



ISSUE 8 - October 1992

Introduction:

In this issue we remind Tax Practitioners of the fast approaching deadline for payment of Preliminary Tax, Income Tax 1992/93 and Preliminary Tax, Capital Gains Tax 1991/92. Both must be paid, where due, on or before 1 November 1992.

Another significant date is 1 January 1993 and in view of its proximity, we have devoted a lot of space in this issue to the new EC VAT regime which comes into operation on that date. In particular, we have addressed the issues of Zero Rating on Intra Community supplies and the treatment of "triangular" transactions within the EC.

A number of Statements of Practice have been prepared or are in the course of preparation.

The topics covered include:

- Enquiries to Revenue Offices - Income Tax, Corporation Tax, Capital Gains Tax, VAT.
- Preparation of Accounts for Revenue Purposes - Treatment of Debtors, Creditors and Work in Progress in Professional Accounts.
- Returns of certain information (Third Party Returns).
- Various aspects of Value Added Tax

They will be distributed separately to practitioners.

Value Added Tax - Single market

Zero-Rating of Intra-Community Supplies

Under the new EC VAT regime which comes into operation on 1 January, 1993, revised arrangements will be introduced in relation to the zero-rating of goods supplied to other member States of the EC.

In brief, an Irish trader registered for VAT may zero-rate the supply of goods to a customer in another Member State provided that:

- the customer's VAT registration number is obtained and retained in the supplier's records.
- This number, with the supplier's VAT registration number is quoted on the sales invoice,
- The goods are dispatched to another EC Member State, and
- The supplier retains the appropriate commercial documentary evidence that the goods have been removed from the State.

If these conditions are not met the seller should charge and pay VAT at the appropriate rate. If a supplier is not able to satisfy the Revenue Commissioners that particular consignments of goods have been sold and delivered to a VAT registered person in another Member State the supplier will be liable for the payment of Irish VAT on the transaction.

A Statement of Practice (SP-VAT/8/92) has been prepared.

Single Market Information Sheet

An information sheet which describes in general terms how Irish VAT-registered traders will be affected by the new EC VAT arrangements will be circulated to all VAT-registered persons in the State in the near future. Further details will be published by the Revenue Commissioners in the coming months both in the form of information sheets and Statements of Practice which will be advertised in the daily newspapers.

Technical Briefing

A comprehensive technical briefing has been prepared on the Value Added Tax provisions of the Finance Act 1992. The briefing covers both the single market related and other VAT provisions. Copies of this briefing are available from VAT branch, Castle House (phone 679 2777 Exts. 2399, 2400 and 2434). Copies of the briefing will also be available at VAT information seminars to be held throughout the country over the coming months.

Triangulation

A technical note has been prepared by the Revenue Commissioners dealing with the treatment of "triangular" transactions with the EC i.e. supplies of goods involving

traders in three different Member States. The note outlines the manner in which it is proposed that such transactions should be accounted for and returned by the various companies involved.

The note also deals with the treatment of “triangular” transactions involving third countries and with the transactions involving four or more Member States. Copies are available from local VAT Offices.

1. Income Tax

1.1 Withholding Tax in respect of Professional Services

■ Tax Reference Numbers

Problems related to incomplete documentation continue to arise in handling the Withholding Tax in respect of Professional Services. We would again ask practitioners to point out to their clients the importance of giving accountable person their Tax Reference Numbers, whether they are asked for them or not. Accountable persons will issue Forms F45-1 only when they have been given a Tax Reference Number. It is also essential that the correct tax number is given. In the case of an individual, the Revenue and Social Insurance Number should be furnished. In the case of a partnership, the number normally used for income tax purposes is required. For a company, the company's Corporation Tax reference number should be furnished. No other number should be given. Remember, if your client is not issued with a Form F45-1 then s/he has not evidence of tax deducted. Such evidence is necessary in order to claim relief for Withholding Tax deducted.

■ Statement of Practice SP-IT/3/90 Withholding Tax - Interim Refund Section 19, Finance Act 1987

This Statement of Practice outlines certain situations where the Revenue Commissioners may agree to the waiving of some of the requirements for an interim refund (cases of “particular hardship”).

One of the situations outlined in the Statement of Practice [at paragraph 2.2(v)(a)] is - where the Income Tax (net of Withholding Tax) which is due and paid in a period of claim, together with any Withholding Tax deducted in that period, is greater than 53% of the person's income for that period.

This percentage has been reduced to 48% for the years of assessment 1992/93 onwards. The Statement of Practice now provides that where the sum of the income tax which is due and paid in the period and the Withholding Tax deducted in the period exceeds 48% of a person's income for that period, the excess will be repaid (paragraph 4 of Statement of Practice).

1.2 Self Assessment - Revenue Audits

The Revenue Commissioners are committed under the Charter of Rights to keeping compliance costs for taxpayers to the minimum necessary.

We recognise that all records may not be required in a Verification Audit. Accordingly, it has been decided that when a Verification Audit is scheduled, the taxpayer will be advised in the letter of notification, of the issue(s) to be investigated, and the particular records to be made available.

If the verification audit is being extended, for example, where the Inspector is of the opinion that the evidence suggests the need for a more in-depth audit, a notification will normally be issued giving a further 14 days notice.

1.3 Farming & Stock Relief Clawback Commencements/Cessation's

Where a farmer has claimed stock relief it will generally be subject to clawback if the trade ceases within the relevant 7 or 10 year period. In the following circumstances, a concessional deferral of the clawback may be granted where a family partnership commences or ceases:

- An existing family partnership breaks up for reasons unconnected with tax and the individual partners thereafter carry on their own individual farming trades e.g. father and sons trading in partnership decide to dissolve partnership and each continues trading on his own.
- An individual farmer ceases to operate as a sole trader and enters into a family partnership (e.g. father enters into partnership with a son).
- Where a father and son have been carrying on a trade of farming in partnership and the father decides to retire, leaving the son to continue farming.

Conditions which must be satisfied before deferral is allowed.

- Taxpayers must satisfy the inspector that the commencement/cessation has arisen for bona fide purposes. The concession will not be given where, in the opinion of an inspector, there is manipulation to gain a tax advantage.
- Stock relief granted (and not clawed back) on which deferral is claimed, must be apportioned between the parties continuing after the commencement of cessation.

For the purposes of any subsequent clawback, each party's share of the stock relief will be regarded as having arisen in the year in which the change giving rise to the claim for deferral occurs.

- (c) For the purposes of the 7/10 year cut-off for stock relief clawback, a new 7/10 year period is regarded as commencing when any clawback is deferred under the concession.
- (d) All parties involved must sign an undertaking, to be given to the inspector, agreeing to be bound by the terms of the concession.

“Family Partnership” as used above may be regarded as covering partnership involving Parents, Children, Brothers, Sisters, “deserving Niece/Nephew” (i.e. a niece/nephew who has worked on the farm substantially on a full-time basis for a period of 5 years ending on the date of commencement/cessation of the partnership). It should not generally be regarded as extending to more remote family relations.

2. Corporation Tax

2.1 Completion of Pages 4 and 5 of the Form CT1

Corporation Tax Districts have noted a deterioration in the level of completion of Pages 4 and 5 of the Form CT1. Practitioners are reminded that these pages must be completed if the company is to be considered to have made a full return. If these pages are not completed, or are only partially completed, companies are not fully complying with their obligations under the Self Assessment system.

2.2 Signature of Returns

Under Self-Assessment, a Tax Return may be prepared and delivered by a chargeable person or another person acting under the chargeable person's authority. Some returns have been received bearing a practitioner's rubber stamp imprint only.

Practitioners are reminded that the return forms, to be valid, must be signed. It is not sufficient for the forms to be rubber-stamped with the name of the firm, with no indication that they have been seen and approved by a senior member of the firm.

2.3 Companies' Return-Filing

Section 10 of the Finance Act 1988 requires every company which is chargeable to tax for a chargeable period (accounting period) to make a return of its profits and other particulars (e.g. loans to directors) for that period. This means, essentially, that we require a completed return form from every company which has an income or is engaged in some activity (e.g. trade, holds an asset etc.) during an accounting period.

Return filing is the cornerstone of the self assessment system. Where returns are not filed, compliance procedures must follow.

The Self Assessment system has brought about many benefits for companies, including a major reduction in correspondence with tax offices, the issue of notices of assessment in accordance with returns, filed, etc. However, the effectiveness of the system depends very much on the co-operation of all concerned, companies, practitioners and Revenue alike. Companies which pay their tax and file their returns on time are helping Revenue to free resources to tackle those who do not comply.

The effectiveness of the system also depends on our having an accurate record of companies which are in receipt of income or are engaged in some activity. We issue forms CT1 for completion to those companies which we perceive to be in that category. Where we have issued a form CT1 to a company which does not in fact have income or is not engaged in any activity, we would be obliged if the company and/or its advisor could let us know as soon as possible. This may occur for example where a company has not yet commenced activities, or has ceased activities. A prompt response will enable us to adjust our records, so that returns, follow-up correspondence etc. will no longer issue to the company, resulting in a reduction in compliance costs.

To streamline correspondence with Revenue in the case of inactive companies, a standard form for response has been devised. When completed, it will enable us to make the appropriate adjustments to our computer record without having to look for further details. We would ask practitioners to complete a copy of this form and send it in to the Corporation Tax District in respect of any company which they know is not active, but which has received a form CT1. This form is reproduced on the back page of this issue of Tax Briefing and may be copied by practitioners as required, or copies may be obtained from Corporation Tax Districts.

3. Capital Taxes

3.1 Residential Property Tax

Practitioners with clients who are liable to pay Residential Property Tax are reminded that the due date for payment and filing of returns was 1 October. This year the market value and income thresholds have been reduced. The tax is levied on property valued in excess of £90,000 on the valuation date, 5 April 1992, where the income of the household exceeded £27,500. Because of the reduced thresholds many more individuals will be liable to pay.

The tax is charged at the rate of 1.5% on the excess of the market value of all the residential property owned and occupied by a person over £90,000 where the income threshold is exceeded.

Relief is provided where the household income exceeds the exemption limit by less than £5,000. In addition, the tax is reduced by 10% in respect of each qualifying child.

Forms R.P.1. are available from Tax Offices, main Post Offices or from the Capital Taxes Branch in Dublin Castle. Telephone (01) 6792777, Exts 2231 and 2232.

3.2 Capital Acquisitions Tax

Discretionary Trusts

Sections 224 and 225 of the Finance Act 1992, extended the tax base for Discretionary Trust tax. There are two Capital Acquisitions Tax charges which apply to discretionary trusts where the donor is deceased.

- a 3% once-off charge
- an annual 1% charge.

The sections provide that the charges, which did not apply until such time as the youngest principal beneficiary of the trust reached 25 years of age, will apply when that person reaches 21 years of age.

However the sections will not come into effect until 31 January, 1993 for the 3% charge, and 5 April 1994 for the annual 1% charge. This delay will allow trusts, where the beneficiary is between 21 and 25 years of age, to be broken up and the assets distributed without incurring either of the two charges. On a breaking up, the assets will of course be subject to Capital Acquisitions Tax - there may also be a Capital Gains Tax liability.

3.3 Stamp duty

Associated Companies Relief

A reduced stamp duty rate of 2% is available in the case of transfers between certain associated companies. The legislation relating to this relief has been amended on a number of occasions, most recently by Section 116, Finance Act 1990.

To assist practitioners who may be claiming this relief, and who are drawing up the necessary statutory declaration, a draft declaration (Form Adj'n 6) has now been issued and is available from the Revenue Commissioners, Stamps Adjudication Office, Capital Taxes Branch, Dublin Castle, Dublin 2. Telephone 6792777 extns. 2196 and 2197.

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 September 1992 are due on or before 30 October 1992.

4. Value Added Tax

4.1 Monthly Control Statement

The Revenue Commissioners have made Regulations (S.I.230 of 1992) which set out the details to be included in the monthly control statement. This document is to be issued by taxable persons whose turnover from the supply of goods to other taxable persons exceeds £2 million per annum. The document must show the name and address of each taxable customer and the total value of supplies during each month. Additional information will be required regarding non-invoiced supplies, certain promotional gifts, and payments made to customers in connection with supplies. This document is to be retained by the supplier and the customer for inspection as required.

The statement must be issued in respect of relevant supplies made on or after 1 November 1992.

A Statement of Practice will be available shortly.

4.2 Cash Receipts Basis of Accounting

From 1 January 1993, the cash receipts basis of accounting will be available only to those suppliers of services whose supplies are 90% or more to unregistered persons. The same restriction has always applied in respect of supplies of goods. Persons changing from cash receipts to the invoice basis of accounting are required to adjust their tax liability following changeover. A Statement of Practice on the subject is in preparation and will be available shortly.

4.3 Electronic Invoicing

New Regulations (S.I. 269 of 1992) dealing with the exchange and storage of invoices and other documents by electronic means have also been made.

They set out the terms and conditions under which companies may be authorised to issue, receive and store invoices, credit notes, debit notes and settlement vouchers by electronic means,

Traders wishing to avail of this facility should contact their local VAT Office. Copies of the Regulations may be obtained from the Government Publications Sale Office, Sun Alliance House, Molesworth St., Dublin 2 - Price S.I. 230 of 1992 50p, S.I. 269 of 1992 85p (postage extra). A Statement of Practice (SP-VAT/7/92) has been prepared.

4.4 Bottled Waters

Bottled water and certain other beverages at present liable to VAT at the zero-rate will become liable at the 21% rate from 1 November 1992.

4.5 Additional Information

Additional information on the above changes, may be obtained from local VAT offices or from VAT Branch, Castle House, South Great George's Street, Dublin 2.

Telephone 6792777 Exts. 2440-2443

5. Collector-General

5.1 Intoxicating Liquor Licences - Tax Clearance

There has been a good response to date from persons in the Licensed trade to the new Tax Clearance requirements for the granting of Liquor licences introduced in this year's Finance Act.

The vast majority of licence holders have now applied for Tax Clearance. Those who have not already applied should do as soon as possible. Processing of applications will take several weeks, particularly where queries are raised. This will not cause difficulty to applicants as they do not require Tax Clearance Certificates for their court applications, and there is close liaison between the Collector-General's Office and Customs and Excise to ensure that those who have applied and are in the process of being tax-cleared will not be pursued for failure to have a current licence by 1 October 1992.

Any queries relating to Tax Clearance - for Intoxicating Liquor Licences - may be addressed to

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

Telephone (01) 772577

5.2 Interest Pursuit

The Interest Pursuit Programme referred to in an earlier issue of Tax Briefing is continuing. Practitioners might advise their clients that each case is examined before interest is demanded, to ensure that no factors outside of a taxpayer's control are present which would affect timely payment of taxes due. Such examination would also involve taking account of a taxpayer's overall compliance performance. Any late payments which occur due to periods of disruption of normal services, such as bank or postal disputes, etc., will be considered in that context.

5.3 Payment of tax by Direct Debit and Annual Accounting

In September 1992, the Office of the Collector-General introduced systems for the payment of PAYE/PRSI and Value-Added Tax by means of Direct Debit through the banking system. Initially, selected taxpayers will be offered the facility, but in time it is planned to make the facility available to all taxpayers.

The offer of a direct debit facility is linked to a system of annual accounting. This of course will relieve taxpayers/practitioners of the need to make monthly/bi-monthly returns and also help in cashflow planning. In the case of each tax all that will be required will be an annual return e.g. P35 for PAYE/PRSI and ANNUAL VAT3 for Value-Added Tax and the completion of a direct debit instruction.

Payments will be made on a monthly basis by means of a Direct Debit and any shortfall or overpayment will be rectified at the end of the year.

For further information contact our HELPLINE NUMBER (01) 718011.

5.4 Payment of tax by Giro

The following taxes can now be paid by Giro:

- Preliminary Tax (Income Tax)
- Preliminary Tax (Corporation Tax)
- Monthly Returns PAYE/PRSI (Form P30)

The Notice of Preliminary Tax (Income Tax) for the year 1992/93 has been changed in layout from previous years but as for last year it contains a Giro payment option. The Giro option was widely used last year and we hope that this year will see an extension of its use. A major benefit for those using the Giro system is that the official receipt from the Collector-General's Office will issue within 7 days of receipt of the payment.

Form P30, which is used for remitting PAYE/PRSI, has been redesign and now includes a Giro option. It is planned that the new form will be available for payments due for all taxable periods ending on or after 5th October 1992.

Practitioners are reminded again of the importance of using the correct accounting document (e.g.P30) to accompany a payment. Information to bring a payment to account will often be electronically read from the information coded on the form. It is now more vital than ever that the accounting document be correct. Even if the taxpayer information is correct the form issued for the specific month must be correct.

The use of the correct form will ensure that payment is brought to account correctly and will save the Taxpayer, Collector-General and Practitioner much inconvenience.