Notes for Guidance - Taxes Consolidation Act 1997
Finance Act 2019 edition

Part 15 - Personal Allowances and Reliefs and Certain Other Income Tax and Corporation Tax Reliefs

December 2019

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Part 15 - Personal Allowances and Reliefs and Certain Other Income Tax and Corporation Tax
Reliefs

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

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

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 — (1)

• 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.

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 — (1A)

(a) the amount of the tax credit, and

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

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

(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.

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)
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.

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.

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 —

• 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.

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 —

(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.

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.

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.

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 €3,300.

In all other cases the basic personal tax credit is €1,650.

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—

• 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.

**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.

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.

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.

This section ceased to apply for the year of assessment 2014 and subsequent years.

**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, with effect from 1 January 2014, for a tax credit (the single person
child carer credit) of €1,650 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 €1,650 but does not apply for the
year of assessment, if the higher basic personal tax credit of €3,300 is due.

**Details**

**Definitions and scope**

“order” in relation to a child, is an order granted under section 11 of the Guardianship of

(1)(a)
Infants Act 1964 granting joint custody to the father and the mother of a child. “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.

The credit is not allowed for a year of assessment:-

- 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.

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.

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 €1,650.

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.

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

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. \((6)(b)\)

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 Widow 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-

- 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 €3,300 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 €3,300 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

(2)(a) 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.

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.

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.

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.

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.

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-

- 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 €70 to a person who proves for any year of assessment that he/she maintains at his/her own expense any person — (I) & (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 (3) divided between such individuals in proportion to the amounts expended by each individual in maintaining that relative.

466A Home carer tax credit
Summary
This section provides for a tax credit of €1,600 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 —

- 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 €1,600.

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 —

- 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.

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.
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.

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.

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.

“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—

- 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.

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.
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.

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 —

• 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 €1,650 for a year of assessment. However, the tax credit is €3,300 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.

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.

“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,
• diagnostic procedures carried out on the advice of a practitioner,
• maintenance or treatment necessarily incurred in connection with the services or
procedures referred to in paragraph (a) or (b).

- 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 —
  - educational psychological assessment carried out by an educational psychologist, (i)
  - 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.

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.

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

**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.

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.

**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.

**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.

**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.

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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.

“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.

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.
The authorised insurer—

(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.

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.

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.

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 —

“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.

**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—

1. the policy must only provide for the reimbursement or discharge of expenses of long-term care services for the relevant individual,
2. the policy must only be terminable by the insurer on special terms listed in the policy,
3. 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,
4. 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
5. 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.

**Relief subject to declaration**

An individual seeking the tax relief must first produce to the insurer a declaration which—

1. is made and signed by the individual,
2. is made in a form prescribed or authorised by the Revenue Commissioners,
3. contains the declarer’s full name, the address of his or her permanent residence and his or her PPS Number,
4. 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
5. 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.

**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.

**Administration of relief**

The Revenue Commissioners shall make regulations dealing with the administration of the relief.

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.

**Bar on double relief**

Double tax relief in respect of the same payment is prevented.

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

This section will not apply for the year of assessment 2010 and subsequent years of assessment.

**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**

“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
“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).

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. 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(3), the age-related tax credit shall be given.

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>
<thead>
<tr>
<th>Age</th>
<th>Amount of age-related tax credit (Contract renewed / entered into between 1 January 2009 and 31 December 2009)</th>
<th>Amount of age-related tax credit (Contract renewed / entered into on or after 1 January 2010)</th>
<th>Amount of age-related tax credit (Contract renewed / entered into on or after 1 January 2011)</th>
<th>Amount of age-related tax credit (Contract renewed / entered into on or after 1 January 2012)</th>
</tr>
</thead>
<tbody>
<tr>
<td>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</td>
<td>€200</td>
<td>€200</td>
<td>Nil</td>
<td>Nil</td>
</tr>
<tr>
<td>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</td>
<td>€200</td>
<td>€200</td>
<td>Nil</td>
<td>Nil</td>
</tr>
<tr>
<td>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</td>
<td>€500</td>
<td>€525</td>
<td>€625</td>
<td>€600</td>
</tr>
<tr>
<td>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</td>
<td>€500</td>
<td>€525</td>
<td>€625</td>
<td>€975</td>
</tr>
<tr>
<td>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</td>
<td>€950</td>
<td>€975</td>
<td>€1,275</td>
<td>€1,400</td>
</tr>
<tr>
<td>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</td>
<td>€950</td>
<td>€975</td>
<td>€1,275</td>
<td>€2,025</td>
</tr>
</tbody>
</table>
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.

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.

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.

**Example**

| Gross premium | €2,500 |
| Age-related tax credit | €500 |
| 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 |
| 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.

The authorised insurer—

(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).

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.

**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.

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.

**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.

“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.

**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.

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 is €1,650 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.

“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.

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 —
• 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 —
• 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, the individual is entitled to a tax credit of €1,650. (i.e. €8250 @ 20% = €1,650). Where an individual’s income is less than €8,250, the tax...
credit is restricted to 20% of the income. For example, total income €7,000 @ 20% = 1,400 (max) PAYE Tax Credit.

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**


“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
“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.

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).

**Deduction**

The deduction is equal to the lower of:

- \[ \text{Profits} \times \text{Months in the qualifying period also in the year of assessment} \]

- \[ \text{Number of months in the basis period for the year of assessment} \]

Or

- \[ \€40,000 \times \text{Months in the qualifying period also in the year of assessment} \]

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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**

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**

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

**Chargeable person**

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 €1,500 or 20 per cent of the emoluments, 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 €1,650.

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.

“qualifying earned income” means earned income (as defined in S. 3) but does not
include income that is used in determining the Employee (PAYE) tax credit (s.472).

Relief

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 €1,500 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 €1,500 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

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 €1,650, 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 €1,650.

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

“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

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**

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**

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**

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**

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**

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.

“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
completion 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.

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

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

**472BB Sea-going naval personnel credit**

**Summary**

This section gives a tax credit of €1,270 in 2020 to permanent members of the Irish
Naval Service who spent at least 80 days at sea on a naval vessel in 2019.

**Details**

**Definitions**

“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:

(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.
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;
“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 —
• 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-
• 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.

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.-
• 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.

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).

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

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

“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), 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.

“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

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).

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

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

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

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

Tax Deducted/Remitted

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**

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* refers.

**Excess Relief Granted**

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* 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.

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.

“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:

<table>
<thead>
<tr>
<th>Tax Year</th>
<th>Single Under 55 €</th>
<th>Single Over 55 €</th>
<th>Widowed/ Surviving civil partner/ Married/Civil partners under 55 €</th>
<th>Widowed/ Surviving civil partner/ Married/Civil partners over 55 €</th>
</tr>
</thead>
<tbody>
<tr>
<td>2010</td>
<td>2,000</td>
<td>4,000</td>
<td>4,000</td>
<td>8,000</td>
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<td>2012</td>
<td>1,200</td>
<td>2,400</td>
<td>2,400</td>
<td>4,800</td>
</tr>
<tr>
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<td>2,000</td>
<td>2,000</td>
<td>4,000</td>
</tr>
<tr>
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<td>1,600</td>
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</tr>
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<td>2,400</td>
</tr>
<tr>
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<tr>
<td>2018</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>

“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 (2) & (3)
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 —

• 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.

**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.

**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 —

• 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.

**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 —

- 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).

**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.

**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 which is maintained or assisted by recurrent grants from public funds of any EU Member State or, is a duly accredited university or institution of higher education of that Member State;

(c) a college or institution in another EU Member State, 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 located outside 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

Previous Years

For the year of assessment 2012 the first €2,250 is disregarded.

For the year of assessment 2011 the first €2,000 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.

Previous Years

For the year of assessment 2012 the first €1,125 is disregarded
For the year of assessment 2012 the first €1,000 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.

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).

“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 —

- 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.

**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.

**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.
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.

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.

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.

Commencement

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

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

“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

“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.

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.

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.

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 —
• 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.

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.
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; (I)

‘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”.

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

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.

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.

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.

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.

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.

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:

- 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-

  o that part of the relief due that was not used in the first tax year, and

  o 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.

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

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.

Notification of work

The contractor must provide the following to the Revenue Commissioners before commencing qualifying work. The information required is:

(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:

(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.

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)(a)(i)

Making a claim

A claimant must provide the following information to the Revenue Commissioners when making a claim:

(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:

(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,

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.

Grants, Insurance and compensation payments

If a claimant has received or will receive, any amount directly or indirectly in respect of qualifying work-

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

**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.

**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.

**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.

**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.

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.

**Regulations**

The Revenue Commissioners may make regulations for the purposes of this section.

**477C Help to Buy**

**Summary**

This section is designed to provide income tax relief to assist first-time buyers with obtaining the deposit required to purchase or build their first home.

Broadly, the relief takes the form of a refund of income tax, including DIRT, paid over the four tax years prior to making an application for the refund. However, it will be open to Help to Buy (HTB) claimants to select all or any of the previous 4 tax years for the purposes of calculating the HTB refund.

The maximum refund will be calculated at the lower of:

1. €20,000,
2. income tax and DIRT paid in the previous 4 years, or
3. 5% of the purchase price, or valuation in the case of a self-build, up to a
maximum of €500,000 (€600,000 maximum where, in the period from 19 July 2016 to 31 December 2016, a contract for the purchase of a new house has been entered into, or in the case of a self-build, the first tranche of a qualifying loan is drawn down by the claimant).

The section provides for the registration of contractors with the Revenue Commissioners for participation in the incentive and for clawback provisions in certain circumstances.

This provision applies in respect of qualifying properties in the period commencing 19 July 2016 and ending 31 December 2021.

Details

**Definitions**

“appropriate payment” is the term given to the HTB refund.

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

“approved valuation” is only relevant to a self-build qualifying residence. It is the valuation of the self-build at the time the loan is entered into with a qualifying lender and approved by the qualifying lender.

“first-time purchaser” means an individual who, at the time of a 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 the amount of the qualifying loan as a proportion of the purchase price of the qualifying residence or the approved valuation of a self-build 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 does not exclude 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 2021.

“qualifying residence” means –

(a) a new building which was not, at any time, used, or suitable for use, as a dwelling, or
(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, 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 where, in the period from 19 July 2016 to 31 December 2016, a contract for the purchase of a new house has been entered into, or in the case of a self-build, the first tranche of a qualifying loan is drawn down by the claimant, 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 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, who holds an up-to-date tax clearance certificate in accordance with section 1095 of the Taxes Consolidation Act 1997, and who provides to the Revenue Commissioners,

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

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

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

(2)(d) 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) 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

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

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).

The appropriate payment will be capped at the lower of:

(5)(a) €20,000,

(5)(b) income tax and DIRT paid in the previous 4 years, or

(5)(c) 5% of the purchase price, or valuation in the case of a self-build, up to a maximum of €500,000 (€600,000 maximum where, in the period from 19 July 2016 to 31 December 2016, a contract for the purchase of a new house has been entered into, or in the case of a self-build, the first tranche of a qualifying loan is drawn down by the claimant).

(5)(c) The figure for DIRT under subsection 5(b) shall be reduced by any amount of DIRT repaid under section 266A (which provides for a refund of DIRT for first-time buyers of

(5)(c)
both new and 2nd hand dwellings).

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.

Commencing with the earliest of the 4 years selected by the claimant, the appropriate payment will firstly involve a refund of income tax and subsequently, commencing with the earliest of the 4 years selected by the claimant, a refund of DIRT.

Before submitting a claim under subsection (3) an individual must make an application to the Revenue Commissioners which will include –

- (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:

- (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,
- (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 a tax return form 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 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 returns and pay all income tax and USC due) is the assessable spouse or the nominated civil partner.

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 but only where the application is made on or before 31 March 2017.

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 his or her HTB application in 2016 but only where the application is made on or before 31 May 2017.

Where an individual makes an election under paragraphs (a)(i) or (ii), the application will be deemed to have been made in 2016 and the corresponding claim, if made in 2017, will also be deemed to have been made in 2016.

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.

An application under subsection (6) shall cease to be valid in certain circumstances. Those circumstances are the earlier of:

(i) failure by an individual to satisfy the conditions specified in subsection (6)(b),

(ii) where an applicant’s tax clearance certificate is rescinded, or

(iii) on 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 2017 to 2021 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.

No claim can be made on foot of an application which ceases to be valid in accordance with subsection (8)(a).

There are obligations on each party, where there is more than one party to a claim, which
are –

(a) confirm that he or she is a first time buyer,
(b) satisfy the conditions specified in subsection (6)(b),
(c) consent to provide to the other parties his or her name, address and PPS number, and
(d) 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.

The minimum loan-to-value ratio is 70%.

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:

(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,
(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 where in the period from 19 July 2016 to 31 December 2016, a contract for the purchase of a new house has been entered into, or in the case of a self-build, the first tranche of a qualifying loan is drawn down by the claimant.
A claimant must satisfy himself or herself that the contractor is a qualifying contractor.

Following a claim under subsection (12), a qualifying contractor is required to submit certain information to the Revenue Commissioners, which is -

- the contractor’s name
- the contractor’s tax reference number and VAT registration number,
- the name of the claimant,
- the address of the qualifying residence,
- the purchase value of the qualifying residence,
- the amount of deposit payable by the claimant to the qualifying contractor,
- the amount, if any, of deposit paid by the claimant to the qualifying contractor, and
- details of the qualifying contractor’s bank account (where a contract to purchase a qualifying residence is entered into between 1 January 2017 and 31 December 2021).

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 -

- his or her name and PPS number,
- the address of the self-build qualifying residence,
- the purchase value of the self-build qualifying residence,
- details of the qualifying lender,
- confirmation that a qualifying loan has been entered into,
- the amount of the qualifying loan,
- 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
- details of the qualifying loan bank account.

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 -

(12)(b)
(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.

This subsection sets out to whom the appropriate payment will be made by the Revenue Commissioners. The party to which payment will be made will depend on the timing of the claim and whether or not the property is a qualifying residence or a self-build qualifying residence.

(i) payment will be made directly to the claimant where, in the period from 19 July 2016 to 31 December 2016, a contract for the purchase of a qualifying residence is entered into, or in the case of a self-build, the first tranche of a qualifying loan is drawn down by the claimant,

(ii) payment will be made directly to the contractor where, in the period from 1 January 2017 to 31 December 2021, 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, in the period from 1 January 2017 to 31 December 2021, the first tranche of the qualifying loan is drawn down by the claimant (in the case of a self-build).

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)(a)

As appropriate, a claimant must consent to the appropriate payment being made to the qualifying contractor. (16)(b)

On completion, a qualifying residence must be occupied by the claimant as his or her only or main residence. (16)(c)

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)(a)

A clawback of 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)

<table>
<thead>
<tr>
<th>Year Occupation</th>
<th>Rate of clawback of the appropriate payment</th>
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(17)(b)(ii)
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<th>Ceases</th>
<th>Payment</th>
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<tr>
<td>1</td>
<td>100%</td>
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<tr>
<td>2</td>
<td>80%</td>
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<tr>
<td>3</td>
<td>60%</td>
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<td>4</td>
<td>40%</td>
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<td>5</td>
<td>20%</td>
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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. (18)(b)(i)

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 –

(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:

(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 period from 1 January 2017 to 31 December 2021 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 from 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).

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.

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.

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.

Sets out provisions regarding recovery of an appropriate payment, or part thereof, where the relevant person fails to pay Revenue.

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.

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.

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 (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.
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. 

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.

Anything required to be done under this section by the Revenue Commissioners may be done by any Revenue officer.

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.

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.

No application or claim may be made after 31 December 2021.

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.

“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 —

• 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.

Bar on double relief
An individual is not entitled to double relief for the same expenditure.

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).
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.

“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 —

1. are fully paid up,
2. 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,
3. are not subject to any restrictions other than restrictions which attach to all shares of the same class, and
4. 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.

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.

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.
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.

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.

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 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

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

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

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

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.

Application

The section applies to any payment chargeable to tax under Schedule E which is made to an employee to compensate for —
• 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 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.

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.

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 —

<table>
<thead>
<tr>
<th>Income for year</th>
<th>Income including 1/3 of payment only</th>
<th>Income excluding payment</th>
</tr>
</thead>
<tbody>
<tr>
<td>€</td>
<td>€</td>
<td>€</td>
</tr>
<tr>
<td>Salary</td>
<td>32,000</td>
<td>32,000</td>
</tr>
<tr>
<td>Compensation</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Full amount</td>
<td>6,000</td>
<td></td>
</tr>
<tr>
<td>1/3rd of the amount</td>
<td></td>
<td>2,000</td>
</tr>
<tr>
<td></td>
<td>38,000</td>
<td>34,000</td>
</tr>
</tbody>
</table>

Tax due

First €34,550 @ 20% 6,910 6,800 6,400
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 —

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tax on lump sum @ 20%</td>
<td>€1,200</td>
</tr>
<tr>
<td>Tax on income excluding lump sum</td>
<td>€3,100</td>
</tr>
<tr>
<td>Total tax due</td>
<td>€4,300</td>
</tr>
</tbody>
</table>

As Mr A paid tax of €4,990 in respect of his overall emolument, he will be entitled to 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 (I)
sportsperson are charged for a year of assessment.
Other definitions are self-explanatory.

The meaning of “wholly and exclusively” is refined to include —

- 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.

A claim to avail of the deduction must be made within 4 years of the end of the year in which the sportsperson retires

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).

**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.

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.

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).

**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).

**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.

**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,
2. subject to PAYE (Chapter 4 of Part 42), and
3. 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—

1. 1/52 where the individual is paid weekly, and
2. 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

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:

- 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.

An individual is also entitled to an increase in the relevant rate band.

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.

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.

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.

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.
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 subsection (10), 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).

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.

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 investment in 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 €50,000,000.

A producer company must hold all of the shares in the qualifying company, that is, the company producing a qualifying film. 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 will be achieved by the inclusion of a condition, in any film certificate issued by the Revenue Commissioners, that a minimum amount of money must be expended on the employment of eligible individuals and on the provision of certain goods, services and facilities.

The qualifying period for relief for producer companies is the period commencing on 01
January 2015.

Regulations are required to be made by the Revenue Commissioners in relation to the operation of the relief. These Regulations are made with the prior consent of the Minister for Arts, Heritage and the Gaeltacht.

Details

Definitions

“the Minister” means the Minister for Arts, Heritage and the Gaeltacht.

“authorised officer” is an officer of the Revenue Commissioners authorised by them in writing for the purposes of the section.

“broadcast” and “broadcaster” have the meanings assigned to them by section 2 of the broadcasting Act 2009.

“director” shall be construed in accordance with section 433(4).

“eligible individual” means an individual employed by a qualifying company for the purposes of the production of a qualifying film.

“film” requires that the film must be made as a genuine commercial venture and that it be a film such as would be shown in the cinema or on television. 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. Moreover, the categories of film eligible for relief are confined to those eligible for certification, as set out in the Regulations made by the Revenue Commissioners.

“film corporation tax credit” means an amount equal to 32% of the lowest of –

(a) The eligible expenditure amount,
(b) 80 per cent of the total cost of production of the film, and
(c) €50,000,000. (Finance Act 2015 raises this to €70,000,000 but is subject to EU State Aid approval)

“producer company”, in relation to a film corporation tax credit specified in a film certificate, requires that the company is an Irish incorporated and resident company, or a company incorporated or resident in another EEA state which is carrying on a trade 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 and be fully tax compliant.

“qualifying company” requires that the company is 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 the words “Ireland”, “Irish”, “Éireann”, “Éire” or “National” in its name.

“qualifying film” is a film in respect of which the Revenue Commissioners have issued a
certificate which has not been revoked.

“qualifying period” means the accounting period of the producer company, in respect of which the specified return date for the chargeable period, within the meaning of section 959A, immediately precedes the date the application referred to in subsection (2A)(a) was made.

“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 the compliance report referred to in subparagraph (iii) of subsection (2C)(d)(iii) is provided to the Revenue Commissioners

Authorisation to be issued by the Minister for Tourism, Culture and Sport

When the Revenue Commissioners receive an application for certification from a producer company they will request an authorisation from the Minister for Arts, heritage and the Gaeltacht that they may, subject to the provisions of subsection (2A) (i.e. a detailed examination of the company’s proposal etc. by Revenue), issue a certificate to the company in relation to the film. The authorisation to be given is subject to the provisions of paragraph (b) of this subsection (see below) and is to be given in accordance with regulations made under subsection (2E).

The Minister for Arts, Heritage and the Gaeltacht in considering whether to give the authorisation must have regard to:

• the categories of films eligible for certification by the Revenue Commissioners (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.

Additionally, the Minister for Arts, Heritage and the Gaeltacht must specify certain conditions in any authorisation given, including:

• a condition in relation to the employment and responsibilities of the producer and the producer company for the production of the film and in relation to the employment of other personnel, including trainees.

Certification by the Revenue Commissioners

The Revenue Commissioners, following an application made by a producer company, may, in accordance with regulations made under subsection (2E), issue a certificate to a producer company to the effect that the film to be produced by the company may be treated as a qualifying film for the purposes of the section. This is subject to all the other provisions of subsection (2A) which are addressed below.

The Revenue Commissioners will not issue a certificate unless

(i) an authorisation has been given by the Minister for Arts, Heritage and the Gaeltacht.
(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 tax compliant
(iii) The eligible expenditure amount is greater than €125,000, or
(iv) The total cost of production of the film is greater than €250,000

There is no obligation on the Revenue Commissioners to issue a certificate.

An application by a qualifying company for a certificate must be in the form prescribed by the Revenue Commissioners and contain such information as may be specified in
regulations under subsection (2E).

In considering whether to issue a certificate, the Revenue Commissioners shall examine all aspects of the qualifying company’s proposal. (2A)(e)

**Refusal to issue certificate: inflated budget and corporate structures**

The Revenue Commissioners may refuse to issue a certificate if they are not satisfied with any aspect of the producer company’s application and, in particular, they may refuse to issue a certificate if:

- they have reason to believe that the budget, or any particular item of proposed expenditure in the budget, is inflated,
- they are not satisfied that there is a commercial rationale for the corporate structure proposed for either the production, financing, distribution or sale of the film, or for all of those purposes.
- they are of the opinion that the corporate structure proposed would hinder the Revenue Commissioners in verifying compliance with the conditions governing the relief. (2A)(f)

**Conditions to be specified in the certificate**

Where the Revenue Commissioners issue a certificate, it shall be subject to various conditions which the Revenue Commissioners consider proper, having regard to the examination provided for by paragraph (e) and the conditions specified by the Minister for Arts, Heritage and the Gaeltacht in the authorisation given under subsection (2)(a). In particular, the Revenue Commissioners shall specify in the certificate a condition:

- relating to the amount of the Corporation Tax credit to be paid and the timing and manner of its payment
- relating to the amount of the film Corporation Tax credit by which the producer company’s Corporation Tax is to be reduced
- relating to the employment and responsibilities of the producer and producer company for the production of the film and the employment of other personnel including trainees [which the Minister specifies in the authorisation by virtue of subsection (2)(b)(II)],
- relating to the minimum amount of money to be expended on the production of the qualifying film:
  - directly by the qualifying company on the employment by it of eligible individuals where those individuals exercise their employment in the State in the production of the qualifying film,
  - directly or indirectly by the qualifying company on the provision of certain goods, services and facilities (as set out in regulations under subsection (2E)).
- in relation to matters pertaining to financial arrangements, approved by the Revenue Commissioners in accordance with subsection (2CA).

**Alteration of conditions in a certificate**

The Revenue Commissioners, having consulted with 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 qualifying company and in those circumstances this section will apply as if any amended, additional or revoked condition was always reflected in the certificate. (2A)(h)
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.

Conditions in relation to producer companies
A company will not be regarded as a producer company:
• unless the company notifies the Revenue Commissioners in writing within seven days of the first occasion on which they incurred eligible expenditure after they submitted an application.
• subject to subsection (2CA), if the financial arrangements which the company enters into in relation to the film are:
  - 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),
  - 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.

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. This evidence must be provided by the company, when requested to do so by the Revenue Commissioners, for the purposes of verifying compliance with the provisions governing the relief or with any condition specified in a certificate issued. 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 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.

Compliance report, provision of copies of film and notification of completion
A company will not be regarded as a producer company unless the company, within the time limits to be set out in regulations under subsection (2E):
• notifies the Revenue Commissioners in writing of the date of completion of the film.
• provides to the Revenue Commissioners and to the Minister for Arts, Heritage and the Gaeltacht, copies of the film in the format and manner specified in those 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.
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.
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.
A company shall not be regarded as a producer company unless an amount not less than
the eligible expenditure amount is spent by the qualifying company, wholly and
exclusively on the production of the film

Approval of certain financial arrangements involving territories outside the EU

Subsection (2CA) provides for approval by the Revenue Commissioners of certain
financial arrangements involving territories outside the EU with which Ireland does not
have a double taxation treaty, in limited circumstances. The arrangements involving such
a territory must relate to the filming of part of a film in the territory. Requests for
approval must be made before the arrangements are effected and the Revenue
Commissioners must be satisfied with the arrangements and the ability of the qualifying
company to provide records.
The Revenue Commissioners may seek information in relation to the arrangements and
any person directly or indirectly involved. Where approval is given, money expended as
part of the arrangements cannot be treated as money expended on the employment of
eligible individuals or on the provision of eligible goods, services and facilities.

Consequence of failure to comply

Where a producer company or a qualifying company fails to comply with any of the
provisions of section 481 or fails to fulfil any of the conditions to which a certificate is
subject, then relief may be withdrawn and the Revenue Commissioners may revoke the
certificate. Such revocation is to be done in writing by registered post.

Regulations to be made by the Revenue Commissioners

This section provides that the Revenue Commissioners will make regulations relating to
the administration of the relief. The regulations are made 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. [Film Regulations 2015, effective from 12 January 2015, were issued
by the Revenue Commissioners. (S.I. No.4 of 2015)].
The regulations may include provisions:

• governing applications for certificates under subsection (2A) and the information
and documents to be provided with an application.
• specifying the categories of films eligible for certification by the Revenue
Commissioners under subsection (2A).
• prescribing the form of applications.
• 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.
• specifying the time within which a producer company must notify the Revenue
Commissioners 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 Revenue Commissioners and to the Minister for Arts, Heritage and the Gaeltacht.
• specifying the form, content, manner of the making and verification, of the compliance report to be provided to the Revenue Commissioners and the time limit within which it must be provided.
• governing the type of expenditure which may be accepted by the Revenue Commissioners as expenditure on the production of a qualifying film.
• governing the provision of the goods, services and facilities (referred to in subsection (2A)(g)) 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.
• specifying the currency exchange rate to be applied to expenditure on the production of a qualifying film.
• specifying the criteria to be considered by the Minister for Arts, Heritage and the Gaeltacht in deciding whether to give authorisation to the Revenue Commissioners and in specifying any conditions in such authorisation, and the information required for those purposes to be included in the application made to the Revenue Commissioners by a film company.
• governing financial arrangements approved in accordance with subsection (2CA).
• 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.
• governing when the specified amount may be paid by the Revenue Commissioners to the producer company.
Where a producer company fails to provide a compliance report to the Revenue Commissioners within the specified time, the specified relevant person must provide that report within a further period of 2 months.

**Corporation Tax relief for producer companies**

Where the Revenue Commissioners have issued a film certificate to a producer company and that certificate specifies an amount of relief to be granted, then the corporation tax of the company for the qualifying period will be reduced by the specified amount. The corporation tax of an earlier period will be reduced in priority to a later period.

Where the amount of the credit exceeds the corporation tax of the qualifying period, the excess shall be paid to the producer company by the Revenue Commissioners.

The credit shall be paid by the Revenue Commissioners not later than the date specified in the certificate issued and not earlier than the date set out in the regulations made under subsection (2E).

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).

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.
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.

The circumstances in which an unauthorised amount arises shall include the certificate being revoked by the Revenue Commissioners, the producer company or qualifying company failing 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.

Where an inspector makes 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.

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.

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.

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.

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.

Section 626B shall not apply to the disposal by the producer company of shares in the qualifying company.

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.

The Revenue Commissioners shall not pay a specified amount to a producer company in respect of a film certificate issued after 31 December 2020.

The various functions within the remit of the Revenue Commissioners, in particular the certification of qualifying films, may be delegated to an authorised officer of the Revenue Commissioners.
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.

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.

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.

“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
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.

**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**).

The conditions for relief which must be met are that —

- 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.

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.
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.

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.

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.

**Reasonable access to a building**

The term “reasonable access to the public” means —

- 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)

**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.

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, 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.
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 —

- 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 —

- 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 —

- 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.

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.
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 —

- 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.

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.

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.

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.

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.

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.

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.

484 Relief for gifts for education in the arts

Section 484 repealed by section 848A(13) (inserted by FA 2001 section 45) with effect from 6 April 2001.

485 Relief for gifts to third-level institutions

Section 485 repealed by section 848A(13) (inserted by FA 2001 section 45) with effect from 6 April 2001.

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
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 (Chapter 2A)

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

“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:

\[
\text{\texteuro}125,000 \times \frac{A}{B}
\]

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 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.

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.

*Capital allowances on leased assets*

The restrictions set out at items 15C and 15D in Schedule 25B only apply to plant and
machinery which is leased to a manufacturing trade, being ‘specified plant and machinery’.

Wear and tear allowances are only a restricted relief where they relate to specified plant and machinery.

Balancing allowances are only a restricted relief where they relate to specified plant and machinery.

15C and 15D in Schedule 25B shall only apply where they are being claimed by someone who is not an active trader nor an active partner.

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”.

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”.

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.

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.

Schedules 25B and 25C

Effect is given to the provisions of Schedules 25B and 25C.

485D Application (Chapter 2A)

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.

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.
Where “excess relief” is carried forward to a tax year, reliefs other than the “excess relief” are given in priority to the “excess relief”.

**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**

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.

**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—

1. the amounts that make up the aggregate of specified reliefs,
2. the determination of those amounts,
3. the estimates required by subsection (4), and
4. 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 —

1. the individual’s taxable income as if the restriction did not apply,
2. the individual’s taxable income after applying the restriction, and
3. 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.

**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.

Enquiries 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.
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).

485G Miscellaneous (Chapter 2A)

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.

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.

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.

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.

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.

The amount by which the balancing charge referred to in paragraph (a)(iii) is to be reduced is the lesser of:

• 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:

\[ \frac{A \times E}{S} \]

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.

**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.

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.

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.

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.

The exemption and marginal relief provisions of sections 187 and 188 do not apply where the restriction under this Chapter applies.
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

“authorised officer” means an officer of the Revenue Commissioners authorised by them (I) 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.  

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.  

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 —  

(a) 50 per cent of the relevant cost of the project, or  
(b) €9,525,000.  

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.  

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.  

References in (a) and (b) to a time is a reference to the time the payment is made.  

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.  

Before the certificate is issued under subsection (7) the qualifying company must furnish the authorised officer with —  

(a) a statement that it complies or will comply with the conditions of the relief,  
(b) a copy of the certificate and any notice issued by the Minister.  
(c) such other information as the Revenue Commissioners require.  

The certificate to be issued under subsection (7) may not be issued —  

(a) without the authority of the authorised officer, or  
(b) where the limits of the investment which can avail of the relief have already been reached.  

The statement issued under subsection (8) should —  

(a) contain such information as the Revenue Commissioners may reasonably require,  
(b) be in a form as directed by the Revenue Commissioners, and  
(c) contain a declaration by the qualifying company that it is true.  

Where a qualifying company issues a certificate under subsection (7) or furnishes a statement under subsection (8) and where —  

(a) the certificate or statement is false or misleading due to fraud or neglect, or  
(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,  
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 —  

(a) for bona fide commercial and not tax avoidance reasons,  
(b) to undertake a qualifying energy project, and  
(c) at arms length and where no scheme or arrangement of repayment or guarantee in relation to the investment has been put in place.
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.

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.

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.

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 3 years of operation. 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 commence 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 gains¹ 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 gains¹ 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 will be 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 provides for the extension of the tax relief to start-up companies to those companies which commence a new trade in 2012, 2013 or 2014.

**Finance Act 2013 changes**

Section 34 of the Finance Act 2013 provides 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 provides for the extension of the tax relief for start-up companies to those companies which commence a new trade in 2015.

**Finance Act 2015 changes**

¹ i.e. chargeable gains on the disposal of assets of the qualifying trade
Section 29 of the Finance Act 2015 provides for the extension of the tax relief for start-up companies to those companies which commence a new trade in 2016, 2017 or 2018.

**Finance Act 2018 Changes**

Section 21 of the Finance Act 2018 provides for the extension of the tax relief for start-up companies to those companies which commence a new trade in 2019, 2020 or 2021.

**Subsection (1)** contains the definitions used in the section, as follows:

“associated company” is construed in accordance with *section 432*;


“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 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 or in a EEA state on or after 14 October 2008;

“qualifying assets” are the assets of the qualifying trade which are disposed of in the first three years 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 2021 but does not include a trade which was previously carried on by another person or formed part of another person's trade, a trade of dealing 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 of Commission Regulation (EC) No. 1998/2006, 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 company’s profits which are chargeable to higher rate of corporation tax as specified in section 21A;

“relevant limit” means, subject to subsection (6), €5,000,

“relevant period” is the period of three years from the date of set up of the qualifying trade;

“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;

“total contribution” is the lesser of the aggregate of the company’s specified contributions for the accounting period and the lower relevant maximum amount specified in subsection (5);

“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)).

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.

**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 1/1/09 and ending on 31/12/21 but does not include a trade which was previously carried on by another person or formed part of another person’s trade, a trade of dealing 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 of Commission Regulation (EC) No. 1998/2006, 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.

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.

**(2)(b)**

**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 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 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 maximum amounts then marginal relief is provided by the formula which graduates the relief evenly over the interval. 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 original marginal relief formula or, if greater, to that aggregate as reduced by the amount of qualifying Employers’ PRSI.

The corporation tax relating to income from the qualifying trade is the same proportion of the corporation tax on all trading income as the income of the qualifying trade is of all trading income.

**(4)(b)**

**(4)(c)**

**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 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 period of the qualifying trade.

Where for an accounting period falling within the relevant period (i.e. the initial 3 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 (employer PRSI) contribution exceed 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.

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 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 (employer PRSI) contribution.

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) 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 period, in accordance with Paragraphs (d), (e) and (f).

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 (employer PRSI) contribution of the company for the accounting period.

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,

- 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).

A company may apply so much of a specified aggregate to reduce corporation tax under this subsection only once. (4A)(e)

Chargeable gains
The corporation tax on chargeable gains from qualifying assets is the same proportion of the corporation tax on all disposals as the net gains on qualifying assets is of net gains on all assets disposed of in the accounting period. (4)(d)

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 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 tax charged to higher rate of corporation tax
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. (9)

Connected persons
Relief under this section will cease where part of the trade is transferred to a connected person. (10)

Returns
A company is obliged to specify the amount of relief being claimed under this section in its tax return. (11)
Disclosure

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 (1a)
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.

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.

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.

**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.

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.

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.

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.

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.
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.