

Tax Briefing



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Introduction

At this time of year most practitioners will be at an advanced stage in the preparation of clients' accounts for the 1991/92 year of assessment and will be turning their attention to the completion of 1991/92 tax returns. In this issue we outline the critical dates for payment of preliminary taxes etc.

This issue also contains other information which we hope will be helpful to practitioners, including:

- rates of exchange for Stg£ - IR£
- capital gains tax multipliers for disposals in 1992/93
- a useful chart showing the final dates by which expenditure, capable of qualifying for "Section 23" reliefs, may be incurred in the various designated and non-designated areas
- Residential Property, Tax Income & Property Valuation limits for 5/4/1992
- VAT changes effective from 28/5/92 & 1/7/92
- Reminder of impending end to Stamp Duty Amnesty

For full details of these and other items see the full list of contents overleaf.

Finally, we again take the opportunity to recommend that 1991/92 tax returns be made early. Where returns are filed early, you will be able to estimate 1992/93 Preliminary Tax for your clients with greater certainty. And it will help Revenue in our objective of issuing correct assessments to all your clients, first time.

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Self Assessment - Tax Returns

Companies in liquidation, Deceased Persons, Persons acting for non-residents in capital gains tax matters and Cases in which an "expression of doubt" has been made.

Practitioners will be aware that, under Self Assessment, tax returns are processed and assessments are made on a non-judgemental basis. Cases can be reviewed/audited within six years after the end of the chargeable period or at any time in cases of fraud or neglect. These procedures work satisfactorily in relation to the general body of taxpayers.

From representations which we have received from practitioners, we are aware that in certain categories of cases a modified procedure is appropriate. The following procedures (which will result in greater certainty for practitioners and their clients in these special categories) have been introduced:

Companies in Liquidation, Non-Residents' Capital Gains Tax & Deceased Persons

Assessments, where required, are made in the normal way in accordance with returns received - subject only to any necessary "repair". Returns are referred without delay for audit consideration - the normal criteria for audit selection, resulting in such cases being neither more nor less likely to be audited than other cases, will be applied.

The liquidator, personal representative or agent, as appropriate, will be advised in writing whether or not, based on the information contained in the return, it is intended to carry out an audit of any aspect of the case.

“Expressions of Doubt”.

Returns in which “expressions of doubt” are raised are processed in the normal way and assessments, where required, are made in accordance with the returns submitted.

Following the processing of the returns, the expressions of doubt are considered without delay and practitioners/taxpayers will be consulted in relation to any points that require to be resolved.

If practitioners have previously expressed doubt in cases and they have not heard from the tax office, they may request the tax office to deal with the matter. This will result in greater certainty for taxpayers and practitioners, particularly in relation to expressions of doubt which could have a material effect, not only on liability for the year in question but also, for future years.

Practitioners who use the expression of but facility need have not fears that their clients will be more likely to be selected for audit, simply because they expressed a doubt.

1. Return of Third Party Information

As practitioners will be aware, returns of “third party information” under various legislative provisions, have long been a feature of the tax system. Up to now, the necessity to file such returns resulted from a notice in writing from an Inspector of Taxes.

Under the provisions of Part VII of Finance Act 1992, the need for the Inspector of Taxes to issue a notice requiring such information has been removed in respect of certain categories of returns. For the year 1992/93 and subsequent years of assessment (and, for companies, for accounting periods ending on or after 6 April 1993) it is the responsibility of persons affected to make these returns automatically. For 1992/93 the deadline for making these returns is 31 January 1994. In the case of companies, the deadline is 9 months after the end of the accounting period.

The Revenue Commissioners will shortly issue a Statement of Practice outlining the types of returns affected, the people who must make these returns and the type of information that must be returned. The Statement will also deal with the practical implementation of the legislation.

2. Income Tax

2.1 1991/92 Tax Return (Form 11)

Distributions from Irish Resident Companies.

Arising from the changes in the Finance Act 1992, different treatments apply to Manufacturing, Export Sales Relieved (ESR) and Shannon Relieved distributions received before and on/after 29 January 1992 (Budget Date). The 1991/92 Tax Returns (form 11) has accordingly been modified to take account of the changes. As some returns received to date have not been completed correctly, we are issuing these guidelines to assist practitioners in completing the returns so that assessments made in accordance with the figures returned will be correct.

Manufacturing Distributions- Give the details requested on Page 3, Section 8 of Form 11 (as in the past).

ESR/Shannon distributions - First, give details required on page 12, Section 9A of form 11. In VAS cases, transfer the relevant figures, as directed, to Page 3, Section 9 of the form 11. Although ESR and Shannon Distributions are accessible from 29 January 1992 onwards, an element of relief is being given in respect of the “Relieved” part of those distributions. The amount of the relieved distributions received from each company to be disregarded for assessment purposes must be calculated - the amount to be disregarded is: 2/3rds of the lower of
(A) the relieved distributions received on or after 29 January 1992
or
(B) 125% of the average relieved distributions received for the years 1987/88 to 1990/91 (incl).
Less the relieved distributions received in the period from 6 April 1991 to 28 January 1992 (Incl.)

Where such distributions are received from more than one company, this calculation must be performed separately in respect of the distributions from each company. However, in the case of ESR/Shannon distributions received from public liability companies, 2/3rds of the total relieved distributions received from all plc's may, for convenience, be taken as the amount of the relieved distributions to be disregarded, from such companies.

The total amounts to be disregarded should be entered in the space provided on Page 12, Section 9A. In VSA cases, transfer the Net Amounts Chargeable, as directed to Page 3, Section 9, of the return.

In VSA cases, ensure that any tax credits are transferred, as directed, to Page 11 of the return.

Distributions carrying a Standard Tax Credit

Enter the total distributions (i.e. distributions + tax credits) on page 3, Section 10 (as before).

2.2 Relief for Interest Paid

Relief for interest on loans applied on or after 29 January 1992 in acquiring an interest in a quoted company, has been withdrawn by Finance Act 1992. Practitioners are asked to ensure that relief is not claimed in respect of such interest on 1991/92 tax returns.

2.3 Withholding Tax in respect of Professional Services

The recommended procedure for submission of Forms F45-1 to tax offices in support of claims for interim refund or credit for withholding tax is:

- **Interim refund** - submit only forms F45-1 appropriate to the period for which an interim refund is claimed.
- **Credit** - submit only Forms F45-1 appropriate to the credit period, with the annual tax return (unless previously submitted with a claim for an interim refund). For example, in the case of a taxpayer with an accounting year end of 31

December only Forms F45-1 applicable to the y/e 31 December 1990 should be submitted with the 1991/92 Tax Return.

[Forms F45-1 applicable to the credit period for 1992/93, should be retained by the taxpayers until the 1992/93 tax return is filed.]

- Where there are a significant number of forms F45-1, a schedule totalling the payments will facilitate processing of claims for credits and interim refunds.

2.4 Return Filing Compliance

Dublin Compliance Unit has initiated new procedures to encourage those taxpayers who have not yet filed tax returns for 1990/91 or earlier years, to do so without the necessity of corrective action being taken by the tax office.

Lists of clients who have not filed returns are being faxed to practitioners (if a fax number is not known, the list will be posted). Following the issue of the faxed list, the Compliance Unit will make contact by telephone with the practitioner to establish the status of each client on the list.

Following contact with practitioners, taxpayers will be written to, where appropriate, reminding them of the consequences of failure to file returns and encouraging them to co-operate with practitioners in bringing their fax affairs up to date. If practitioners are at fault for the non-submission of a client's return, they should, of course, correct this omission without delay.

Dublin Compliance Unit are confident that these procedures will be of common benefit to taxpayers, practitioners and Revenue and that they will, in most cases, avoid the next phase of the compliance operation - listing of cases for prosecution in the Districts Courts.

New Revenue Press Officer.

Mr. Seamus Feely has been appointed to the post of Senior Press Officer in succession to Mr. Dan Loughrey, who has moved to a new post in Aer Lingus.

3. Corporation Tax

3.1 Completion of Form CT1 - Tax Return for Companies

At a recent workshop held for practitioners, queries were raised regarding the proper completion of pages 4 and 5 of the form CT1, which still appears to cause some problems.

We accordingly set out a brief guide to the completion of panels 25, 26 and 27 of the form CT1:

Directors and Participants

Panel 25: Current and Loan Accounts of Directors and Participants

This panel deals with current and loan accounts held by directors and participants with the company. [Details of personal bank current and loan accounts held by directors and participants are not required.]

Essentially, what is required is a copy of the director's or participant's account in the books of the company which records

- Any amounts taken out of the company by the directors/participants (these should be entered in the column headed "Advances, Drawings etc.)

and

- Any amounts paid into the company by the directors/participants (these should be entered in the column headed "Repayments Remuneration etc.").

The request for details of remuneration in this panel is not a duplication of the information requested in panel 27. Where director's remuneration (which will ordinarily be returned in panel 27) is credited to a current or loan account held with the company, the amount should also be included in panel 25 in the appropriate column.

The balance in the final column of Panel 25 will, therefore, represent any amount owned to the company by the director/participant or owned to the director/participant by the company, depending on whether it is a debit not credit balance, at the end of the accounting period.

As stated in the last issue of Tax Briefing (Issue 6, April 1992), where an amount is owned to the company by the director at the end of the accounting period, liability arises under Section 98 of the C.T. Act 1976, and it should be included in panel 18 of the return. It should also be taken into account when calculating & paying the company's preliminary tax.

Panel 26: Close Companies Only - Shareholders and other Participants.

Panel 26 must be completed only if the company is a close company. Where it is to be completed, details of the beneficial ownership of the issued shares and loan stock should be provided.

Panel 27: Return of Directors' Emoluments, Benefits etc.

Questions are still asked from time to time regarding proper completion of panel 27 of the return. A Statement of Practice entitled "Return of Directors Details" (SP-CT 2/90) was issued by the Revenue Commissioners in 1990 to clarify this point. Most practitioners should have received a copy of this Statement. For those who have not received it, a copy may be obtained from any tax office.

In summary, the Statement states that in completing the columns headed "Expenses payments made to Directors" and "Amounts paid to other persons to defray expense incurred by Director", the following amounts need not be included:-

- (a) payments which are no more than a reimbursement of expenses actually incurred by a director and which were wholly, exclusively and necessarily incurred in the performance of a director's duties.

(b) Payment of certain expenses, such as motor expenses, made under a prior agreement between the company and a director and which have been agreed with the Inspector of Taxes as being no more than a reimbursement of actual expenditure incurred.

4. Capital Taxes

4.1 Residential Property Tax

The market value and income exemption limits for 1992 (valuation date 5 April, 1992) are £90,000 and £27,500 respectively. For further information contact Capital Taxes Branch at 679277, extns 2331 & 2332.

Practitioners should note that a person who is resident but not domiciled in Ireland must take their full income (including foreign income) into account when calculating income for Residential Property Tax purposes. The relief under Section 76(3) Income Tax Act, 1967, which allows for assessment by reference to foreign income remitted to the State, does not apply for Residential Property Tax purposes.

4.2 Stamp Duty

Amnesty

The amnesty on interest charges and other penalties for the late stamping of duty, which came into effect on 30 January 1992, will end on 30 September 1992. The amnesty applies only to instruments executed before 1 November 1991. To avail of full mitigation, outstanding duty should have been paid before 1 July 1992. However, partial mitigation, outstanding duty should have been paid between 1 July 1992 and 30 September 1992. Duty paid between these dates will incur interest and penalties from 1 July 1992.

Full details of the amnesty are contained in a Statement of Practice "amnesty for Stamp Duty" (SP-S1/92) which is available on request from the Stamp Duty Office, Capital Taxes Branch, Dublin Castle, Dublin 2. Telephone 679277 Exts. 252 &

2257 or from the Cork Office, Government Building, Sullivan's Quay, Cork.

Adjudication

The Stamp Duty Office in Cork is now providing a full adjudication service. An over-the-counter adjudication service is also available.

Miscellaneous Instruments

The minimum stamp duty on certain miscellaneous instruments, executed on or after 1 February 1992, has been increased from £5 to £10 (see Section 204 Finance Act, 1992).

Mortgages and Further Advances

A Statement of Practice (SP-SD/3/92) has been produced to ensure a consistent approach in the charging of stamp duty by the Revenue Commissioners on mortgages and further advances, and by Registries in registering charges, copies are available on request from the :

Stamp Duty Office,
Capital Taxes Branch,
Dublin Castle, Dublin 2.

Telephone : 6792777 Exts : 2252 & 2257

Or from the Cork office,
Government Buildings,
Sullivan's Quay,
Cork.

Telephone : (021) 968783 Ext. 104

Levies

Payments in respect of the Levy on Collective Investment Undertakings (Section 109, Finance Act 1990) and the Levy on Certain Premiums of Insurance (Section 92, Finance Act 1982, as amended) for the quarter ended 30 June 1992 are due on or before 30 July 1992.

Payments in respect of Stamp Duty on Certain Statements of Interest (Section 94, Finance Act, 1986) for the half year ending 31 July 1992, are due on or before 28 August 1992.

5. VAT

A number of changes to the VAT Act were made by the Finance Act, 1992. The following are the changes which have effect from either the date of the passing of the Finance Act, 1992 - 28 May 1992 - or from 1 July 1992. Details of changes with later operative dates will be given in later issues of Tax Briefing.

5.1 The changes effective from 28 May 1992 concern

- **The treatment of dances in premises licensed for the sale of intoxicating liquor.**

In such cases, the licensee will be deemed to have received the admission charges or other amounts received in respect of the dance and will be liable to pay VAT due in respect of those amounts. [The promoter will continue to be the person liable for VAT in the case of dances organised in unlicensed premises.] A Statement of Practice is available on request.

Monies received basis of accounting.

Certain anomalies in relation to the operation of the cash receipts basis have been removed with 90% rule to both supplies of goods and services - will come into force from 1 January 1993].

- **The rules for cancellation of registration.**

The rules for traders who are no longer taxable persons have been simplified.

- **Reasonable assistance.**

The scope of the term "reasonable assistance" to an authorised officer has been clarified to remove any doubt as to its meaning. A trader is also obliged, when requested, to supply details of his customers and suppliers - including a breakdown of the value of transactions over any specified period.

- **Electronic invoicing**

The issue of electronic invoices is subject to receiving authorisation from the Revenue Commissioners

- **Records**

The circumstances in which extracts of records can be used in evidence in any proceedings in relation to VAT has been extended.

- **Security**

effect from 28 May 1992. [The main changes to the cash receipts basis - i.e. the application of the The Revenue Commissioners may now require security in certain cases before a repayment of VAT will be made. They may also require security from any trader, in respect of any VAT which may become due, where they consider it necessary for the protection of the Revenue.

- **Repayments - unjust enrichment.**

Refunds of VAT are now subject to the condition that they may be refused where they would unjustly enrich the claimant. For example, in the case of a claim for refund of VAT on ground that VAT was being charged at a higher rate than was correct, a refund to the claimant would give rise to unjust enrichment as it was the claimant's customers that effectively incurred the higher VAT charge, not the claimant.

- **Advance payments in the case of appeals**

Appellants must now, pending the determination of an appeal, specify and pay the amount they consider to be due - thus avoiding interest charges.

- **Penalties**

Existing penalty levels have been increased. In addition, a person who supplies goods or services in contravention of the security requirement is liable to a penalty of £1,200 in respect of each supply

- **Fiscal representatives**

The circumstances under which the Revenue Commissioners may designate a person resident in the State as responsible for a non-resident person's VAT liability have been amended.

- **Aircraft**

The zero rate of VAT has been extended to, the supply, hiring, repair and maintenance of equipment incorporated or used in aircraft used by companies operating chiefly on international routes.

[A number of consequential technical amendments also take effect from 28 May 1992.]

5.2 The changes effective from 1 July 1992 concern:

- **Agricultural services.** Farmers who supply agricultural services (other than insemination services, stock-minding or stock-rearing) in addition to carrying on farming are obliged to register for VAT if the receipts from agricultural services exceeds £15,000 in any 12 month period. VAT on agricultural services is chargeable at a rate of 12.5% [A statement of Practice is available on request.]
- The provision of services **of stock minding, stock rearing, farm relief services and farm advisory services** have been reduced to the 12.5% rate of VAT. [Farm accountancy and farm management services are, of course, subject to the 16% rate of VAT and insemination services are subject to the 21% rate.]
- **The taxation of commercial sports facilities.** The provision by a person, other than a non-profit making organisation, of facilities for taking part in sporting activities is a taxable activity liable at the 2.5% rate of VAT. A Statement of Practice is available on request.
- **The taxation of certain snack foods, frozen deserts and uncooked bakery products.** The rate of VAT on a wide range of confectionery and snack products has been increased from zero to 21%

Additional information on these changes may be obtained from

Vat Branch
Castle House
South Great George's Street
Dublin 2

Telephone 679 2777
Exts 2399, 2400 & 2434.

6. Collector-General

6.1 P35 End of Year Returns - Reminder

If any of your clients have missed the P35 deadline (30 April 1992) as a result of the postal dispute please ensure they lodge the return now. In addition don't forget that this year a duplicate copy of the declaration portion of the PAYE/PRSI end of year return (i.e. Form P35) has been provided. This extra copy is not for retention by the client. It is required by the Collector-General's Office to record employer details on computer file and should therefore be returned with the original and all other relevant documents to :

Office of the Collector-General,
Apollo House,
Tara Street,
Dublin 2.

6.2 Postal Dispute

The Collector-General's Office would like to express their appreciation to practitioners and their clients who availed of the various alternative means open to them to lodge returns (including the 1991/92 P35 returns) and keep payments up to date during the recent postal strike.

6.3 Intoxicating Liquor Licences - New Procedure.

The Finance Act, 1992 introduced a new requirement for the granting of liquor licences. Licence applicants must have a Tax Clearance Certificate from the Collector-General's Office to the effect that his tax affairs are in order.

Application forms (an Explanatory Leaflets) for Tax Clearance Certificates are being issued to all licence holders. Any queries relating to the Application form may be addressed to:

Office of the Collector-General,
Tax Clearance Section (Licensing),
Third Floor,
D'Olier House,
Dublin 2.

Telephone (01) 772577.

6.4 Payment of Corporation Tax by GIRO

Following the successful implementation of payment of Preliminary Tax (Income Tax) 1991/92 by Bank Giro, The Revenue Commissioners are pleased to announce that the facility is now to be extended to Corporation Tax. The Preliminary Tax Letter (Corporation Tax) and the Notice of Preliminary Tax (Corporation Tax) now include a payment by GIRO option. This will facilitate agents and companies in providing a variety of payment methods.

Agents are reminded that these new forms are unique to the company to which they are issued and must not be used for another company.

It is intended to extend the Giro payment option to PAYE/PRSI (p30) within the next three months. Plans for Value-Added Tax and Construction Industry Tax are also well advanced. A major benefit from using the Giro System is that the official receipt from the Collector-General's Office will issue within 7 days of receipt of payment.