration of the Covid Restrictions Support Scheme is under the care and management of the Revenue Commissioners and ***section 849*** applies for this purpose with any necessary modifications as required. ***(21)***

Guidelines

The Revenue Commissioners shall publish guidelines in relation to the scheme. In particular, the guidelines will cover matters to which persons should have regard when determining whether the Covid restrictions apply to their business premises, and whether as a result of the Covid restrictions, the reduction in turnover test is met. ***(22)***

Publication of details of persons to whom an advance credit for trading expenses has been paid

The information as outlined in clauses (I) (name under which the business activity is carried on) and (III) (Address and Eircode of the business premises) of ***subsection (14)(a)(ii)*** will be published on the website of the Revenue Commissioners. ***(23)***

Appeals

Where a Revenue officer determines that a person is not a qualifying person for the purposes of ***subsection(4)(b),*** that Revenue officer shall notify the person in writing and the person can appeal that determination within 30 days of the date of notice to the Appeal Commissioners. Where the Appeals Commissioners determines that the person is a qualifying person for the purposes of ***subsection (4)(b),*** the eight-week period under ***subsection (8***) shall commence on the date that determination is issued by the Appeal Commissioners. ***(24)***

Section 485 shall be deemed to come into operation on the 13 October 2020**.**

485A Relief for gifts made to designated schools

Section 485A repealed by ***section 848A(13)*** (inserted by FA 2001 section 45) with effect from 6 April 2001.

485B Relief for gifts to the Scientific and Technological Education (Investment) Fund

Section 484B repealed by section ***848A(13)*** (inserted by FA 2001 section 45) with effect from 6 April 2001.

CHAPTER 2A

Limitation on amount of certain reliefs used by certain high income individuals

Overview

This Chapter provides for a limit on the use of specified tax reliefs (including exemptions) by certain high-income individuals who, by the cumulative use of those reliefs, could otherwise reduce their income tax liability to very low levels or to zero. The limit on the

use of reliefs ensures that individuals who are fully subject to a restriction will have an effective rate of income tax of about 30 per cent on the sheltered income.

The Chapter limits the total amount of "specified reliefs" (that is, the reliefs to be restricted as listed in ***Schedule 25B***) that an individual can use to reduce his or her tax liability in a tax year to €80,000 or, if greater, to 20 per cent of the individual's "adjusted income". Adjusted income is calculated by adding back the specified reliefs used by the individual in the tax year to his or her taxable income for the year and then excluding certain "ring-fenced" income that is already liable to taxation at specific rates. The amount of relief that is disallowed for a tax year is added to the individual's taxable income for the year to give an increased (recalculated) taxable income figure for the year. The recalculated taxable income figure is taxed in accordance with normal income tax rates and bands and the individual is entitled to normal tax credits.

Specified reliefs disallowed in a tax year are carried forward (as "excess relief") to the next tax year and deducted in computing the individual's taxable income in the same way as normal tax reliefs. However, the excess relief allowed in this way is treated as a specified relief and is taken into account in deciding whether the restriction applies in the later year.

In general, the restriction applies to individuals whose adjusted income is €125,000 or more in the tax year involved but it can apply at a lower level where the individual has ring-fenced income. The restriction applies on an incremental basis with the full restriction, and a 30 per cent effective rate, applying at €400,000.

Married couples or civil partners that are jointly or separately assessed are looked at individually in deciding whether the restriction applies. Where the restriction applies to one or both spouses or civil partners, income is aggregated at the level of taxable income rather than at the level of total income in joint assessment cases.

The specified reliefs that are subject to the restriction include:

- various sectoral and area-based property tax incentives,
- certain exemptions including those relating to artistic income,
- reliefs for donations, and
- certain investment incentive reliefs (e.g. film relief) and interest relief for investment in companies and partnerships.

Normal items claimed by taxpayers, such as medical expenses and personal tax credits, and exemptions such as that for child benefit, are not restricted. In addition, normal business expenses and deductions for capital allowances on plant and machinery, genuine business related trading losses and genuine losses from a rental activity are not restricted.

485C Interpretation

Summary

This is the interpretation section for the Chapter. It contains the definition and construction provisions required for the Chapter. It also provides rules that are generally applicable for the purposes of the Tax Acts. These rules indicate that priority is to be given to reliefs that are not subject to the restriction over specified reliefs that are subject to the restriction. Finally, the section gives effect to ***Schedules 25B*** and ***25C***.

Details

Definitions

(1) "adjusted income" is calculated by firstly adding the total amount of the specified reliefs actually used by an individual for a tax year to his or her taxable income for that year and then deducting any ring-fenced income of the individual for the year.

The formula **(T + S) – R** is used to calculate adjusted income

where-

T = the individual's taxable income (before the restriction),

S = the aggregate amount of specified reliefs used in the year, and

R = the amount of the individual's ring-fenced income for the year.

The figure for adjusted income is used for the purposes of calculating the amount of specified reliefs that may be allowed to an individual for a tax year. [An individual may, without restriction, use reliefs of up to €80,000 or, if greater, reliefs to the value of 20 per cent of adjusted income].

"aggregate of the specified reliefs" is the total amount of tax reliefs, which are liable to be restricted, that are actually used in a tax year,

"amount of specified relief" in relation to a relief, is the amount of the relief that is actually used in respect of the tax year. It does not include any part of a relief made to an individual for a tax year for which he or she cannot get relief because of any other restriction in the Taxes Acts or because of an insufficiency of income. The amount of the specified relief which is used is, subject to ***subsection (1A)***, to be determined on the basis set out in ***column (3)*** of ***Schedule 25B***.

"excess relief" is the difference between what the person's taxable income would have been under the normal income tax computation and what the individual's taxable income is after the increase provided for by ***section 485E***. While the excess relief is calculated by reference to an increase in taxable income, the excess relief effectively arises from the reduction of a relief or exemption that the individual would otherwise have obtained.

"income threshold amount" is the income level at which the restriction may apply. If adjusted income is less than this amount there will be no restriction of reliefs. The threshold amount is €125,000 where the individual has no ring-fenced income. Where the individual has ring-fenced income, a downward adjustment is made to that amount where the adjusted income is less than €400,000 by using the formula:

$$€125{,}000 \times \frac{\mathbf{A}}{\mathbf{B}}$$

where-

A = is the individual's adjusted income for the tax year, and

B = is the sum of **T + S** (these have the same meaning as in the definition of "adjusted income").

"relief threshold amount" in relation to a tax year and an individual is set at €80,000.

"Revenue officer" means an officer of the Revenue Commissioners.

"ring-fenced income" is deposit interest that is subject to DIRT (including some interest paid without deduction of DIRT) and EU deposit interest.

"specified relief" is a relief listed in ***Schedule 25B***. These are the reliefs that are subject to the restriction.

"tax year" is a year of assessment.

Capital allowances forward and balancing charges

Provision is made to ensure that, in the context of balancing charges under ***section 274***, where unused capital allowances are carried forward under ***section 304*** or ***section 305*** in respect of a particular building and are used to reduce a balancing charge arising from the ***(1A)(a)***

disposal of the building in a tax year, the amount of the allowances carried forward shall not be treated as a specified relief for the purposes of the restriction.

To the extent that the balancing charge has been reduced by unused capital allowances coming forward from previous years, then the amount of the reduction in the charge will not be taken into account in determining the amount of "adjusted income" for the purposes of this section. ***(1A)(b)***

These provisions ensure that, just as in the context of section 23-type relief, there is a netting-off between charges and unused allowances from previous years referable to the same property, before either income or the use of reliefs is recognised for the purposes of the restriction.

Construction

Rules are set out for interpreting the references in the section to "specified reliefs used by an individual in respect of the tax year". Essentially, this term refers to all expressions used in the Tax Acts to convey the fact that various tax reliefs (including exemptions) were given effect to, either in full or in part, in the particular year in question. However, tax relief given for a tax year but not given full effect in that tax year is only taken into account to the extent that effect was actually given to the relief concerned – see the definition of "amount of specified relief". ***(2)(a)***

For the purposes of the definition of "amount of specified relief", the provisions of the Tax Acts for determining the amount of profits or gains to be charged to tax apply to income covered by an exemption. This allows the amount of the exemption used (i.e. to cover the exempt income) to be computed. ***(2)(b)***

Priority in giving effect to reliefs

Provision is made for an order of priority as between reliefs to be restricted and reliefs which are not to be restricted where the method of giving relief is the same. In general, reliefs that are not subject to the restriction are allowed before specified reliefs (i.e. reliefs to be restricted). It should be noted that these provisions have general application for the purposes of the Tax Acts and individuals are required to apply these rules for a tax year even where the restriction does not apply to them for that year. ***(3)***

Schedules 25B and 25C

Effect is given to the provisions of ***Schedules 25B*** and ***25C***. ***(4)***

485D Application

This section provides that the provisions of the Chapter only apply to an individual for a tax year where —

- his or her adjusted income is equal to or greater than the income threshold amount, and
- where the specified reliefs used by the individual is equal to or greater than the relief threshold amount.

However, the Chapter (other than the carry-forward provisions in ***section 486F***) will not apply where 20 per cent of the individual's adjusted income is equal to or greater than the specified reliefs used by the individual in the tax year.

485E Recalculation of taxable income for purposes of limiting reliefs

This is the substantive provision that limits the benefit to be obtained from the use of specified reliefs in a tax year. The section provides for the substitution of an increased (recalculated) taxable income figure for the figure determined under the normal tax computational rules.

The formula **T + (S – Y)** is used to calculate the recalculated taxable income amount for the tax year

where-

T = the individual's taxable income (before the restriction),

S = the aggregate amount of specified reliefs used in the year, and

Y = the relief threshold amount (€80,000) or, if greater, 20 per cent of the individual's adjusted income for the tax year.

In cases with adjusted income of more than €400,000, the amount of the increase is the amount arrived at by reducing the specified reliefs used by an amount equal to 20 per cent of the adjusted income figure. Effectively, this means that the individual is allowed tax reliefs in the tax year up to 20 per cent of the adjusted income figure.

In cases with adjusted income of less than €400,000 where 20 per cent of adjusted income is less than €80,000, an amount of specified reliefs up to €80,000 can be allowed. In this way, the restriction applies on an incremental basis as income increases with the full restriction, and a 30 per cent effective rate, applying at €400,000.

485F Carry forward of excess relief

Summary

Excess relief is the amount of the increase in taxable income in a tax year by virtue of ***section 485E***. It equates to the amount by which all specified reliefs are restricted. It does not distinguish between reliefs, or the nature of the various reliefs restricted, as various elements are pooled in one amount and carried forward for deduction from total income in the following year. Excess relief is, in effect, a separate tax relief in its own right.

Excess relief carried forward to a year is given as a deduction from total income in the normal way in calculating taxable income. Excess relief carried forward is itself a specified relief in the (later) year in which it is used and is subject to restriction in that year. To the extent that "excess relief" cannot be used in the later year, it can be carried forward again. Where "excess relief" is carried forward to a year, other tax reliefs are allowed in priority to the "excess relief".

Details

This provision provides for the carry-forward of "excess relief" from the year in which reliefs are restricted to the next year, subject to the "excess relief" carried forward being taken into account in deciding whether the restriction applies in the later year i.e. if it is used in the later year. ***(1)***

Excess relief carried forward to a year and un-used in that year because of an insufficiency of income is carried forward, and allowed, in subsequent years. This, again, is subject to the rule that the "excess relief" used in the year to which it is carried forward must be taken into account in deciding whether the restriction applies. ***(2)***

Where "excess relief" is carried forward to a tax year, reliefs other than the "excess relief" are given in priority to the "excess relief". ***(3)***

485FA Adaptation of provisions relating to taxation of married couples

This section adapts certain provisions of the Tax Acts where the restriction of reliefs applies to an individual who, with his or her spouse or civil partner, has elected to be jointly assessed (including persons who apply for separate assessment under ***section 1023 or 1031H***) Aggregation of the couples' or partners' income will take place at the level of taxable income rather than at the level of total income. This allows for the calculation of the restriction for an individual based on the individual's own taxable income and not on the joint taxable income of both spouses or civil partners. After the calculation of the restriction, the recalculated taxable income of each spouse or civil partner (or original taxable income if the restriction does not apply to one spouse or civil partner) is determined, the relevant taxable income amounts of the spouses or civil partners are combined and the assessable person is taxed on the combined amount as if it were all his/her income.

The references to total income in ***subsections (1)*** and ***(2)*** of ***section 1019*** have not changed on the basis that these provisions are concerned with deciding which spouse or civil partner should be the assessable spouse or civil partner and apply regardless as to whether or not the restriction applies. The references to total income in ***subsection (4)(a)(ii)*** of ***section 1019*** are also left untouched.

Provision is included to ensure that the adjustments made to the taxation of married couples or civil partners by this section do not affect the value of certain reliefs available, as deductions from total income, to married couples or civil partners jointly assessed to tax. Persons affected by this section will be able to use reliefs, that are currently transferable, where the spouse or civil partner entitled to the deduction is not able to get the full value of the relief because of an insufficiency of income. This provision seeks to maintain the existing position whereby certain deductions from total income are made from the joint income of both spouses or civil partners.

It is similar to the rule that already applies to couples that opt for separate assessment.

485FB Requirement to provide estimates and information

Summary

This section requires all taxpayers who are subject to the restriction to make a self-assessment tax return in any year in which the restriction applies, if they are not otherwise required to make one.

In addition, individuals who are subject to the restriction, have to provide a statement to Revenue (form RR1 used for this purpose) setting out the actual calculation of the restriction and identifying precisely the specified reliefs involved. Revenue has the ability to seek further information on the calculations and the reliefs used. The ability to seek information extends to seeking information from high earners, who have not submitted a statement, as to whether they are liable to submit a statement.

Details

Definitions

(1) The definitions of "chargeable person" and "specified return date for the chargeable period" have the same meaning as in the self-assessment legislation in ***Part 41A***.

The definition of "prescribed form" means a form prescribed by, or used under the authority of, the Revenue Commissioners and includes a form that involves delivery by electronic means.

Requirement to submit tax return

Everyone who is subject to the restriction is regarded as a chargeable person for self-assessment purposes. Therefore, a self-assessment tax return must be submitted each year in which a person is subject to the restriction and preliminary tax must be paid on time. ***(2)***

Requirement to submit statement of details of restriction

An individual who is subject to the restriction is required to submit a statement along with his or her tax return by the self-assessment return filing date. The statement is to be on a prescribed form and is to give details that the form requires of— ***(3)***

- the amounts that make up the aggregate of specified reliefs,
- the determination of those amounts,
- the estimates required by ***subsection (4),*** and
- other matters relating to the restriction (e.g. the calculation of the adjusted income, or the income threshold amount in a case involving income subject to DIRT).

The estimates to be included in the statement are estimates of — ***(4)***

- the individual's taxable income as if the restriction did not apply,
- the individual's taxable income after applying the restriction, and
- the total tax payment due after applying the restriction.

These requirements are in addition to the normal self-assessment requirement to "pay and file".

In a case where both spouses or civil partners are subject to the restriction and they are not taxed as single persons, separate statements are required from both spouses or civil partners but the separate statements are to be combined in the one prescribed form. Where the couple are separately assessed they may submit separate forms. ***(5)***

Verifying accuracy of statements

A Revenue officer is authorised to make enquiries for the purposes of verifying the accuracy of any detail or estimate included in a statement or to determine whether or not an individual who failed to submit a statement should have submitted one. In the latter case, the officer may require, by notice in writing, the individual to furnish details of the tax reliefs claimed for a tax year. The notice must give the individual at least 14 days to respond. The need for this authority arises because a tax return for a year submitted by an individual who is claiming that the restriction does not apply will contain aggregate figures for many tax reliefs and it may not be possible to determine from the return whether or not the restriction should apply. ***(6)***

Enquires into the circumstances of individuals who do not provide the statement required by this section, but who might be expected to be subject to the restriction, can only take place after the individual has made a tax return for the year and the individual's income (including exempt income but before any deductions, allowances or reliefs) is equal to or greater than the income threshold amount.

Application of provisions

Chapter 3 of Part 41A relating to the submission of a tax return are applied for the purposes of the statement to be delivered under this section. ***(7)***

Penalties

The penalties contained in ***section 1052*** are applied to a case where there is a failure to deliver the statement required under this section or a failure to deliver the details required under ***subsection (6)***. ***(8)***

485G Miscellaneous

Summary

This section provides for matters miscellaneous to the restriction of reliefs.

Details

Refund of DIRT tax

Nothing in this Chapter affects the right of a person who is permanently incapacitated from obtaining a refund of DIRT tax deducted on the basis that the person is entitled to exemption from tax on such income. ***(1)***

Adaptation of tax relief regimes

The capital allowances system and other relief regimes are adapted to ensure that the restriction of reliefs provided for by this Chapter does not affect the normal workings of those systems, particularly as respects the carry forward of unused reliefs under those provisions in circumstances where there is also "excess relief" under the provisions of this Chapter. ***(2)(a) & (b)***

Capital allowances

For the purposes of the capital allowances regime under ***Part 9*** (or that Part as applied by other provisions), the amount of any capital allowance used in a tax year is calculated as if the restriction does not apply. Therefore, an individual will be treated as having got the full benefit of an allowance used in a year despite the fact that the allowance may have been included in the general restriction. This is because the restricted portion of the allowance is carried forward as part of a general pool of restricted reliefs. This general pool is known as "excess relief" and is allowed in the following or subsequent years as a separate relief outside of the capital allowance system. ***(2)(a)(i)***

The provision in ***section 292*** governing the calculation of the "amount unallowed" is to be unaffected by any restriction of reliefs. This calculation determines the remaining amount of capital expenditure that has not been allowed against a person's income by way of capital allowances. The amount is used in determining the amount of a balancing allowance or a balancing charge. ***(2)(a)(ii)***

In a case where the restriction applies, the calculation of the amount of a balancing allowance or a balancing charge in respect of capital expenditure on an industrial building or structure is to be firstly determined in the normal way. However, any balancing charge arising is then to be adjusted in accordance with ***paragraph (b)***. Any reduction made to a balancing charge will also be deducted from the amount of "excess relief" available to the individual involved. ***(2)(a)(iii)***

The amount by which the balancing charge referred to in ***paragraph (a)(iii)*** is to be reduced is the lesser of: ***(2)(b)***

- the amount of any "excess relief" coming forward to the year in which the balancing charge arises which has not already been deducted for the year, and
- the sum of the amounts of the allowances restricted each year that relate to the building or structure involved. The amount to be taken for each year is calculated by applying the following fraction to the allowance in respect of the building or structure for the particular year:

$$\mathbf{A \times \frac{E}{S}}$$

where-

A = the amount of the allowance made to the individual for the year,

E = the amount of the individual's "excess relief" for the year, and

S = the individual's aggregate of specified reliefs for the year.

Prevention of double relief for carry forward of relief restricted

Relief restricted by this Chapter is only carried forward as part of the pool of restricted reliefs provided for by ***section 485F***. It will not be possible to carry forward any part of the restricted reliefs as part of the original relief from which it derives. Otherwise, the person conceivably could be entitled to carry forward the relief denied in a year on the double if a carry forward provision is a feature of a particular relief. ***(2)(a)(iv)***

Charge to tax under Case IV

To the extent that an individual's taxable income, determined in accordance with ***section 485E***, exceeds the income on which he or she was chargeable to tax under the various Schedules, then the excess is deemed to be an amount chargeable to income tax under Case IV of Schedule D. This provision will ensure that a charge to tax arises, for example where an exemption is restricted, despite the fact that the underlying income is otherwise exempt. ***(3)***

Any amount charged in this way, is not to be regarded as part of the individual's total income for the tax year and is to be disregarded for the purposes of certain calculations in the Chapter.

Interaction of restriction calculation with other calculations

This provision, which is subject to ***paragraph (b), subsection (5)*** and ***paragraph 5*** of ***Schedule 24,*** addresses situations where calculations of reliefs, deductions, credits and reductions in tax payable arise in other provisions of the Tax Acts. The calculations in question are those that require total income, taxable income, tax payable or tax chargeable for a year to be taken into account. Those calculations are to be carried out as if the restriction under this Chapter did not apply. However, any "excess relief" that comes forward under the provisions of ***section 485F*** should be given in accordance with the rules in that section. ***(4)(a)(i)***

In the case of a relief or deduction, effect is to be given to it before the application of the restriction but after the application of ***section 485F***. In the case of credits and reductions in tax payable, the benefits of these (as calculated before the restriction but after the application of ***section 485F***) are to be given against the amount of tax chargeable following the application of the restriction. ***(4)(a)(ii)***

These rules are not to affect the amount of tax chargeable on an individual in relation to his or her taxable income as determined in accordance with ***section 485E***. This is the amount of tax to be charged on that recalculated taxable income before any credits or other reductions in that amount of tax. ***(4)(b)***

The exemption and marginal relief provisions of ***sections 187*** and ***188*** do not apply where the restriction under this Chapter applies. ***(5)***

CHAPTER 3
Corporation tax reliefs

Overview

Chapter 3 of ***Part 15*** provides relief from corporation tax in respect of investment in renewable energy generation (***section 486B***), for certain start-up companies (***section 486C***) and also credit for the bank levy (***section 487***).

486 Corporation tax: relief for gifts to First Step

Section 486 repealed by ***section 848A(13)*** (inserted by FA 2001 section 45) with effect from 6 April 2001.

486A Corporate donations to eligible charities

Section 486A repealed by ***section 848A(13)*** (inserted by FA 2001 section 45) with effect from 6 April 2001.

486B Relief for investment in renewable energy generation

Summary

This section provides for a tax relief to encourage corporate investment in certain renewable energy projects. The technology categories to which the relief will apply are solar power, windpower, hydropower, and biomass. The relief applies from 18 March, 1999 (S.I. No. 65 of 1999) and will expire on 31 December 2014.

The principal features of the relief are as follows —

- A company which makes an investment in an energy project will be entitled to a deduction in calculating its profits for tax purposes. The investment must be in new ordinary shares in a company set up to undertake the renewable energy project.
- Qualifying projects will be individually approved by the Minister for Communications, Energy and Natural Resources by the issue of a certificate to the company concerned.
- Investment in respect of which relief can be given is capped in the case of any project at the lower of 50 per cent of all capital expenditure (excluding land and net of grants) on the project, or €9,525,000.
- The funds must be spent on the project within 2 years of receipt or the relief will be withdrawn.
- Investment by any one company or group of companies in more than one energy project in respect of which relief can be given is capped at €12,700,000 per annum.
- Unless the shares are held for at least 5 years by the investor company the relief will be withdrawn.

Details

Definitions

(1) "authorised officer" means an officer of the Revenue Commissioners authorised by them in writing for the purposes of this section;

"commencement date" means the day on which section 62 of the Finance Act, 1998, comes into operation;

"the Minister" is the Minister for Communications, Energy and Natural Resources;

"new ordinary shares" means new ordinary shares forming part of the ordinary share capital of the company which for at least 5 years from the date of issue carry no preferential rights, etc above any other ordinary shares.

"qualifying company" means a company which is resident and incorporated in the State and not resident anywhere else and which exists solely to undertake a qualifying energy project.

"qualifying energy project" means a renewable energy project which has been certified by the Minister.

"qualifying period" means the period beginning on the commencement date and ending on 31 December 2014;

"relevant cost" means all capital expenditure on the project net of grant aid and excluding land costs;

"relevant deduction" means a deduction equal to a relevant investment. The upper limits of relief are specified in ***subsections (4)*** and ***(5)***.

"relevant investment" means an amount paid by a company on its own behalf to the qualifying company in the qualifying period for shares to enable the qualifying company to undertake the qualifying energy project and which is used for that purpose within 2 years. There can be no condition as to repayment.

"renewable energy project" means a renewable energy project, (including a project successful in the Third Alternative Energy Requirement Competition (AER II - 1997) initiated by the Minister) in one or more of the solar power, windpower, hydropower or biomass technology categories.

Certificates of eligibility

Upon receipt of an application, the Minister may give a certificate of eligibility to a company to enable it to undertake a qualifying energy project. The application must be in such form and contain such information as the Minister directs. ***(2)(a)***

The certificate may be issued with such conditions as the Minister deems proper. These conditions are to be specified in the certificate. ***(2)(b)***

The Minister may amend or revoke any condition in a certificate issued by giving notice in writing to the company and the certificate will apply as amended. ***(2)(c)***

Additional conditions can subsequently be included in the certificate. ***(2)(d)***

Failure to comply with any condition will result in — ***(2)(e)***

(i) withdrawal of relief, and

(ii) revocation, by notice in writing of the certificate.

The relief

Provision is made for a claim for a deduction for tax purposes from total profits of the investor company for the accounting period in which the relevant investment is made and any losses thus created may be carried forward as a deduction against total profits in subsequent accounting periods. ***(3)***

The level of relevant investments by investor companies in respect of which relief can be given is limited to €12.7m in any 12 months period beginning on the commencement date or any anniversary of it. Where the subscription for shares exceeds €12.7m no relief is available in respect of the excess. For the purposes of determining the limits, subscriptions made by companies which at any time in the 12 months period are connected with each other will be aggregated. ***(4)(a)***

Where there is more than one investment, the Inspector of Taxes or the Appeal Commissioners may allocate the relief to the various investor companies in proportion to the level of their respective investments. ***(4)(b)***

The level of relevant investments made in any one qualifying company in respect of which relief can be given is limited to the lesser of — ***(5)***

(a) 50 per cent of the relevant cost of the project, or ***(5)(a)***

(b) €9,525,000. ***(5)(b)***

The funds invested must be expended on the qualifying energy project within 2 years of the investment or relief will be withdrawn. Relief may also be withdrawn if a certificate is revoked or any other condition of the section is not complied with. ***(6)(a)***

Relief will not be given and any relief already given will be withdrawn if any of the shares are disposed of by the investor company within 5 years. ***(6)(b)***

References in ***(a)*** and ***(b)*** to a time is a reference to the time the payment is made. ***(6)(c)***

A claim for relief must be accompanied by a certificate issued by the qualifying company in a form prescribed by the Revenue Commissioners affirming adherence by the qualifying company to the conditions of the relief. ***(7)***

Before the certificate is issued under ***subsection (7)*** the qualifying company must furnish the authorised officer with — ***(8)***

(a) a statement that it complies or will comply with the conditions of the relief, ***(8)(a)***

(b) a copy of the certificate and any notice issued by the Minister. ***(8)(b)***

(c) such other information as the Revenue Commissioners require. ***(8)(c)***

The certificate to be issued under ***subsection (7)*** may not be issued — ***(9)***

(a) without the authority of the authorised officer, or ***(9)(a)***

(b) where the limits of the investment which can avail of the relief have already been reached. ***(9)(b)***

The statement issued under ***subsection (8)*** should — ***(10)***

(a) contain such information as the Revenue Commissioners may reasonably require, ***(10)(a)***

(b) be in a form as directed by the Revenue Commissioners, and ***(10)(b)***

(c) contain a declaration by the qualifying company that it is true. ***(10)(c)***

Where a qualifying company issues a certificate under ***subsection (7)*** or furnishes a statement under ***subsection (8)*** and where — ***(11)***

(a) the certificate or statement is false or misleading due to fraud or neglect, or ***(11)(a)***

(b) the certificate was issued without the authority of the authorised officer, or the limits of the investment which can avail of the relief have already been reached, ***(11)(b)***

then the company is liable to a penalty of €4,000, and no relief will be given under the section and any relief already given will be withdrawn.

Anti-avoidance

Relief under the section will only be given where the investment has been made — ***(12)***

(a) for bona fide commercial and not tax avoidance reasons, ***(12)(a)***

(b) to undertake a qualifying energy project, and ***(12)(b)***

(c) at arms length and where no scheme or arrangement of repayment or guarantee in relation to the investment has been put in place. ***(12)(c)***

Withdrawal of relief

Where relief is to be withdrawn under ***subsection (6)*** or ***(11)*** an assessment to corporation tax under Case IV of Schedule D will be made. This assessment will be made in respect of the accounting period(s) in which the relief was given and can be made at any time. ***(13)***

Bar on double relief

Where a company is entitled to relief under this section it cannot claim relief in respect of the same payments under any other provisions of the Tax Acts or the Capital Gains Tax Acts. ***(14)(a)***

Capital gains tax treatment

If the shares which have been acquired and in respect of which a deduction under this section has been obtained are disposed of more than 5 years after their acquisition, then no account will be taken of the relief under this section in determining the base cost of those shares for capital gains tax purposes when the disposal takes place. ***(14)(b)***

However, provision is made to ensure that where there is a capital loss on disposal of the shares that loss is reduced by the lesser of the amount of —

(i) that loss, and
(ii) the deduction allowed under this section.

Section 486B came into effect on 18 March, 1999 by order of the Minister for Finance (S.I. No. 65 of 1999).

486C Relief from tax for certain start-up companies

Summary

This section, as introduced by Finance (No. 2) Act 2008, provides relief from corporation tax for new start-up companies for the first five years of operation where the company commences to carry on a qualifying trade on or after 1 January 2018 or the first three years of operation where the qualifying trade commenced before 1 January 2018. Relief is granted by reducing the corporation tax on the profits of the new trade and gains on the disposal of any assets used for the purpose of the new trade.

Prior to Finance Act 2011, full relief was available where the corporation tax otherwise payable by the company was €40,000 or less. Marginal relief applied where the corporation tax liability was between €40,000 and €60,000.

The relief applies to new ventures only and relief cannot be claimed in respect of a trade or part of a trade that was previously carried on by another person. The relief is also unavailable to companies involved in dealing in or developing land, to companies involved in exploration and extraction of natural resources or to companies carrying on a profession, providing professional services or holding an office or employment - so called “service companies”.

Finance Act 2011 changes

Section 34 of the Finance Act 2011 provided for the extension of the tax relief for start-up companies to those companies which commenced a trade in 2011. It also modified the existing relief so that the value of the relief is now linked to the amount of Employers’ PRSI paid by a company in an accounting period, subject to a maximum of €5,000 per employee and an overall limit of €40,000. Credit is also given for any employers’ PRSI exempted under the Employer Job (PRSI) Incentive Scheme in respect of a company’s employees in determining the amount of corporation tax relief available to the company.

The Finance Act 2011 changes above mean that where the total corporation tax payable by a qualifying start-up company for an accounting period does not exceed €40,000, the aggregate amount of corporation tax referable to income and gains[4] of the qualifying trade in that period will be reduced to nil or, if greater, to that aggregate as reduced by the amount of qualifying Employers' PRSI. Where the total corporation tax payable exceeds €40,000 but does not exceed €60,000, the aggregate amount of corporation tax referable to income and gains[1] of the qualifying trade will be reduced to an amount as calculated in accordance with the original existing marginal relief formula or, if greater, to that aggregate as reduced by the amount of qualifying Employers' PRSI. For accounting periods of less than 12 months, the various limits are proportionately reduced.

To ensure that the scheme is focussed appropriately on new business activities the section contains a provision which excludes from relief a trade set up by a new company, the activities of which, if carried on a by an associated company of the new company, would form part of an existing trade carried on by that associated company.

The changes introduced in the Finance Act 2011 apply to all qualifying companies for accounting periods beginning on or after 1 January 2011. However, companies which set up and commenced a qualifying trade in 2009 or in 2010 were able to obtain relief on the previous (i.e. pre-Finance Act 2011) basis for profits earned in accounting periods commencing before 2011.

Finance Act 2012 changes

Section 45 of the Finance Act 2012 provided for the extension of the tax relief to start-up companies to those companies which commenced a new trade in 2012, 2013 or 2014.

Finance Act 2013 changes

Section 34 of the Finance Act 2013 provided for the enhancement of the tax relief to start-up companies by allowing any unused relief arising in the first 3 years of trading, due to losses or insufficient profits, to be carried forward for use in subsequent years. The amount of relief is restricted by reference to the total employers' PRSI contributions for each year in respect of the company's employees (subject to an overall limit of €40,000 in any one year). The changes made by section 34 of Finance Act 2013 have effect in relation to any 'first relevant amount' or 'second relevant amount' (see ***Paragraphs (4A)(b)(i) & (4A)(b)(ii)*** below) for accounting periods ending on or after 1 January 2013.

Finance Act 2014 changes

Section 39 of the Finance Act 2014 provided for the extension of the tax relief for start-up companies to those companies which commenced a new trade in 2015.

Finance Act 2015 changes

Section 29 of the Finance Act 2015 provided for the extension of the tax relief for start-up companies to those companies which commenced a new trade in 2016, 2017 or 2018.

Finance Act 2018 changes

[4] i.e. chargeable gains on the disposal of assets of the qualifying trade

Section 21 of the Finance Act 2018 provided for the extension of the tax relief for start-up companies to those companies which commenced a new trade in 2019, 2020 or 2021.

Finance Act 2021 changes

Section 34 of the Finance Act 2021 provided for the extension of the tax relief for start-up companies to those companies which commence a new trade in 2022, 2023, 2024, 2025 or 2026. It also provided that the period for which the relief may be claimed was extended from three years to five years for companies that commence a qualifying trade on or after 1 January 2018.

Finance Act 2024 changes

Section 51 of Finance Act 2024 provides for Class S PRSI contributions paid by company directors/owners on emoluments from the company to be considered in determining if the €40,000 maximum threshold on relief is reached (or in determining the amount of marginal relief available where the corporation tax payable is between €40,000 and €60,000). The amount of Class S PRSI remitted by the company to Revenue under the PAYE system during the accounting period can be considered, subject to an annual limit of €1,000 Class S PRSI per individual. This €1,000 limit is proportionately reduced for accounting periods of less than 12 months. This change takes effect for accounting periods commencing on or after 1 January 2025. Finance Act 2024 also updates references in section 486C to the current *de minimis* aid Regulation in place.

Detail

Subsection (1) contains the definitions used in the section, as follows: ***(1)(a)***

"associated company" is construed in accordance with ***section 432***. Two companies are associated if at that time or within one year previously one company controls the other or both are under common control;

"Commission Regulation (EU) 2023/2831" means Commission Regulation (EU) 2023/2831 of 13 December 20232 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid;

"EEA Agreement" is the agreement signed at Oporto on 2 May 1992, as adjusted by the Protocol signed at Brussels at 17 March 1993 between the EU and Norway, Iceland and Liechtenstein;

"EEA state" is a state (other than the State) which is a signatory to the above agreement;

"Employer Job (PRSI) Incentive Scheme" is the scheme provided for in the Social Welfare (Employers' Pay-Related Social Insurance Exemption Scheme) Regulations 2010 (S.I. No. 294 of 2010);

"Employers' Pay-Related Social Insurance" is what is generally known as Employers' PRSI;

"excepted trade" has the meaning assigned to it by ***section 21A***. It means a trade which consists of dealing in or developing land excluding construction operations, working minerals and petroleum activities;

"net chargeable gains" means chargeable gains less allowable losses;

"new company" is a company incorporated in the State, an EEA State or the United Kingdom on or after 14 October 2008;

"qualifying assets" are the relevant assets of the qualifying trade which are disposed of in the first five years (or three years if the qualifying trade commenced before 2018) but not including assets transferred from another group company or assets acquired in the course of a reconstruction or amalgamation;

"qualifying trade" is a trade which is set up and commenced by a new company in the period beginning on 1 January 2009 and ending on 31 December 2026 but does not include a trade which was previously carried on by another person or formed part of another person's trade or profession, a trade of dealing in or developing land or exploration and extraction of natural resources, a trade consisting of "service company" activities, a trade, the activities of which form part of an undertaking which is referred to in Article 1(1) of Commission Regulation (EU) 2023/2831, or a trade, the activities of which, if carried on by an associated company of the new company, would form part of a trade carried on by that associated company;

"relevant asset" is an asset which is, or an interest in, an asset used for the purposes of the trade other than an asset on the disposal of which no gain accruing would be a chargeable gain or an asset the consideration for the acquisition of which is determined by ***section 617*** or ***section 631***;

"relevant corporation tax" is the corporation tax which would be chargeable for the accounting period before any deduction from that tax under-

- this section,
- ***sections 239***, ***241***, ***440***, ***441***, ***644B*** and ***827***,
- ***paragraph 18*** of ***Schedule 32***.

The resulting corporation tax is subject to a further two exclusions, namely-

- the exclusion of the corporation tax chargeable on the part of the company's profits attributable to chargeable gains for that period, and
- the exclusion of the corporation tax on the part of the companies profits which are chargeable to higher rate of corporation tax as specified in ***section 21A***;

"relevant limit" means €5,000 (unless the accounting period is shorter than 12 months in which case this limit is proportionally reduced under ***subsection (6)***),

"relevant period" is the period of five years from the date of set up of the qualifying trade where the qualifying trade is commenced on or after 1 January 2018 and a period of three years from the date of set up of the qualifying trade in all other cases;

"self-employment contribution limit" means €1,000 (unless the accounting period is shorter than 12 months in which case this limit is proportionally reduced under ***subsection (6)***);

"Self-employment Pay-Related Social Insurance" means the Class S PRSI contribution payable under section 21(1)(c) of the Social Welfare Consolidation Act 2005 by self-employed contributors on reckonable emoluments;

"specified contribution" is the lesser of the Employers' PRSI paid in the accounting period [or which would have been paid if the Employer Job (Incentive Scheme) did not apply] and the relevant limit (€5,000);

"specified self-employment contribution" means the lesser of–

(i) the amount of Class S PRSI paid by an individual on emoluments from the company and which the company has remitted to Revenue under the PAYE system in the accounting period, and

(ii) the self-employment contribution limit (€1,000);

"total contribution" is the lesser of (i) the aggregate of the company's specified contributions and the specified self-employment contributions for the accounting period and (ii) the lower relevant maximum amount specified in ***subsection (5)*** (€40,000);

"total corporation tax" is the corporation tax which would be chargeable for the accounting period before any deduction from that tax under this section, ***section 239*** and ***section 241***;

"trade" means a trade the profits or gains of which are charged to tax under Case I of Schedule D;

The part of a company's profits attributable to chargeable gains for an accounting period is taken to be the amount of its profits for the accounting period exclusive of any income after any deduction for charges on income, expenses of management, or other amounts which can be deducted from or set against or treated as reducing profits of more than one description (such other amounts would include ***section 396(2)*** losses, excess "Case V" capital allowances (***section 308(4)***), and group relief (***section 420***)). ***(1)(b)***

In computing a specified contribution for an accounting period of a company which sets up and commences a qualifying trade in 2011, an amount of Employers' PRSI paid [or which would have been paid if the Employer Job (Incentive Scheme) did not apply] within one month after the end of the accounting period may be treated as Employers' PRSI paid in the accounting period. Where such an amount is so treated it may not be taken into account into computing a specified contribution for any subsequent accounting period. ***(1)(c)***

Qualifying trade

A "qualifying trade" is a trade which is set up and commenced by a new company at any time in the period beginning on 1/1/2009 and ending on 31/12/2026 but does not include a trade which was previously carried on by another person or formed part of another person's trade or profession, a trade of dealing in or developing land or exploration and extraction of natural resources, a trade consisting of "service company" activities, a trade the activities of which form part of an undertaking which is referred to in Article 1(1) of Commission Regulation (EU) 2023/2831, or a trade, the activities of which, if carried on by an associated company of the new company, would form part of a trade carried on by that associated company; ***(2)(a)***

Deemed separate trades

Where a trade consists partly of excepted operations and partly of other activities, each trade is treated as a separate trade for the purposes of the section, and a just and reasonable apportionment of receipts and expenses is to be made between the two parts. ***(2)(b)***

Deemed separate accounting period

Where the accounting period for which relief is due falls partly within the relevant period then the period falling within the relevant period is treated as a separate accounting period and relief is granted for that period accordingly. ***(3)***

Exemption from tax

The aggregate corporation tax payable by the company, in so far as it relates to income from a qualifying trade or chargeable gains on the disposal of qualifying assets in relation to that trade in the accounting period, shall be reduced by the lower of the total contribution as defined in ***subsection (1)*** [i.e. Employers' PRSI and Class S PRSI paid in the accounting period] or the corporation tax payable, as calculated above, for the accounting period. ***(4)(a)***

Marginal relief

Where the total corporation tax payable by the company falls between the upper and lower relevant maximum amounts (i.e. between €40,000 and €60,000) then marginal relief is provided. The aggregate amount of corporation tax referable to income and gains of the qualifying trade will be reduced to an amount as calculated in accordance with the marginal relief formula or, if greater, to that aggregate of corporation tax as reduced by the amount of qualifying Employers' PRSI and Class S PRSI. ***(4)(b)***

Tax referable to income of qualifying trade

The corporation tax relating to income from the qualifying trade is an amount that bears the same proportion to the relevant corporation tax as the income of the qualifying trade bears to the total income for the accounting period. ***(4)(c)***

Tax referable to chargeable gains from qualifying assets

The corporation tax relating to chargeable gains on the disposal of qualifying assets is an amount that bears the same proportion to the corporation tax on all chargeable gains as the net chargeable gains on qualifying assets disposed of bears to the net chargeable gains on all assets disposed of in the accounting period. ***(4)(d)***

Carry forward of unused relief

Paragraph (a) defines, for the purposes of ***subsection (4A)***, "corporation tax referable to the qualifying trade" for an accounting period, which is the corporation tax referable to the income of the trade for the accounting period and chargeable gains on the disposal of relevant assets used for the trade in the period. It also defines an "accounting period following the relevant period" as an accounting period commencing after the expiry of the initial 3 year or 5 year period of the qualifying trade. ***(4A)(a)***

Where for an accounting period falling within the relevant period (i.e. the initial 3 year or 5 year period of the qualifying trade) the company's total corporation tax payable for the accounting period is less than €40,000 and the total contribution (employer PRSI and Class S PRSI) exceeds the corporation tax referable to the qualifying trade for the accounting period, then the excess amount (referred to as a 'first relevant amount') is available to reduce the corporation tax referable to the qualifying trade for an accounting period following the relevant period. ***(4A)(b)(i)***

Paragraph (b) relates to companies that are eligible for marginal relief in an accounting period falling within the relevant period. Where the company's total corporation tax payable for the accounting period is between €40,000 and €60,000 and the total contribution exceeds the corporation tax referable to the qualifying trade for the accounting period, an amount (referred to as a 'second relevant amount'), calculated in accordance with the formula set out in ***Paragraph (b)(ii)***, is available to reduce the corporation tax referable to the qualifying trade for an accounting period following the relevant period. The amount determined by the formula is equivalent to the additional amount of marginal ***(4A)(b)(ii)***

relief that would have been available to the company if the corporation tax referable to the trade were of the same amount as the total contribution (employer PRSI and Class S PRSI).

The aggregate of all first relevant amounts and second relevant amounts, if any, for accounting periods falling within the relevant period is to be referred to as a 'specified aggregate'. This essentially provides for all amounts of unused relief in the relevant (i.e. 3 year or 5 year) period to be aggregated together so that this aggregate amount can then be used to reduce corporation tax referable to the qualifying trade in accounting periods following the 3 year or 5 year period, in accordance with ***Paragraphs (d), (e) and (f)***. ***(4A)(c)***

Paragraph (d)(i) is subject to ***paragraphs (e) and (f)*** and provides that, where a company carries on a qualifying trade for an accounting period following the relevant period, the corporation tax referable to the qualifying trade for that accounting period is to be reduced by the specified aggregate, as defined above. By making this subject to ***Paragraph (e)***, the amount of any reduction in the corporation tax referable to the trade shall not exceed the total contribution (employer PRSI and Class S PRSI) of the company for the accounting period. ***(4A)(d)(i)***

Paragraph (d)((ii) provides for a carry over of any excess, i.e. unused, amount of relief to later accounting periods until the specified aggregate is fully used up. It provides that, where there is a reduction in corporation tax for an accounting period by virtue of ***subparagraph (i)*** above and the specified aggregate exceeds the amount of that reduction, ***(4A)(d)(ii)***

- the corporation tax referable to the qualifying trade for the next accounting period is to be reduced by the amount of that excess, and
- so much of that excess as is not applied to reduce that corporation tax is, in turn, to be applied by the company to reduce the corporation tax referable to the qualifying trade for the succeeding accounting period and so on for each subsequent accounting period.

The amount by which corporation tax referable to the qualifying trade for an accounting period may be reduced for an accounting period following the relevant period may not exceed the lower of such corporation tax and the total contribution of the company for the accounting period (subject to the overall limit of €40,000 in any one year). ***(4A)(e)***

A company may apply so much of a specified aggregate to reduce corporation tax under this subsection only once. ***(4A)(f)***

Relevant maximum amounts

The upper and lower relevant maximum amounts for accounting periods of 12 months are €40,000 and €60,000 respectively. For shorter accounting periods, these amounts as well as the relevant limit and the self-employment contribution limit, as defined in ***subsection (1)***, are proportionately reduced. ***(5) & (6)***

Road transport

The total amount of relief for companies engaged in road transport is restricted to €100,000. ***(7)***

Succeeding to a trade

Where a company claiming relief takes over the activities of another trade, those activities will be treated as a separate trade. ***(8)***

Exclusion from relief calculation of profits charged to higher rate of corporation tax

(9) For the purposes of calculating relief under this section the "total income brought into charge to corporation tax" for the accounting period, calculated in accordance with ***section 4(4)(b)***, is reduced by so much of the profits of the company for the accounting period as is charged to the higher rate of corporation tax under ***section 21A***.

Connected persons

(10) Relief under this section will cease where part of the qualifying trade is transferred to a connected person.

Returns

(11) A company is obliged to specify the amount of relief being claimed under this section in its tax return.

Disclosure

(12) This subsection allows the Revenue Commissioners to disclose the amount of relief granted to any company under this section to a public body or local authority where the information is required to ensure that the *de minimis* state aid ceilings are not exceeded and to assist with European Commission enquiries.

487 Corporation tax: credit for bank levy

Summary

This section provides for the set-off of all or part of the bank levy paid by a bank against the corporation tax liability of the bank where certain conditions are met. The bank levy may be set off against corporation tax to the extent that the corporation tax liability exceeds a certain threshold. The threshold is based on the average corporation tax liability of a bank in the 2 year period ending 31 March, 1991. That base is indexed in line with the bank's profitability over the years since then. Thus, if a bank has increased its profits since that time, its corporation tax liability must increase to a corresponding level. Where the corporation tax liability increases above that level, the bank is entitled to set off a part of the bank levy equal to the excess. It is possible for banks to increase their corporation tax liability by refraining from the use of tax shelters, by the expansion of their activities in the State and by remitting higher amounts of dividends from their overseas subsidiaries. If the advance corporation tax liability of a bank in an accounting period exceeds the threshold, then the advance corporation tax liability is substituted in place of the threshold.

The arrangements apply on a group basis with the results of all companies which are owned to the extent of 75 per cent by the banking group being taken into account. Life assurance companies, however, are excluded. The bank levy ceased to apply in 1997. However, the provisions which allow the off-setting of the levy against corporation tax still apply in certain circumstances.

Overview of the scheme

A banking group is entitled to set off a part of its levy payment where its corporation tax liability for the period concerned exceeds a threshold (referred to as the "adjusted group base tax"). The adjusted group base tax is the higher of —

- the advance corporation tax for the period concerned, and
- the group base tax, indexed in line with the rise or fall in accountancy profits.

The group base tax is the average of the banking group's liability to corporation tax in the 2 years ended 31 March, 1991. The rise or fall in accountancy profits is determined by comparing the group profit with the group base profit (that is, the average profit of the 2 years ended 31 March, 1991). Both "profit" and "base profit" are a measure of accountancy profits. As all of the items are on a group basis, it is necessary for company figures to be defined and then aggregated to give group figures. In determining group profit and group base profits, profits and losses of companies which are members of the group are taken into account. If the group as a whole has incurred a loss, the group profit or group base profit will be taken to be nil.

Details

Definitions

"accounting profit" is the amount of profit, after taxation and before extraordinary items shown in the accounts of the company. Extraordinary items are excluded from the measure of profits so as to give an even base for indexation purposes. The amount of a loss incurred by a company is calculated in the same way as a profit would be. ***(1)(a)***

Profit means the profit shown in the profit and loss account of the company. In the case of an Irish company, the profit and loss accounts are those to be laid before the AGM of the company. Under the Companies Act, 1963 a company which is the parent company of a group is not required to present separate accounts of its own activities provided that its results are included in the group consolidated accounts. That company is required to take the profits which would have been shown in separate accounts if its results were not shown in the group's consolidated accounts.

Where the bank is not resident in the State but is trading here through a branch or agency, the profits to be taken into account are those shown in the branch profit and loss account which is certified by the auditor to the company as presenting a true and fair view of the profit or loss attributable to the Irish branch.

Certain adjustments have to be made to the accounting profits as so shown to give the accounting profit within the meaning of that term for the purposes of this section.

The accounting profits are reduced by the amount of those profits as is attributable to —

- dividends received from Irish resident group members (this ensures that there is not a double count of the income, in the hands of the company which earned the income and in the hands of the company which received the dividend),
- capital gains,
- income from foreign branches which is also subject to tax outside of the State,
- dividends received from overseas.

The accounting profits are increased by the income from overseas branches and for dividends received from overseas as so excluded. If the full amount of profit from these activities were taken into account and the base tax indexed on that basis, it would inflate the adjusted base tax which would reflect the relevant corporation tax rate. By adjusting these amounts to reflect their expected real contribution a target adjusted base tax which could be expected to be achieved is set.

A formula is provided for determining the amount by which accounting profits are to be increased for this purpose, namely —

$$\frac{100 \times T}{R}$$

Where T is the net tax contribution from the activity after relief for double taxation.

R is to be taken as the rate per cent of corporation tax for the accounting period concerned.

"adjusted group base tax" of a relevant period is determined by applying the formula set out in the definition to the group base tax – see below. This increases the group base tax in line with the increase in profitability.

The adjusted group base tax is set at a minimum figure equal to the group advance corporation tax liability of the period concerned. This achieves a situation whereby a bank will only be setting off the bank levy against the increases in its corporation tax liability which arise by refraining from using tax shelters as opposed to advance corporation tax which it must pay on the paying of a dividend to its shareholders.

"advanced corporation tax" of a relevant period is the amount of advanced corporation tax paid or treated as paid in respect of distributions made in the year ended 31 March in any year or, if the accounting period does not end on 31 March, the aggregate of amounts paid in the parts of accounting periods falling in that year.

"base profit" of a company is the average of the accounting profits of the company for the 2 years ended 31 March, 1991. Provision is made for a situation where accounts are not prepared to the 31 March date. In such a case the base profit is the aggregate of amounts in the parts of the accounting periods falling in that year.

"base tax" means 50 per cent of the corporation tax, aside from tax attributable to chargeable gains and before the set-off of advance corporation tax chargeable on a company for the 2 years ended 31 March, 1991, with aggregation rules to be applied where a bank does not have a 31 March accounting date.

"group advance corporation", "group base tax" and "group base profit" are the aggregate of the advanced corporation tax, base profit and base tax of individual group companies. In the case of base tax, minimum and maximum amounts are set by reference to accounting profits. The provision attributes a group base tax of 25 per cent of group base profit to groups whose base tax is less than 10 per cent or more than 43 per cent of group profits. This makes it easier for the group which has not engaged in tax based transactions to set off the levy and sets a higher target for those banks which have engaged in a very high level of tax based transactions.

"group profit" and "group tax liability" of a relevant period are the aggregate of the profit and tax liability, respectively, for individual companies.

"levy payment" is the bank levy which is charged under section 200 of the Finance Act, 1992, or section 142 of the Finance Act, 1995.

"profit" of a relevant period is the profits, computed on the same basis as base profit, of an individual company of the year ended 31 March. Aggregation rules apply where necessary.

"relevant period" in relation to any levy payment is the year ended 31 March in which the levy payment was made.

"tax liability" of a relevant period is the corporation tax liability aside from tax on chargeable gains and before the set-off of advance corporation tax, of an individual company for the year ended 31 March. Aggregation rules apply where necessary.

Interpretation

These interpretational rules provide for the meaning of group relationship. Two companies are members of a group where one is a 75 per cent subsidiary of the other or both are 75 per cent subsidiaries of a third company. This is in line with the definition for group relief purposes. ***(1)(b)***

In determining group relationship, one significant difference between this provision and the group relief provisions is that non-resident companies do not debar the existence of a group under this section.

Share capital owned by a company is not to be taken into account in determining group relationship if a profit on sale of the shares would be treated as a trading receipt of the company which holds the shares.

Where the shares are held indirectly and are held directly by a company for which a profit on the sale of the shares would be a trading receipt, the holding is not to be taken into account in determining group relationship.

A life assurance company which is owned by the banks is not regarded as a member of the group.

The provisions of ***sections 412*** and ***418*** which apply for the purposes of determining group relationship are applied for the purposes of this section. These ensure that only real groups qualify (that is, not only must a company hold 75 per cent of the share capital, it must also be entitled to 75 per cent of any distribution made by the subsidiary company and 75 per cent of the assets in the event of a winding-up).

The meaning of the term "group" is provided for where a sub-group exists as part of a larger group. Where this applies the sub-group is ignored and the larger group is the one considered for the purposes of the section.

A company which is not a member of a group is not denied the set-off of the bank levy by reason only that it is not a member of a group. The provisions apply to such a company as if it were itself a group.

The rules for the calculation of the amount of tax attributable to chargeable gains are set out.

The profits attributed to a particular operation are to be attributed on a just and reasonable basis.

The corporation tax chargeable in respect of any income is the tax which would not be payable but for the existence of that income.

Relief

The amount of the bank levy payment which is equal to the excess of the group tax liability over the adjusted group base tax is available for set-off against group tax liability of the relevant period. ***(2)***

Apportionment between companies

The amount of levy to be apportioned between individual companies under the section is the amount of the levy apportioned on the basis of the tax liability of each of the individual companies. However, all the companies which are members of the group may elect to have the apportionment done on any basis that they choose. ***(3)***

When an amount is so apportioned to a company, that amount is set off against its tax liability of the period and is treated for the purposes of the Corporation Tax Acts as if it were a payment of corporation tax. However, under no circumstances can the amount of levy so set off be repaid to a company. ***(4)***

If the accounting period of the company is not the year ended 31 March, the amount to be set off is attributed between the various accounting periods falling partly in the year ended 31 March. ***(5)***

Where an accounting period of a company does not end on 31 March, then, in order to determine the amount of levy payment which may be set off in that accounting period, it is necessary to take into account the results of later accounting periods. If on the return date for the accounting period it is not possible to determine the amount of levy set-off, a provisional amount may be set off. ***(6)***

The provisional amount is determined by substituting for the base period the 12 month period ending on the most recent accounting date of the parent company in the relevant period.

Delivery of particulars

A company is required to deliver particulars which would enable the correct amount of levy to be set off as soon as they become available. Where the particulars are delivered the computations can be adjusted and tax underpaid paid or tax overpaid repaid. ***(7)***

Interest

Interest will be paid on any amount to be repaid to a company under ***subsection (7)***. Interest will not be charged in respect of any underpayment unless the amount is not paid within one month. The amount of the undercharge will not be treated as part of the company's preliminary tax obligation. ***(8)***

487A Relief for expenditure on unscripted production

Summary

Section 487A was inserted by Finance Act 2024 (No. 43 of 2024) into Chapter 3 of Part 15 of the Taxes Consolidation Act 1997. It provides a corporation tax incentive for certain expenditure on unscripted production. The incentive is available to producer companies and will require certification by the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media subject to meeting a culture test .

Relief will be available for qualifying expenditure on an unscripted programme and will be calculated at the rate of 20% on lowest of (a) the eligible expenditure amount, (b) 80 per cent of the total cost of production, and (c) €15,000,000.

The eligible expenditure in respect of a completed programme must not be less than €125,000 and the qualifying expenditure must be greater than €250,000.

The incentive will be available as a payable credit that may be paid directly or used as an offset against Corporation Tax liabilities.

Details

Definitions ***(1)***

"accessibility services" mean services that facilitate persons with a disability to enjoy an eligible unscripted programme;

"broadcast" and "broadcaster" have the same meanings as in section 481;

"cost of on-screen services" means amounts, excluding travel and subsistence expenses, paid or incurred under a contract in respect of the provision of on-screen services;

"creative role", in relation to the unscripted programme production, means the director, the production designer, or any other similar creative role that may be specified in regulations;

"date of completion", in relation to a qualifying unscripted programme, means either the date on which the programme is broadcast or made available on the internet, or the date on which the programme has been delivered to and accepted by the undertaking that commissioned it, whichever is earlier, and in the case of a season of a series, this will be the date on which the last episode is broadcast or delivered and accepted;

"director" takes its meaning from section 433(4);

"EEA Agreement" means the 1992 Agreement on the European Economic Area, as amended;

"EEA state" means any state, other than Ireland, which is a contracting party to the EEA Agreement;

"eligible expenditure" means the part of the total cost of production of an unscripted programme spent on the production of the programme in Ireland, as determined in accordance with regulations, directly by the producer company on the employment of individuals, in the production of the unscripted programme, and directly or indirectly by the producer company on the provision of certain goods, services and facilities;

"eligible individual" means an individual employed by a producer company for the purposes of the production of a qualifying unscripted programme;

"eligible unscripted programme", for an unscripted programme to be eligible for the credit, it must be (a) produced on a commercial basis, (b) for exhibition to the public by means of broadcast or on the internet, (c) not produced as part of a promotional campaign or advertising, (d) in the case of a licensed format, a season of the series where no other season of that format has been certified in the 12 months preceding the application for an interim certificate, and (e) not be certified as a qualifying film under section 481;

"final certificate" is as set out in subsection (9);

"interim certificate" is as set out in subsection (4);

"interim unscripted programme" is an unscripted programme that has received an interim certificate but no final certificate has been issued;

"interim unscripted production corporation tax credit", for a certified unscripted programme yet to be completed, is calculated by the amount incurred in the accounting period of the producer company equal to 20 per cent of the lowest of—

- the eligible expenditure amount,
- 80 per cent of the total cost of production spent in that period, and
- €15,000,000;

"licensed format" means, in relation to a series, where the original concept and branding of the series are set out in a specified format and the rights to produce the series in that format can be acquired through a licence, and references to a format that can be licensed shall be understood in this context;

"Minister" means the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media;

"on-screen services' means services (other than accessibility services) provided by an individual for the purpose of the production of an eligible unscripted programme where it is reasonable to consider that the individual could appear on-screen in the eligible unscripted programme in the course of providing those services;

"producer company" means a company that meets the following requirements:

(a) it is resident in the State, or in an EEA state,

(b) it carries on a trade of producing unscripted programmes on a commercial basis for profit,

(c) it is not a company, nor is connected either to a company that is a broadcaster, or one whose business consists wholly or mainly of transmitting films or programmes on the internet,

and

(d) it is not, nor is it part of, an undertaking which would be regarded as an undertaking in difficulty;

"qualifying expenditure" is the expenditure, excluding the cost of on-screen services, as determined in regulations, that is incurred by the producer company on the production of the unscripted programme;

"qualifying unscripted programme" means a completed unscripted programme which has received a final certificate from the Minister;

"Rescuing and Restructuring Guidelines" means the Communication from the Commission on Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty;

"season" is a set of episodes of a series which are commissioned together under one agreement to be shown or broadcast over a 12 month period;

"series" means an unscripted programme consisting of multiple episodes with a common title produced in a format that can be licensed;

"total cost of production" means the qualifying expenditure that was wholly, exclusively and necessarily incurred to produce the programme;

"travel" means travel by car, motorcycle, taxi, bus, rail, boat or aircraft;

"travel and subsistence expenses" means the amount of a payment made by a producer company in respect of expenses for travel and subsistence that does not exceed the upper rate or rates laid down by the Minister for Public Expenditure, National Development Plan Delivery and Reform in relation travel and subsistence expenses of civil servants;

"undertaking" means the relevant economic unit that would be regarded as an undertaking for the purposes of the Rescuing and Restructuring Guidelines;

"undertaking in difficulty" shall be construed in accordance with section 2.2 of the Rescuing and Restructuring Guidelines;

"unscripted production corporation tax credit", in relation to a qualifying unscripted programme, means an amount equal to 20 per cent of the lowest of the following:

- the eligible expenditure amount,
- 80 per cent of the total cost of production of the unscripted programme, and
- €15,000,000;

"unscripted programme" means a non-fiction audiovisual work which may be either a single programme or a season, and which is within the type of programmes specified as eligible for certification in regulations;

"valid claim" means a claim in relation to an interim unscripted production corporation tax credit or an unscripted production corporation tax credit is one which is made under and in accordance with section 487A, and in respect of which all information which the Revenue Commissioners may reasonably require to enable them to determine if, and to what extent, the credit is due to a producer company in respect of an accounting period, has been provided by that company.

Application for certification

Interim certification

A producer company may apply to the Minister for an interim certificate in relation to an unscripted programme to be produced, and a final certificate in the case of an unscripted programme that is produced and completed. ***(2)***

An application for either an interim or final certificate will be in the form approved by the Minister and shall contain such information as specified in regulations. ***(3)***

Where an application is made for an unscripted programme to be made, the Minister may, subject to considering the matters outlined in subsection (5), issue an interim certificate, stating the named programme can be treated as an interim unscripted programme and the date on which the certificate will expire. ***(4)***

The Minister shall consider the following in deciding whether to issue an interim certificate: ***(5)***

- the timing of the application in relation to commencement of work on the Irish production, ***(5)(a)***
- whether the programme is within the categories of eligible unscripted programme as set out in regulations, ***(5)(b)***
- whether the programme set out in the application is likely to meet the definition of an eligible unscripted programme when completed, ***(5)(c)***
- the contribution the production of the unscripted programme is expected to make to the promotion and expression of Irish or European culture by reference to the following considerations: ***(5)(d)***

    (i) the cultural content of the programme including its setting, themes, performers and participants, subject matter and language, in particular the Irish language;

    (ii) the cultural creativity in the programme including innovative portrayal of Irish culture, the use of a format or concept developed in the State, having people in creative roles who are Irish or EEA nationals, or ordinarily resident in Ireland or the EEA, and the use of materials such as music or a script created in Ireland or created by Irish or EEA nationals, or individuals ordinarily resident in, the State or an EEA state;

    (iii) the contribution of the programme to developing a concentration of cultural activity through the proportion of creative work carried out in the State, the number of key production positions and the proportion of the members of the production team on the programme occupied by nationals of, or people ordinarily resident in, the State or another EEA state;

    (iv) the cultural contribution the programme may have, including the educational content of programmes aimed at children, the inclusion of

themes relating to diversity and equality, promoting the protection and restoration of Irish or European ecosystems, and raising awareness of increasing environmental sustainability and minimising climate change.

(6) Where the Minister issues an interim certificate, they shall specify in that certificate such conditions, as may be considered proper, including conditions in relation to:

- ***(6)(a)*** the employment-related responsibilities of the producer company on the production,
- ***(6)(b)*** the employment of personnel, including trainees, (other than the producer) for the production,
- ***(6)(c)*** in respect of the maximum aid intensity allowable as set out in the Cinema Communication (Communication from the Commission (2013/C 332/01)), and
- ***(6)(d)*** the nature and detail of acknowledgement in relation to the tax credit that must be included in the opening titles or closing credits of the unscripted programme.

(7) The Minister can amend or revoke any condition specified in an interim certificate, or add to such conditions, by giving notice in writing to the producer company concerned and this will apply as if the condition amended or added by the notice was specified in the interim certificate, or as if a condition revoked was not specified in the interim certificate.

(8) When an interim certificate expires, the interim certificate shall cease to have effect and is treated as never having had effect unless an application is made to the Minister prior to the expiry date for a final certificate, and following consideration of that application, a final certificate is issued by the Minister.

Application by a producer company for final certification

(9) Where a producer company has made an application for a final certificate for a completed programme, and the Minister is satisfied that the completed unscripted programme is an eligible unscripted programme, subject to subsection (10), he or she may issue a final certificate to the producer company stating that the programme is to be treated as a qualifying unscripted programme.

(10) The Minister, when considering whether to issue a final certificate shall have regard, to the contribution the programme makes to the promotion and expression of Irish or European culture, by reference to the matters referred to in subparagraphs (i) to (iv) of subsection (5)(d), and whether the conditions specified in the interim certificate have been satisfied.

(11) The Minister when issuing a final certificate, and having considered the matters in *subsection (10),* shall specify such conditions in the final certificate, as he or she may consider proper, including in relation to—

- ***(11)(a)*** - the employment-related responsibilities of the producer company from the production of the programme,
- ***(11)(b)*** - in respect of the maximum aid intensity allowable as set out in the Cinema Communication, and

- the nature and detail of acknowledgement in relation to the tax credit that must be included in the opening titles or closing credits of the unscripted programme. ***(11)(c)***

The Minister can amend or revoke any condition specified in a final certificate, or add to such conditions, by giving notice in writing to the producer company concerned and this will apply as if the condition amended, or added by the notice was specified in the final certificate, or as if a condition revoked was not specified in the final certificate. ***(12)***

Exclusion of multiple companies per unscripted programme

Where a producer company has received an interim certificate or a final certificate for an unscripted programme, no other company may subsequently be regarded as the producer company in relation to that programme for the purposes of this section. ***(13)***

Conditions in relation to producer companies

A producer company shall not make a claim for an interim unscripted production corporation tax credit or an unscripted production corporation tax credit where any of the following circumstances apply— ***(14)***

- Where the producer company has not been issued with either an interim certificate, with respect to interim claims made under *subsection (21),* or a final certificate with respect to final claims under *subsection (22),* in relation to the unscripted programme concerned, ***(14)(a)***

- Where, in relation to interim claims under subsection (21), the interim certificate has expired, ***(14)(b)***

- Where the producer company, any company controlled by the producer company and any person who is either the beneficial owner of, or able directly or indirectly to control, more than 15 per cent of the ordinary share capital of the producer company, is not in compliance with all of the obligations imposed by the Tax Acts, the Capital Gains Tax Acts or the Value-Added Tax Consolidation Act 2010 in relation to the payments or remittances of taxes, interest or penalties, the delivery of returns, and requests for information from an officer of the Revenue Commissioners, ***(14)(c)***

- Where, in relation to a final claim under subsection (22), the eligible expenditure amount is less than €125,000, the total cost of the production of the project is less than €250,000, or the tax return in which the claim is made is for an accounting period of less than 12 months, or where it and the previous accounting period when combined are less than 12 months, ***(14)(d)***

- Where the producer company is an undertaking in difficulty, ***(14)(e)***

- Where any company in an undertaking of which the producer company is part is subject to an outstanding recovery order following a previous decision of the European Commission that declared an aid illegal and incompatible with the internal market, ***(14)(f)***

- Where the producer company is resident in an EEA state and does not carry on business in the State through a branch or agency, or ***(14)(g)***

- Where the producer company has been carrying on the trade of producing unscripted programmes for a period of less than 12 months prior to making a claim. ***(14)(h)***

A producer company shall not make a claim for an interim unscripted production corporation tax credit under *subsection (21)* or an unscripted production corporation tax credit under *subsection (22)* where any of the following circumstances apply. ***(15)***

- Where there is no commercial rationale for the corporate structure of the producer company for any or all of the production, financing, distribution or sale of the unscripted programme. ***(15)(a)***

- If the corporate structure of the producer company would hinder the Revenue Commissioners in verifying compliance with any of the provisions governing the relief, or ***(15)(b)***

- If the producer company does not have such information and records available prior to making a claim, that may be required by the Revenue Commissioners to determine whether that claim complies with this section. ***(15)(c)***

Expenditure which may not be included in a claim

A claim by a producer company for an interim unscripted production corporation tax credit under *subsection (21)* or an unscripted production corporation tax credit under *subsection (22)* shall not include expenditure— ***(16)***

- where it would be reasonable to consider that the amount of such expenditure or any particular item of such expenditure has been inflated, ***(16)(a)***

- which the company has already claimed relief under Part 29 – Research and Development, ***(16)(b)***

- where the expenditure relates to an item of capital expenditure, incurred by any company on the production of an unscripted programme, in respect of which relief was previously claimed under this section, ***(16)(c)***

- where the company has claimed relief under section 481 in respect of the expenditure, or ***(16)(d)***

- where that expenditure has been or is to be met directly or indirectly by grant assistance or any other assistance which is granted by or through— ***(16)(e)***

  (i) the State or another European Member State,
  (ii) any board established by statute, any public or local authority or any other agency of the State or another Member State or an institution, office, agency or other body of the European Union, or
  (iii) a state, other than the State or another European Member State, and any board, authority, institution, office, agency or other body in such state.

Consultation by the Revenue Commissioners with other persons

The Revenue Commissioners may, when carrying out their functions under this section: ***(17)***

- consult with any person, agency or body of persons, that may be of assistance to them, ***(17)(a)***

- disclose any detail in an application or claim of a producer company under this section which they consider necessary for such a consultation, and ***(17)(b)***

- where they have reason to believe that financial arrangements have been entered into in contravention of *subsection (18)(a)*, seek any information they consider appropriate in relation to those arrangements or in relation to any persons who are a party to the arrangements. ***(17)(c)***

Circumstances in which a company will not be regarded as a producer company

A company shall not be regarded as a producer company in respect of an unscripted programme for the purposes of this section in the following circumstances: ***(18)***

- In cases where the company enters into financial arrangements in relation to the unscripted programme which are: ***(18)(a)***

  (i) financial arrangements of any type with a person resident, registered or operating in a territory other than an EEA state or a territory with which double taxation arrangements having the force of law by virtue of section 826(1) have been made,

  or

  (ii) financial arrangements under which funds are channelled, directly or indirectly, to, or through, a territory other than a territory referred to in subparagraph (i), other than where:

  - those arrangements relate to the production of part of the interim or qualifying unscripted programme in a territory other than a territory referred to in subparagraph (i),
  - the producer company has sufficient records to enable the Revenue Commissioners to verify, in the case of the production of an interim or qualifying unscripted programme in such a territory, the amount of each item of expenditure on the production expended in the territory, whether expended by the producer company or by any other person, and
  - the producer company has such records in place to substantiate such expenditure in advance of making a claim for the unscripted production corporation tax credit,

- A company will not be regarded as a producer company for the purposes of the credit unless when requested to do so by the Revenue Commissioners, it provides evidence to vouch each item of expenditure on the production of the unscripted programme, whether in the State or elsewhere, for the purposes of verifying compliance with the provisions governing the relief. This requirement applies whether expenditure is by the company or by any other person engaged, directly or indirectly, by the company to provide goods, services or facilities in relation to the programme. In particular the evidence provided must include: ***(18)(b)***

  (i) records required to be kept or retained by the producer company by virtue of section 886, and

  (ii) records, relating to the production of the unscripted programme, required to be kept or retained by that other person by virtue of section

886, or which would be so required if that other person were subject to the provisions of that section,

- In relation to a final claim on an unscripted programme, if the company fails to provide a copy of the unscripted programme if requested by the Revenue Commissioners, for the purposes of verifying compliance with the provisions of the relief or any condition in the final certificate, ***(18)(c)***
- Where the company fails to both notify the Minister in writing of the date of completion of the programme, and provide to the Minister a copy of the completed programme (in the format set out in the regulations) within a period of time which is specified in the regulations, ***(18)(d)***
- Unless the company makes a final claim under subsection (22) and has a compliance report available in the format specified in regulations, prior to making that claim, which provides proof that: ***(18)(e)***
  - the provisions of this section in so far as they apply in relation to the company have been met,
  - any conditions attaching to the interim certificate issued to the company have been fulfilled, and
  - any conditions attaching to the final certificate issued to the company in relation to the qualifying unscripted programme have been fulfilled,

or

- Where the company ceases to carry on the trade of producing unscripted programmes before a date which is 12 months after the date of completion. ***(18)(f)***

Regulations

The Revenue Commissioners shall make regulations, with the consent of the Minister for Finance and the Minister for Tourism Culture Arts Gaeltacht Sport and Media, relating to the administration of the relief and in relation to the matters the Minister for Culture will consider for the purposes of issuing a certificate. These regulations may include the following provisions: ***(19)***

- governing the application to the Minister for interim or final certification, the timing of such applications and the information and documents to be provided by the producer company in or with such applications, ***(19)(a)***
- specifying the period within which a producer company shall notify the Minister of the date of completion of the production of a qualifying unscripted programme, ***(19)(b)***
- specifying the period within which, and the form, number and manner in which, copies of a qualifying unscripted programme shall be provided to the Minister, ***(19)(c)***
- specifying the categories of programmes eligible for certification by the Minister under this section, ***(19)(d)***
- governing the records that a producer company shall maintain or provide to the Revenue Commissioners, ***(19)(e)***
- governing the period for which, and the place at which, such records shall be maintained, ***(19)(f)***
- specifying the format of the compliance report that shall be available in accordance with subsection (18)(e) and its content, the manner in which such report shall be made and verified, and what documents should accompany the report, ***(19)(g)***

- governing the type of expenditure which may be treated as qualifying or eligible expenditure on the production of an interim or a qualifying unscripted programme, including the period within which such expenditure may be incurred or paid, ***(19)(h)***

- governing the provision of the goods, services and facilities referred to in the definition of eligible expenditure, including the place of origin of those goods, services and facilities, the place in which they are provided and the location of the supplier, ***(19)(i)***

- specifying the roles that may be regarded as creative roles for the purposes of an application and certification of, an interim or qualifying unscripted programme, ***(19)(j)***

- specifying the currency exchange rate to be applied to expenditure on the production of an interim or qualifying unscripted programme, ***(19)(k)***

- specifying the criteria to be considered by the Minister in relation to the matters referred to in subsections (5) and (10)— ***(19)(l)***

- in deciding whether to issue an interim or a final certificate, and

- in specifying conditions in such certificate under subsection (6) or (11),

and the information required for those purposes to be included in the application by a producer company for certification,

- governing the employment of eligible individuals and the circumstances in which expenditure by a producer company would be regarded as expenditure on the employment of those individuals in the production of a qualifying unscripted programme, and ***(19)(m)***

- governing financial arrangements in accordance with subsection (18)(a). ***(19)(n)***

The Revenue Commissioners shall, for the purpose of making regulations under subsection (19), consult with: ***(20)***

- The Minister for Finance and the Minister in relation to the categories of programmes that may be eligible for certification, and have regard to the public interest in deciding categories that may be included and any harm that may result from the broadcast or transmission of particular categories of unscripted programme, ***(20)(a)***

- The Minister for Finance in relation to qualifying expenditure, with particular regard to whether the type of expenditure is directly related to the production of an unscripted programme, and the extent to which the type of expenditure is incurred directly by the producer company on the production, and ***(20)(b)***

- The Minister for Finance in relation to the provision of goods services and facilities to the production, about the territorial spending obligations allowed under the Cinema Communication (2013/C 332/01), and the extent to which those goods, services or facilities support the contribution made by the production to the promotion or expression of Irish or European culture. ***(20)(c)***

Making a claim for the interim unscripted production corporation tax credit

Where a producer company has received an interim certificate in relation to a programme and the provisions of section 487A have been complied with, the producer company may make a claim for the interim unscripted production corporation tax credit before the date ***(21)(a)***

of completion and once the interim certificate has not expired, and the aggregate of all claims made using the interim certificate does not exceed 20 per cent of €15,000,000.

Timing of a claim for the interim unscripted production corporation tax credit

A claim under this subsection shall be made within 12 months from the end of the accounting period in which the expenditure giving rise to the claim is incurred and shall be made in the return, required under Part 41A, in respect of that accounting period. ***(21)(b)***

Making a claim for the unscripted production corporation tax credit

Where a producer company has received a final certificate in relation to a programme and all the provisions of this section have been complied with, the producer company may make a claim for the unscripted production corporation tax credit less any amount already claimed in relation to the qualifying programme under the interim certificate. ***(22)(a)***

A producer company has until 12 months from the end of the accounting period in which the last of the expenditure giving rise to a claim for the unscripted production corporation tax credit is incurred to make a claim. Where, however, a producer company receives the final cultural certificate in respect of the unscripted programme, which is required prior to making a claim, within the 3 months prior to the expiry of the 12-month period, the company has an extended period to make a claim of 3 months from the date on which the final certificate is issued. ***(22)(b)***

A final claim shall be made within 12 months from the end of the accounting period in which the expenditure giving rise to the claim is incurred and shall be made in the return, required under Part 41A, in respect of that accounting period. ***(22)(c)***

Treatment of the credit as overpayment or payment of the credit to the company

The producer company shall specify in relation to a claim for either the interim unscripted production corporation tax credit or the unscripted production corporation tax credit whether the amount or any portion of the amount of the credit are to be: ***(23)***

- treated as an overpayment of tax, for the purposes of section 960H, or
- paid to the company by the Revenue Commissioners.

Where a producer company has made a claim for either the interim unscripted production corporation tax credit or the unscripted production corporation tax credit, the amount of the credit shall be paid or offset in full by the Revenue Commissioners within 48 months of a valid claim being made. ***(24)***

No amount of interim unscripted production corporation tax credit or unscripted production corporation tax credit shall be paid or offset unless a valid claim has been made. ***(25)***

The Revenue Commissioners may examine a claim subsequent to any payment or offset having been made, and make or amend an assessment, as the case may be, under Chapter 5 of Part 41A. ***(26)***

Neither the interim unscripted production corporation tax credit nor the unscripted production corporation tax credit, if any, will be income of the company or another company for corporation tax purposes. ***(27)***

Any claim for either the interim unscripted production corporation tax credit or the unscripted production corporation tax credit will be treated for the purposes of *section* ***(28)***

851A and *851B*, Chapter 4 of Part 38 and Part 47 as though it was an amount of tax refundable.

Where a company specifies that either the interim unscripted production corporation tax credit or the unscripted production corporation tax credit is to be offset against the company's corporation tax liability for the accounting period, then this amount may be taken into account for the purposes of calculating preliminary corporation tax. ***(29)***

Where a claim for the interim unscripted production corporation tax credit or the unscripted production tax credit has been made and an amount has not yet been paid out by Revenue, the amount for the purposes of *section 1077F* (the section providing for penalties for deliberately or carelessly making incorrect returns, failing to make certain returns, etc.) which will attract a penalty, will be the amount so claimed and not yet paid out. ***(30)***

Where the Revenue Commissioners have paid an amount in respect of a claim for the interim unscripted production corporation tax credit or the unscripted production corporation tax credit, and it is subsequently found that the claim is not as authorised by this section, then the company, any director of the company, or the majority shareholders of the company shall be liable to tax in an amount equal to 4 times, in the case of a company, or one hundred fortieths in the case of an individual, of the amount of the interim unscripted production corporation tax credit or the unscripted production corporation tax credit as is not authorised. ***(31)(a)***

Where an amount is charged to tax under the subsection then no loss, deficit, expense or allowance shall be allowed to shelter the liability raised, and the Case IV amount will not form part of the close company surcharge calculations. ***(31)(b)***

The circumstances in which a claim is not authorised shall include any circumstances where the amount was claimed under either or both subsection (21) and subsection (22) or paid or offset under subsection (24). It includes circumstances in which the company made a claim contrary to either or both subsections (21) and (22), or where the producer company fails to satisfy or comply with any condition or obligation under section 487A or regulations, fails to satisfy or comply with any condition or obligation specified in a certificate, or fails to comply with any of the obligations referred to in subsection (14)(c) in relation to tax compliance. ***(32)***

Application of interest on claims that are not authorised

Where a claim is made which is not authorised, and an assessment is made in accordance with subsection 31, the amount charged shall carry interest as determined in accordance with subsection (2)(c) of section 1080 as if a reference to the date when the tax became due and payable were a reference to the date the amount was paid or offset under section 960H by the Revenue Commissioners. ***(33)***

Publication requirements

Notwithstanding the confidentiality provisions set out in section 851A, the Revenue Commissioners may, when a producer company obtains relief under this section, disclose certain taxpayer information in order to meet State aid transparency requirements. These include: ***(34)***

- the name of the company;

- the name of the unscripted programme;

- the number of the certificate of incorporation of the company;

- the NACE classification code for the principal activity of the company;

- the amount of interim unscripted production corporation tax credit or unscripted production corporation tax credit granted, by reference to ranges set out in the Cinema Communication (2014/C 198/02)[5];

- the size of the company by reference to the categories of enterprise referred to in Article 2.1 of Annex 1 of the General Block Exemption Regulation;

- the territorial unit, within the meaning of the NUTS Level 2 classification in which the company is located; and

- the date on which the interim unscripted production corporation tax credit or unscripted production corporation tax credit is obtained.

(35) The Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media is deemed to be a service provider with respect to the administration of the credit for the purposes of *section 851A.*

(36) No amount of credit shall be paid or offset to a producer company by the Revenue Commissioners in respect of an interim or final certificate issued after 31 December 2028.

(37) The passing of regulations and sets out that every regulation made by the Revenue Commissioners under *section 487A* shall be laid before Dáil Éireann as soon as may be after it is made. This is in line with the customary procedure in relation to the laying of statutory instruments and provides Dáil Éireann with the opportunity to annul the regulations, if it so wishes, within the next 21 days on which Dáil Éireann has sat after the regulations are laid before it.

[5] OJ No. C198, 27.6.2014, p. 30