



#### Introduction

Not surprisingly, The Amnesty Scheme is again our main feature in this issue of Tax Briefing.

In addition, we enclose "Guidelines for Practitioners On Making Enquiries to Revenue Office". We ask practitioners to adhere to the guidelines, as this will enable us to provide a better service to practitioners in circumstances where there is a real need for assistance.

An other important item in this issue is contained in Paragraph 5.1 which reminds practitioners of the obligation to make an advance payment of VAT equal to one-twelfth of the annual liability on or before 1 December 1993. This applies to taxable persons whose net annual VAT liability is in excess of £120,000.

This issue also contains information on

Third Party Returns (Para 2a)

Roll-over Relief (Para 3.2 and 3.3)

Private Residence Relief (Para 3.4).

As well as information provided under the regular headings.

In the July 1993 issue of the Tax Briefing we drew attention to the Tax Amnesty Scheme. With the deadline for availing of the Tax Amnesty Scheme approaching, the opportunity is again being taken to highlight the main features.

The Scheme has two distinct parts-

- a "15% Incentive Amnesty" which applies to income tax, levies and capital gains tax owned by individuals for periods ending on or before 5 April 1991 and which can be availed of on a confidential basis by making a declaration and payment to the Chief Special Collector
- a "General Amnesty" which gives a waiver of interest and penalties on a wide range of taxes outstanding for periods ending on or before 5 April 1991.

**Probably the most important feature of the total Amnesty Scheme is that it is not confined to persons who have undisclosed moneys salted away over the years. The amnesty scheme can equally be availed of by taxpayers who have simply fallen into arrears with the payment of tax for periods prior to 5 April 1991.**

Another important feature of the Amnesty Scheme is that it is **obligatory**.

The 15% Incentive Amnesty for individuals applies to all unpaid income tax, levies and capital gains tax up to 5 April 1991 (whether arising on undisclosed income or otherwise), subject to a number of specific exclusions. Where the Incentive Amnesty applies, the tax and other liabilities arising can be settled by declaring and paying 15% of the income or gains in respect of which tax has not been paid.

"Self employed" PRSI due on any income which qualifies for the 15% amnesty must however be paid separately to the Department of Social Welfare.

It is a condition of both Amnesties that all taxes due up to 5 April 1991 are paid by 14/1/1994 and a correct and timely return is filed for 1992/93. Revenue officials have been actively involved in explaining the terms of the amnesty scheme to practitioners at seminars held throughout the country. The Revenue Commissioners have prepared a second booklet which answers, in general terms, frequently raised queries on the Scheme.

#### Key Amnesty Dates:

30/11/93	Last date for declarations to Chief SpecialCollector [Incentive Amnesty]
14/1/94	Last date for payment under both Amnesties
31/1/94	Last date for submission of correct 1992/93 Income Tax returns.

## Best Estimates

Revenue is conscious of the expiry dates for the Amnesty applications and the number of cases requiring attention. In the circumstances, if complete records are not available, resort can be made to "best estimates", carefully and professionally prepared, in establishing what the liability to tax is under the various taxheads. This could apply, for example, to VAT where purchases and sales invoices or figures are not available, to trading/rental income where accounts or records are not available, and to PAYE/PRSI where details of wages paid are not available.

### Self Assessment principles apply to Amnesty

Accordingly, inspectors will not be involved in "agreeing figures" with Agents. Nevertheless, they will provide as much reasonable assistance as is within their resources so as to facilitate taxpayers in availing of the Scheme.

Practitioners are encouraged to advise clients to avail of the Amnesty Scheme, where relevant, should be made aware of the consequences of not availing of the amnesties. Apart from the fact that, where relevant, taxpayers are obliged to avail of the amnesties, it also represents their last chance to bring their tax affairs up to date without having to worry about interest, penalties or adverse publicity.

## Pay The Collector-General!!

The Office of the Collector-General is specially equipped to handle tax remittances. Only a limited remittance handling facility is available in tax districts.

Some practitioners send regular tax payments to the tax districts on behalf of their clients. This results in district facilities being used in a manner for which they were not designed.

Except in specific circumstances (e.g. Audit or Arrears Projects settlements) the Office of the Collector-General is the appropriate location for the payment of taxes. This is outlined clearly on all payslips attached to notices of assessment, notices of preliminary tax, etc.

Income Tax, Capital Gains Tax, Corporation Tax, Value Added Tax, Relevant Contracts Tax and PAYE/PRSI should all be paid directly to the Collector-General - unless paid by direct debit or Bank GIRO.

### Reminder

Preliminary Tax - Income Tax - 1993/94

Preliminary Tax - Capital Gains Tax - 1992/93

Both payable on or before 1 November 1993

# 1. Income Tax

## 1.1 Income Levy (1%)

Practitioners should ensure that they make provision for the 1% Income Levy when calculating 1993/94 Preliminary Tax, whether using the 100% rule or the 90% rule. The Income Levy should be calculated on all non-PAYE income. [The levy will be effectively collected on PAYE income under the PAYE system.]

## 1.2 Deposit Interest - PRSI & Levies

While the charge to income tax on deposit interest, which is subject to deposit interest retention tax, is confined to the standard rate from 1993/94 onwards, it is still subject to PRSI, Health Contribution and Levies. This should not be overlooked in calculating 1993/94 Preliminary Tax, if using the 90% rule.

# 2. Third Party Returns

## 2.1 Solicitors

The general rules for the making of third party returns are set out in the Statement of Practice SP - IT/1/92, "Returns of Certain Information - Third Party Returns". In applying the rules to solicitors, particular problems arise in relation to matter dealt with on behalf of clients. In such matters, the following rules will apply:

- (a) The reporting provisions will not apply to payments made to or on behalf of clients which relate to the period to 1 September 1993. (the Statement of Practice date of 1 January 1993 will apply, where relevant, to all transactions on solicitors' "office accounts").
- (a) A minimum limit of €100 will apply to genuine individual client payments for aggregation purposes (i.e. individual payments of less than £100 need not be aggregated). For this purpose a transaction should not be regarded as genuine if it is split to keep the value below £100, (This limit does not apply to "office account" items).
- (c) (i) Rents reflected in apportionment accounts on the closing of sales or rents collected (whether initial rent or a deposit) on the drawing up of new leases need not be reported
- (ii) Ground rent collections for clients which are less than £500 in aggregate for a return period need not be reported
- (d) Payments made towards the maintenance of a child or his/her parent (e.g. in circumstances which might have given rise to an affiliation or maintenance order being granted against the payor) need not be reported.

- (e) Debts collected need not be reported in the following circumstances
- (i) Debts collected which are incidental to the main services provided for a client
  - (ii) Debts collect on behalf of
    - Any of the persons listed in the Second Schedule to the Finance Act, 1992. (Accountable Persons - Withholding Tax).
    - Building Societies
    - PLCs.
  - (iii) Debts collected for a client which do not exceed £3,000 in aggregate for a return period.
- (f) The cost of special software to facilitate Third Party Returns reporting requirements may be treated as a revenue item rather than a capital item.

**Subparagraphs (c)(ii), (e)(ii) and (iii) and (f), have general application to all persons required to make third party returns.**

## 2.2 Personal Representatives of deceased persons

Where a solicitor or other professional, as personal representative, is a chargeable person either in respect of pre or post death income, the question of a third party return in respect of that income will not arise. (In very limited circumstances, e.g. executor trading, a third party return in respect of payments made by the executor in that capacity would arise in the normal way).

As regards specific legacies, or where in accordance with existing practice the date of death is regarded as the date of ascertainment of the residue for residuary legatees and income is attributed accordingly to the beneficiaries, a third party return will not be required provided the Inspector is advised regarding the estate, how the assets and income are being distributed, etc.

## 2.3 Third Party Return Forms

The following are the forms in use for the different categories of third party returns:

### **Form 46G**

Return of payments by individuals and bodies of persons, other than companies (Section 173, ITA 1967).

### **Forms 46G (Company)**

Equivalent form for companies (Section 173, ITA 1967).

### **Form 8-2**

Return by persons (other than companies) in receipt of income belonging to others (Section 176, ITA 1967)

### **Form 8-2 (Company)**

Equivalent form for companies (Section 173, ITA 1967).

### **Form 8B**

Return by financial institutions paying or crediting interest without deduction of tax (Section 176, ITA 1967)

### **and**

Return by intermediaries who act in, or in connection with, the opening of foreign accounts with deposit holders (Section 230, FA 1992).

### **Form 21R**

Return by nominee shareholders (Section 21, FA 1983)

### **Form 19**

Return by intermediaries of relevant facilities prodded by relevant UCITS (Section 19, FA 1989).

A general issue of Forms 46G was made in March 1993. The general issue of Forms 46G (Company) is made to coincide with the general issue of Forms CT1 for each accounting period.

The other forms, which apply to limited categories of persons, are being issued on a selective basis.

The third party reporting obligations operate on an automatic basis. Practitioners requiring forms for clients who may not have received them, can obtain them from any tax offices.

## 3. Capital Gains Tax

### 3.1 Self Assessment

Practitioners are reminded that capital gains tax is now a self assessment tax. This reminder is issued because some tax returns (Forms 11 etc.) have been submitted on behalf of clients in which no reference has been made to disposals which have been taken place in the period covered by those returns.

### 3.2 Claiming Roll-Over Relief (Section 28, CGT Act 1995)

Section 28 of the CGT Act 1975 provides for the deferral (roll-over) of all or part of a chargeable gain, arising on the disposal of business assets, where the consideration obtained is re-invested in other business assets which are used for the purposes of the trade. [Roll-over relief is not available on gains arising from the disposal of "development land", as defined in Section 36, Finance Act 1982.]

In order to avail of the relief, it must be claimed. A claim for roll-over relief may be made when the consideration has been re-invested.

The re-investment must generally be made in the period beginning twelve months before and ending three years after the disposal of the old assets.

Roll-over relief should not be claimed unless, at the time the claim is made, the conditions governing the relief has been satisfied.

When making a return for an accounting period or year of assessment during which business assets are sold, a claim under Section 28 of the CGT Act 1975 should be made only if the consideration has in fact been re-invested or an unconditional contract for the acquisition of the replacement assets has been entered into at the time of filing the return (an all other conditions of Section 28 are fulfilled).

### 3.3 Roll-over Relief on Enhancement Expenditure

- Where, instead of acquiring new assets with the proceeds of disposal of an asset, a trader applies the proceeds of disposal on capital expenditure to enhance the value of existing assets, such expenditure is treated for roll-over relief purposes as if it was incurred in acquiring other assets, provided-
- the enhanced assets are used only for the purposes of the trade, or
- on completion of the enhancement work the assets are immediately taken into use and used only for the purposes of the trade.

### 3.4 Private Residence Relief Married couples - periods of absence treated as periods of occupation

Under Section 25 of the Capital Gains Tax Act 1975, relief from capital gains tax is available on the disposal of an only or main residence. Partial relief is available where the period of occupation of the residence is less than the period of ownership.

In addition to actual occupation certain periods of absence, as a consequence of employment circumstances, are deemed to be periods of occupation for the purposes of the relief.

In the case of a married couple living together, a period of absence of either spouse (or both spouses) due to the employment circumstances of either spouse will be regarded as a period of occupation by both spouses provided neither spouse has another residence eligible for relief.

## 4. Capital Taxes

### 4.1 Residential Property Tax

1 October 1993 was the due date for payment of Residential Property Tax and the filing of returns for the valuation date 5 April 1993.

The market value and income thresholds are £91,000 and £28,100 respectively.

#### Certificate of Clearance

The new certificate of clearance procedure, introduced in the Finance Act, 1993 and detailed in Issue 11 of Tax Briefing, applies to sales of residential property arising on or after the 1st August 1993

#### Amnesty and Residential Property Tax

The current general amnesty applies to arrears of Residential Property Tax for valuation dates up to and including 5 April 1991. To avail of the amnesty, the full amount for Residential Property Tax for all valuation dates up to and including 5 April 1991 must be paid in full on or before 14 January 1994. Interest and penalties will be waived where the amnesty is availed of.

To facilitate persons wishing to avail of the amnesty for Residential Property Tax purposes, a new simplified multi-year return form (R.P.I.A.) is now available. These forms and further information on Residential Property Tax are available from Capital Taxes Office in Dublin Castle - Telephone 679 2777 Extns. 4628, 4629 and 4630.

### 4.2 Companies' Capital Duty

Companies Office - Return of Allotments.

The new Form B5, which combines the functions of the existing Form 26 and Form B5, as outlined in issue 11 of Tax Briefing, is being introduced from 1 November 1993.

This new form will be delivered to the Revenue Commissioners together with the Companies' Office registration fee and any Capital Duty payable. Revenue will forward the form to the Companies' Office for lodgement.

## 5. Value Added Tax

### 5.1 Advance Payment of Value-Added Tax

The 1993 Finance Act provides for an advance payment of VAT to be made on 1 December, 1993 and on each subsequent 1 December (the due date). A taxable person who has an annual new VAT liability in excess of €120,000 for the "relevant period" must make an advance payment to the Collector-General on 1 December of an amount equivalent to one twelfth of the annual liability.

"Relevant period" is defined in relation to 1 December in any year as being the twelve month period ending on 30 June in that year and commencing on 1 July in the immediately preceding year. Where a person becomes a taxable person in the period the "relevant period" is deemed to commence on the date on which the person first becomes a taxable person.

Total net VAT has been defined in the relevant legislation and means, in the relevant twelve months period.

- VAT payable to Customs and Excise, plus
- VAT payable to the Collector-General, less
- VAT repayable by the Collector-General.

#### Example

Form 1 July 1992 to 30 June, 1993, Engineering Ltd.

- paid **£100,000** to Customs and Excise as VAT at the point of entry. (This consisted of £10,000 on imports from non-EC countries during the twelve month period and £90,000 on imports from EC countries during the period 1 July to 31 December, 1992. After 1 January, 1993 imports from EC countries were treated as intra-EC acquisitions and were accounted for in the internal VAT figures for 1993).
- Over five taxable periods, has an internal VAT liability, payable to the Collector-General of £200,000.
- In one taxable period received a VAT repayment from the Collector-General of £30,000.

The total net VAT liability is therefore £270,000 (£100,000 + £200,000 - £30,000) and the advance payment liability of this trader is therefore £22,500 (one twelfth of £270,000).

There is provision for the imposition of a daily surcharge of 0.25% of the advance payment where payment is not made by the due date. It is important to note that, even if a taxpayer discharges the advance payment charge by the due date, payment of the advance payment is not regarded as having been made where the taxpayer has outstanding value added tax or employer's PAYE/PRSI. In such cases the surcharge of

0.25% would continue to apply until the outstanding taxes have been paid, or until 19 January 1994, whichever is the earlier.

There is provision for a taxable person to enter into an agreement with the Collector-General by which the taxable person guarantees payment by 21 December. Provided the advance payment is paid by that date, the surcharge does not apply. The advance payment is taxable period November/December in any year and is therefore allowable as a deduction in the VAT return which should be made no later than the subsequent 19 January. Any repayments due as a result of the overpayment of tax will be made promptly on lodgement of the VAT 3 in January 1994.

Details of the methods to be used to guarantee the advance payment and the amount which is due to be paid will be notified to affected taxpayers by the end of October, 1993.

Any queries regarding the operation of the advance payment should be addressed to Mr. Andrew McLaughlin, of the Collector-General's Office, in St. Martin's House, telephone 668 8666 ext. 3094.

### 5.2 VAT regulations

The Revenue Commissioners have made the following Regulations:-

Value-Added Tax (returns) Regulations, 1993 (S.I. No. 247 of 1993). These Regulations provide for the information that a taxable person is required to include on the periodic VAT 3 return forms, including the annual return of trading details being introduced with this year's July/August return. They revoke and replace Regulation 12 of the Value-Added Tax Regulations, 1979 (S.I. No. 63 of 1979).

Value-Added Tax (Payment of Tax on Intra-Community Acquisitions of Certain New Means of Transport) Regulations, 1993 (S.I. No. 248 of 1993). These Regulations set out the procedures to be followed, with effect from 1 September 1993 in relation to the payment of VAT on the intra-Community acquisition of new aircraft and new vessels by private individuals and by taxable persons not entitled to deduct the tax chargeable on these goods. They revoke and replace S.I. No. 412 of 1992.

Copies of each of the above Regulations are available in the Government Publication Sales Office, Sun Alliance House, Moselworth Street, Dublin 2, Price 50p (postage 36p each).

### 5.3 Value-Added Tax (Refund of Tax) (No. 25) Order 1993.

This order replaces S.I. No. 267 of 1972, S.I. No. 145 of 1978 and S.I. No. 249 of 1984. It retains the scheme provided for in those Orders for the refund of VAT paid by farmers on the constructions of farm buildings, fencing, drainage and

reclamation of farm land. The previous scheme applied only to farmers who were not registered for VAT. However, under Single Market rules farmers may have to register for VAT because of intra-Community acquisitions or certain services received from abroad; the new Order ensures that these farmers can still obtain the benefit of the VAT refund. The Order also updates the documentary evidence required in support of a refund claim and makes the granting of refund conditional on the claimant's tax affairs being in order.

Copies of this Order are available in the Government Publications Sales Office, Sun Alliance House, Molesworth Street, Dublin 2. Price 85p (postage 36p extra).

## 5.4 Statement of Practice

Statement of Practice SP-VAT/3/93 titled "Payment of VAT on Alcohol Products at Time of Payment of Excise Duty" has been issued.

This statement of practice deals with the taxation of alcohol products held under a duty-suspension arrangement. Form 1 August 1993, where a liability to VT has arisen, VT on the duty-inclusive price of the goods must be paid at the time of the removal of the goods from the duty-suspension arrangement.

# 6. Collector-General

## 6.1 Preliminary Tax Income Tax and Capital Gains Tax

Payment of Preliminary Tax (both Income Tax and Capital Gains Tax), which is due on or before 1st November 1993, should be made to

**The Collector-General's Office,  
Apollo House,  
Tara Street,  
Dublin 2.**

Payment should not be sent to tax offices. Enquiries relating to the payment of these taxes should be directed to:

**ASC Customer Service  
The Collector-General's Office,  
Sarsfield House,  
Limerick.**

Telephone callers in the 01 area should call 677 4211

Telephone callers outside the 01 area should contact 061-310310.

These telephone numbers may also be used by persons with enquiries relating to the payment of

**Corporation Tax  
Residential Property Tax  
Relevant Contracts Income Tax**

## 6.2 Tax clearance - Excise Licences

The Finance Act, 1993 has extended the tax clearance requirements to applicants for certain categories of excise licences. Applicants for the following categories of licences will be required to obtain a Tax Clearance Certificate in order to renew their licences with effect from the relevant date of renewal, as indicated overleaf:

Category of Licence	Date of Renewal
(1) Spirits Retailers' On-Licences Spirits Retailers' Off-Licences Wine Retailers' On-Licences	1 October, 1993 1 October, 1993 1 October, 1993
(2) Wholesale Dealers' Licences for Spirits, Beer, Wine or Sweets	1 July, 1994
(3) Bookmakers' Licences	1 December, 1993
(4) Gaming Licences	1 October, 1993
(5) Auctioneers' Licences Auction Permits House Agents' Licences	6 July, 1994 6 July, 1994 6 July, 1994
(6) Hydrocarbon Oil and Auto L.P.G. Vendors' Licences	1 July, 1994

The application for Tax Clearance Certificate should be made only by the beneficial holder of the licence. The **beneficial holder** of the licence is the person who conducts the activities under the licence (and in relation to a licence issued under the Auctioneers and House Agents Act, 1947, includes the authorised individual referred to in Section 8(4) or the nominated individual referred to in Section 9(1) of the Act).

Should you require assistance in completing the application form or if you have any enquiries relating to the tax clearance provisions please contact the Collector-General at the address set out below:-

The Office of the Collector-General,  
Tax Clearance Section (Licensing),  
Fifth Floor,  
Sarsfield House,  
Francis St.,  
Limerick.

Tel. (061) 310310  
Fax. (061) 410311

A more detailed explanatory note is available on request from that Office.

### 6.3 New VAT 3 returns

The creation of the Single Market has led to a fundamental change in the way VAT is charged within the European Community. The abolition of VAT at the point of entry from 1 January 1993 has resulted in major procedural changes in dealing with sales to and from Member States. This in turn has led to the greatest changes in our VAT system, both legislative and administrative, since the tax was introduced in 1972.

One of the significant changes has been the redesign of VAT returns. A revised, and much simplified bi-monthly VAT 3 return was introduced with effect from the January/February period. The new return requires traders to declare only summary details and provide statistical information in respect of Intra-Community transactions.

By and large the new VAT 3 has been well received. However, indications are that the treatment of Intra Community Acquisitions has caused some confusion.

The position in this regard is that VAT is no longer payable on such goods at the point of entry but is accounted for under a **postponed accounting** system. Under this system a person becomes liable to VAT on the acquisition of the goods and declares this liability, at the appropriate Irish rate, Box T1 on the VAT 3. If the taxable person is entitled to full deductibility the VAT payable is deducted in the same period - Box T2 - thus cancelling the liability. (If he is entitled to only partial deduction or if he has not rights of deduction the amount to be deducted is adjusted accordingly). When the goods are subsequently supplied liability will arise in the normal way and will be declared in Box T1.

The other significant change in the VAT 3 has been the incorporation of the Giro payslip on the return. The advance of the giro payment method, apart from the obvious security aspect, is that receipt of the payment automatically issues within 7 working days.

### 6.4 Return of Trading Details

Because of the simplification of the VAT 3 return and the fact that only summary details are required, it has been necessary to introduce a Return of Trading Details in order to capture details of trading activities which were previously supplied on the old VAT 3.

For annual/direct debit cases the basis period for the Return of Trading Details is 1/9/92-31/8/93, while the basis period for bi-monthly case is 1/1/93-31/8/93. These periods are clearly displayed on the return.

The due date for submission of the Return of Trading Details is 19 September 1993 so, at this stage, all returns should have been submitted to the Collector-General. Non-submission of the return will be vigorously pursued through the Courts.

### 6.5 Direct Debit

The use of the VAT direct debit system has now been extended. Where a trader wishes to participate, he will authorise a monthly deduction from his bank account of the equivalent of 1/12 of the total the VAT liability over the most recent six tax periods. Any balancing payment is then returned with the annual return the following September. Any overpayment will be promptly refunded.

Questions on Direct Debit should be referred to the Direct Debit Helpline at (01) 671 8011.