

TAX BRIEFING



ISSUE 16 November 1994

Introduction

Normally, features in Tax Briefing are confined to matters of tax and general administration. In this issue we extend the scope of the bulletin to include an article on computer developments in Revenue entitled:

“Enhanced Computer Support in Tax Administration”. We expect tax practitioners will be particularly interested in part of this article head “Agents File”.

In addition, we include a practice statement on fund accounting for captive insurance companies in the IFSC. Nor surprisingly, with the close proximity of the filing date on 31 January, we carry a number of articles on Income Tax Returns for 1993/94.

Stamp Duty Relief available on transfers of land to Young Farmers is revisited as we outline the procedures to take where a repayment of duty arises. Further information on that relief is provided by way of the enclosed Explanatory Leaflet.

A booklet on the New Business Relief from Capital Acquisitions Tax is also enclosed.

The response to the new “Mailing List Update” has been very good. Changes required to the list have been made, but unfortunately, for operational reasons we have not been able to meet the many requests made through the ‘List’ for addition copies of Tax Briefing or, indeed to have specifically named employees of firms added to the list. We place no restrictions on copying or reproducing material in Tax Briefing (provided the source is acknowledged), so copies for distribution in your firm can be made as desired.

Maureen Moore
Editor - Tax Briefing

CLARIFICATION

VAT on Cars

Introduction

Recent press comment to the effect that businesses here should make protective claims for the VAT paid on company cars pending the outcome of proceeding in a UK case did not address all the issues and could possibly cause confusion when making VAT returns.

The proceedings in question relate to Vat on cars acquired by leasing companies. The underlying Vat law in the UK is not the same as here. Irish legislation already permits leasing companies to claim VAT credits in respect of cars acquired for onward leasing; consequently, the decision in the UK case is not expected to have any relevance here.

Legislation

The Irish legislation is contained in Section 12()(a)(iii) of the Value Added Tax Act, 1972. This Section prohibits VAT credits on the acquisition of cars by persons other than those who acquire cars as stock-in-trade, or for the purposes of business which consists in whole or part of the hiring of vehicles, or for use in a driving school. This Section is fully in accordance with the EC Sixth VAT Directive and with Community law generally. Accordingly we cannot accept any claim for VAT deductibility which is contrary to the provisions of Section 12(3) and confirm that failure to fully comply with the provisions of that Section may result in interest charges together with appropriate penalties for failure to submit a true and correct VAT return.

1. Enhanced Computer Support in Tax Administration

Introduction

In previous issues of Tax Briefing we have highlighted the greater Customer Focus of the Revenue Commissioners. In common with many organisations in both the public and private sectors, we consider that this will enhance the management of the total relationship with our customers and give substantial improvements in service and overall efficiency.

The Revenue Commissioners have always placed considerable emphasis on the quality and accuracy of customers’ records, which is obviously essential for the smooth running of the entire administration and tax

collection process. Our existing computer systems which are, taxhead specific, have served our part needs well by automating work flows. However, as a result of our new customer focus, the taxhead specific architecture of our existing systems no longer gives the level of support to our customer service operations which we would like. There has also been an increasing need to relate data describing a single customer but which are held on different computer systems. We also need to be better able to link third party information to the correct customer.

These, and other needs of the Office, are being addressed in a major initiative focusing on a consolidated view of taxpayers affairs - this programme of work is called the CONTAX project. It will allow revenue to use its resources effectively in providing a more efficient service to the complaint taxpayer and in identifying non-compliant taxpayers.

CONTAX Project

This is the single biggest computer project undertaken by Revenue. It will support the major functions of common registration, exception case tracking, taxpayer processing, management information and data capture, using a taxpayer rather than a taxhead focus. The latest methods and tools are being used to build the systems, with a small number of external consultants employed where the skills are not available in-house.

Because of the size of the overall programme, it is being implemented on a phased basis over a number years. The first project, [now partially released], supports the exception case function and is called Active Intervention Management (AIM). It will provide the necessary computer facilities to enable staff focus on the rapid pursuit of tax liabilities, the detection and pursuit of non-complaint cases and the monitoring of business sectors. A companion project will provide enhanced management information facilities.

In this article, we are focusing on the common registration function, for which computer support will be introduced within the next twelve months.

Common Registration System (CRS)

This will provide a profile of a customer across all taxes and will provide revenue with a single database of all its customers' names and addresses and registration details. It will incorporate all major taxes, i.e.:

Income Tax
Corporation Tax
Capital Gains Tax
Value Added Tax
PAYE Employers records
PAYE Employee records
Automated Registration Tax (Traders)
Residential Property Tax
Relevant Contracts Tax
Capital Acquisitions Tax

Process

The process of bringing together the existing names, addresses and registration details commenced in 1993 and it is well advanced. A team of specially trained staff, using a combination of Revenue developed and third party software, are examining and (where applicable) matching and consolidating these records. In a small number of cases, this may involve the customer or customer's being contacted to clarify some aspect of a registration. The scale of this matching exercise can be best indicated by saying that almost 2.5 million name and address records will have been examined when the project is completed early next year.

Benefits

This major project will provide benefits for our customers and their advisers as well as for ourselves.

One of the major benefits to our customers will be that any change of name or address will require only one notification to Revenue and that change will be automatically applied to all taxes for which the customer is registered.

CRS will also enable Revenue create links between related customers. For instance, partners in partnership will be linked as will associated companies. We will also be in a position to associate multiple registrations within each taxhead and match more quickly and accurately third party information to the correct customer on the new database.

Further down the road it is our intention to deal with all our customers number for all tax head.

Agents File

In the process of examining customer records; information relating to practitioners is being extracted and used to compile a comprehensive Agents File. Each agent will be allocated a unique Agent number and each client will be cross-referenced with this number. This file will be introduced as part of CRS and will enable us to record your own reference for your client if you so wish - we will be asking agents whether or not they wish to avail of this facility. If you are interested, we would ask that you consider, where relevant, the development of a resilient reference system for your office. A client reference which changes each time a different staff member handles the case would not be appropriate. We will advise you when we propose to start recording client reference numbers in the new system.

As you can appreciate, there will be considerable benefits to you in the processing and administration of your clients' affairs. For example, any change of your own name or address will need only be notified once to a central area and individual notifications for each client to various districts and offices will not longer be necessary.

We will be writing to all agents in advance of the computer file being finalised to advise you of your agent's reference number and to confirm the name and address details being used for this file. The system has been designed in such a way that we will be able to accommodate more than one name and address per agent.

Further down the road, it will enable us issue notices, assessments etc. in bulk to you rather than individually for each client as is the case at present. In addition, it may facilitate the transfer of data to agents on computer media.

2. SELF ASSESSMENT

2.1 Professional Services Withholding Tax (PSWT) and Preliminary Tax (PT)

Introduction

We have been asked to clarify the position on the interaction between PSWT and PT. This feature outlines the treatment of withholding tax in computing the amount of preliminary tax which must be paid to avoid interest.

Legislation

PSWT

Section 18, FA 1987, sets out the basis on which credit is allowed on PSWT. It provides that PSWT which has not already been refunded by way of interim refund may be set against tax chargeable as follows:

Corporation Tax

PSWT referable to the accounting period may be set against the CT chargeable for that accounting period.

Income Tax

PSWT referable to the credit period for a year of assessment may be set against the Income Tax chargeable for that year of assessment. The credit period for a year of assessment is defined in Section 18 as the basis period for the year of assessment immediately proceeding that year. The point is illustrated as follows:

Mr. A.B. makes up his account to 31 December each year. The basis period for 1994/95 is the year ended 31 December 1994. The credit period for 1994/95 is the year ended 31 December 1993 (i.e. the basis period for the immediately preceding year of assessment. PSWT paid in the year ended 31 December 1993 may be set against Income Tax chargeable for 1994/95).

Calculation of PT by Reference to 90% Rate

In calculating PT by reference to the 90% rule, the tax payable is treated as the tax charged in the assessment for the current year of assessment/accounting period net of the PSWT available for set off against that tax.

Example - Income Tax

Income Tax chargeable for 1994/95	£18,000
(basis period, year ended 31 December 1994)	
PSWT paid in credit period for 1994/95	£11,000
(i.e. year ended 31 December 1993)_____	
Income Tax payable 1994/95	£ 7,000
Minimum PT payable to avail of 90% rate	£ 6,300

Example - Corporation Tax

CT chargeable for accounting period ended 31 December 94	£25,000
PSWT referable to the accounting period	£15,000
CT payable accounting period ending 31 December 1994	£10,000
Minimum CT payable to avail of 90% rate	£9,000

Calculation of PT by Reference by 100% Rule - Income Tax Only

In calculating PT by reference to the 100% rule, a taxpayer is allowed to treat the income tax payable for the immediately preceding year of assessment as the tax charged in the assessment for that year net of the PSWT which was set off against the tax charged in that assessment. In calculating PT for a year of assessment accordance with the 100% rule, credit may not be taken for PSWT available for credit against the tax chargeable for that year of assessment.

Example

Assume the taxpayer in Example - Income Tax (above) has the following liabilities for 1993/94:

Income Tax chargeable for 1993/94	£17,000
(based period, year ended 31/12/93)	
PSWT referable to the credit period for 1993/94 year ended 31/12/92)	
Income Tax payable 1993/94	£7,000
To avail of the 100% rule for 1994/95,	
The minimum PT payable is	£7,000

Note:

It is not permissible in applying the 100% rule for 1994/95 to calculate the PT payable by setting the PSWT referable to the credit period for 1994/95 against the Income Tax chargeable for 1993/94 Viz:

Income Tax chargeable for 1993/94	£17,000
PSWT paid in credit period for 1994/95	£11,000
(year ended 31/12/93)	
PT payable	<u>£ 6,000</u>

PT paid in accordance with this method would not be sufficient to avail of either the 90% rate or the 100% (minimum £7,000).

2.2 Returns - Non-Liable Person

Introduction

In issue 13, January 1994, at paragraph 2.1 we featured an article under the heading "Non-Liable Persons" in which we outlined Revenue's position in regard to non-filing of Tax returns by non-liable persons and we asked for your co-operation and help in identifying such cases.

We take this opportunity to remind practitioners of the key points of the article as we ask again for your assistance in identifying the cases in question.

Key Points

Revenue does not require a tax return from those who on an ongoing basis are not liable to income tax.

When submitting tax returns, practitioners are asked to highlight cases where to the best of their knowledge and belief the obligation to file a return should be waived on the grounds that the level of trade, activity or income is such that there is no prospect of tax liability for a period of three to five years or beyond that time. [these will not include cases where the quantum of accumulated losses and capital allowances is such that there is little or no prospect of tax liability for a period of three to five years but, profit and tax liability could be expected at the end of that time].

While cases qualifying for non filing status care arise in any sector many small farmers may be in the category of "no prospect of liability" in the immediate future.

The removal of the obligation to make a Tax Return is at all time subject to self assessment principles. Accordingly, where a person's financial situation changes, the onus remains with him/her to submit a Tax Return and pay tax.

Benefit to Non-Liable Person

We remind practitioners that the removal of the obligations to make a Tax Return is a significant benefit to non-liable persons which can be facilitated more efficiently and expeditiously through your co-operation. We thank practitioners in anticipation of receiving the assistance we require to enable our records to be adjusted.

Special Social Welfare Contribution

Taxpayers who are not required to make returns to Revenue pay a special Social Welfare contribution directly to the Department of Social Welfare.

2.3 Returns on Approved Facsimile Forms 11 1993/94

Introduction

We have been requested to remind practitioners that a return of income must be made in the prescribed form. The prescribed form is defined in Section 9 Finance Act 1988 as: "a form prescribed by the Revenue Commissioners or a form used under the authority of the revenue Commissioners and includes a form which involves the delivery of a return by any electronic, photographic or other process approved by the Revenue Commissioners".

Prescribed forms for the purpose for making a return of income include the statutory Forms 11 and the approved facsimile Forms 11.

Where an approved facsimile Form 11 is being used, that form must be filed in its entirety. Accordingly, it is not appropriate to file only selected pages of the form when making a return of income.

"VSA" Sheet Omitted.

Some facsimile Forms 11 approved for 1993/94 do not contain a mandatory voluntary self assessment 'VSA' sheet. Practitioners who use such forms may nevertheless avail of the 'VSA' facility.

To do so, simply:

- (a) Include a separate schedule to show the tax payable/repayable. In arriving at the figure of tax payable/repayable it is important to exclude the preliminary tax paid. It is equally important to identify
 - (i) the PRSI/levies due
 - (ii) the new withholding tax credit (see paragraph 2.1 herein).
 - (b) Draw the Inceptor's attention to the 'VSA' schedule in the covering letter to the Return of Income.
- 'VSA' facility - short notice of assessment**
- In cases where the 'VSA' facility is used (whether in the manner described above or through completion of the 'VSA' sheet on Form 11), the short notice of assessment will issue unless errors/omissions have been made in computations. Instances of frequently detected errors/omissions are as follows:
- Retirement Annuity Relief - not confined to 15% net relevant earnings (see also paragraph 2.4 herein).
 - Covenants by parents to children over 18 years - not confined to 5% of income.
 - Withholding Tax - figure is not confined to 'net tax credit' (see paragraph 2.1 herein).
 - Deposit Interest - marginal relief incorrectly calculated (see Note 4.3 of Issue 15 Tax Briefing).

- Low Income Taxpayers - Panel 46 of Form 11 incomplete.
- Section 307 loss - Loss omitted from Panel 1 Form 11.
- Mortgage Relief - Restrictions not applied
- Distributions of Companies resident in the State - Tax credits not identified.

The detailed notice of assessment will continue to issue in cases where any errors or omissions occur in "VSA" computations.

2.4 Retirement Annuity Relief - Elections under Section 236(11), ITA 1967

Introduction

It has come to our notice that a number of individuals have elected to claim Retirement Annuity Relief through 1993/94 "VSA" computations. Where the premiums have already been paid at the time of election no difficulty arises. Some of these elections, however, relate to premiums unpaid at the date of election but are anticipated to be paid on 31 January next. This paragraph outlines Revenue's approach to such elections.

Legislation

The legislative position is set out in Section 236(11) ITA 1967. The section extends the relief for a year of assessment to a "qualifying premium paid" on or before the following 31 January.

Revenue's Approach

As the payment of the qualifying premium is a pre-condition to the granting of relief it follows that in processing tax returns, relief cannot be granted where elections are made in advance of such payments or on the basis of such anticipated payments. In such cases itemised notices of assessment will issue omitting the Retirement Annuity Relief.

3 INCOME TAX

3.1 Urban Renewal relief 1994 Scheme

Introduction

The Finance Act 1994 introduced two separate incentive schemes, one for designated areas and the other for designated streets. Each incentive scheme operates for the three year period commencing on 1 August 1994 (the qualifying period). These schemes provide for tax

reliefs and rates remissions where work on urban renewal is carried out on buildings:

- Located in areas designated by the Minister for Environment
- Existing at 1 August 1994 which front onto streets (including parts of streets) designated by the Minister for Environment.

Full details of the rates remission can be obtained from the local authority concerned. We summarise below the tax reliefs available for the two separate categories.

3.1.1 Summary of Tax Reliefs for Designated Areas:

(i) Building in use as a Mill, Factory or Similar Premises

100% of expenditure on new construction (site exclusive) or refurbishment of an existing building may be written off for tax purposes as follows:

Owner-occupier (trader)

- 25% initial allowance in year 1 with a 4% annual allowance thereafter, or
- 50% free depreciation with a 4% annual allowance thereafter

Lessor

- 25% initial allowance in year 1 with a 4% annual allowance thereafter.

Note

Free depreciation allows a taxpayer the option of increasing the amount of annual allowance for any year, subject to the aggregate amounts of the allowance so increased not exceeding the percentage of the expenditure available for free depreciation.

ii) Commercial Premises, excluding Offices (except where ancillary)

50% of expenditure on new construction (site exclusive) or refurbishment of an existing building may be written off for tax purposes as follows:

Owner-occupier (trader)

- 25% initial allowance (year 1) and 2% annual allowance for the balance of 50% of the expenditure, or
- 50% free depreciation (see Note at I) above)

Lessor

- 25% initial allowance (year 1) and 2% annual allowance for the balance of 50% of the expenditure.

Note

Office accommodation is ancillary where expenditure in qualifying period on the offices is not more than 10% of the total capital expenditure in the qualifying period on the constructions or refurbishment of the building.

(iii) Double Rent Deduction

This consists of a deduction by way of an expense of the trade or profession to the lessee of a qualifying business premises of twice the rent paid. It is confined to maximum rental period of ten years for each premises.

To qualify, the lessor must be entitled to capital allowances under the Scheme, the lease must be entered into in the qualifying period, and the letting must be bona fide commercial letting. In the case of a refurbished building, the refurbishment expenditure must amount to 10% or more of the site-exclusive market value of the building before refurbishment.

It is available for factories and other commercial premises, including hotels but excluding offices (except where ancillary to the commercial premises).

In the case of an hotel, double rent deduction is available only where the landlord disclaims write-off of capital expenditure incurred in the qualifying period.

(iv) Rented residential Accommodation

Usually known as “Section 23 Relief” it allows the lessor of a newly constructed house, flat or maisonette to write off against rental income (including income from other lettings) the cost of construction (excluding site costs) of the qualifying unit,

In the case of expenditure on the conversion of existing building into qualifying units or on the refurbishment of existing units in a building of two or more residential units, the deduction is the amount of the conversation or refurbishment costs.

To qualify, the floor area of the unit must be greater than:

- 30 sq. metres in the case of a flat or maisonette (nearly constructed or refurbished/converted) in a building of 2 or more storeys, or
- 35 sq. metres in any other case, and must not exceed:
- 90 sq. metres in the case of a newly constructed flat or maisonette in a building of 2 or more storeys, or
- 125 sq. metres in any other case.

The unit must also comply with certain guidelines laid down by the Minister for the Environment, mainly concerning design and construction, internal dimensions, facilities and amenities. Any query on these guidelines should be addressed to the Department of the Environment.

(v) Owner-Occupier Relief

Available to owner-occupiers of newly constructed or refurbished resident units. To qualify, the unit must be within the floor area limits mentioned at iv) above, and must also comply with the guidelines laid down by the Minister for the Environment. The relief takes the form of a deduction for income tax purposes.

The amount of the deduction is:

- in the case of new construction, 50% of the site-exclusive cost, net of any grants, allowed at the rate of 5% p.a. for each of the first 10 years, and
- in the case of refurbishment expenditure, 100% of the expenditure, allowed at the rate of 10% p.a. for each of the first 10 years

To qualify, the individual must occupy the unit as his or her sole or main residence for each year of claim, and must be the first owner and occupier of the unit after the construction or refurbishment expenditure is incurred.

3.1.2 Summary of Tax reliefs for Designated Streets

(i) Rented Residential Accommodation

Usually known as “Section 23 Relief”. It allows the lessor of:

- A residential unit (house, flat or maisonette) which is refurbished, or
- A residential unit in a building which is converted into two or more residential units and which was not previously a dwelling or was a single dwelling, or
- A residential unit in a building which was not previously a dwelling

To write off against rental income (including income from other lettings) the cost of refurbishment/conversion.

To qualify, the floor area of the unit must be greater than:

- 30 sq. metres in the case of a refurbished/converted flat or maisonette in a building of 2 or more storeys, or
- 35 sq. metres in an other case

and must not exceed 125 sq. metres. The unit must also comply with certain guidelines laid down by the Minister for the Environment, mainly concerning design and construction, internal dimensions, facilities and amenities. Any query on these guidelines should be addressed to the Department of the Environment.

(ii) Owner-Occupier Relief

Available to owner-occupiers of residential units refurbished/converted as at I), above. To qualify, the unit must be within the floor area limits mentioned above, and must also comply with the guidelines laid down by the Minister for the Environment. The relief takes the form of a deduction for income tax purposes. The amount of the deduction is 100% of the expenditure (net of any grant) on refurbishment/conversion, allowed at the rate of 10% p.a. for each of the first 10 years.

To qualify, the individual must occupy the unit as his or her sole or main residence for each year of claim, and must be the first owner and occupier of the unit after the refurbishment/conversion expenditure is incurred.

(iii) Building in use as a Mill, Factory or Similar Premises

100% of the expenditure on refurbishment of a mill, factory or similar building may be written off for tax purposes. However, the amount on which an accelerated write-off can be claimed is capped at an amount equal to the amount of refurbishment/conversion expenditure on the building under I) and/or ii) above. The balance of the expenditure qualifies for a 4% annual write-off. The rates of accelerated write-off (or allowance) are:

Owner-occupier (trader)

- 25% initial allowance, with a 4% annual allowance thereafter, or
- 50% free depreciation, with a 4% annual allowance thereafter

Lessor

- 25% initial allowance, with a 4% annual allowance thereafter.

Note 1:

Free depreciation allows a taxpayer the option of increasing the amount of annual allowance for any year, subject to the aggregate amounts of the allowance so increased not exceeding the percentage of the expenditure available for free depreciation.

Note 2:

Expenditure on offices is excluded, except where these are ancillary. Office accommodation is ancillary where expenditure in the qualifying period on the offices is not more than 10% of the total capital expenditure in the qualifying period on the refurbishment of the building.

(iv) Commercial Premises, excluding Offices (except where ancillary)

In the case of other commercial premises, such as retail shops, but excluding offices (except where ancillary - see Note 2 above), tax relief is available only where expenditure is incurred on the refurbishment of the

premises and on the conversion/refurbishment of residential units as at i) and/or ii) above. The amount of expenditure on the commercial premises which may be written off for tax purposes is 50% of the lower of:

- Expenditure on refurbishment of the commercial part of the building, or
- The equivalent of the expenditure on refurbishment/conversion of residential units as at I) and ii) above.

The rate of allowances are :

Owner-occupier (trader)

- 25% initial allowance, and 2% annual allowance up to a maximum of 50%, or
- 50% free depreciation,

Lessor

- 25% initial allowance and 2% annual allowance, up to a maximum of 50%.

(v) Double Rent Deduction

This is not available for designated streets.

3.2 Credit Unions:

In Tax Briefing Issue 15 at Note 2 we dealt with the taxation of dividends and deposit interest paid by Credit Unions. We have since been asked about the taxation of "bonus shares" issued by Credit Unions.

Our view is that such shares come within the definition of share interest in Section 218 Income Tax Act 1967. The definition treats as share interest "any bonus, or other sum payable to a shareholder of the society by reference to the amount of his holding in the share capital of the society".

Accordingly the bonus shares are taxable and should be included in tax returns.

3.3 Farm retirement Scheme

With the introduction of the Scheme of Early retirement from Farming, a number of enquiries have been received on the tax treatment of farm stocks, both in the hands of the farmer who is retiring and of his or her successor. The following is the position: Section 62, Income Tax Act 1967, contains the provision for valuing the trading stock of a discontinued trade, including farming. The section requires, subject to a number of conditions set out therein, that where the trading stock of a discontinued trade is sold or transferred to valuable consideration to another trader, the value of the stock will:

"be taken to be the price paid therefor on such sale or the value of the consideration given therefor on such transfer, as the case may be".

Thus, where a farmer retires and the stock is sold or transferred for valuable consideration, the stock will be valued as above. The person who acquires the stock will treat the consideration paid as a purchase. If the farmer sells the stock after retirement, the amount received will be taxed as a post-cessation receipt.

In an other case (e.g. where there is no consideration, or where the stock is sold to another person who is not a trader), the value of the stock will be:

“the amount which it would have realised if it had been sold in the open market at the discontinuance of the trade”.

Thus, where there is no consideration, the stocks are valued at market value at the date of cessation. No deduction is allowed to the person acquiring the stock since that person has not paid anything for the stock.

However, where the farming trade and stock are being transferred in their entirety to a person who is:

- a spouse, child or niece/nephew [where that niece/nephew has worked substantially on a full-time basis on the farm for the previous five years], of the retiring farmer,
- resident in the State and not elsewhere in the year of transfer, and
- not possessed of farm stocks (other than those begin transferred) at the time he or she commences to trade,

Then Section 33, Finance Act 1984, allows the farmer and successor (or successors if more than one and they continue the trade in partnership) to jointly elect that the provisions of Section 62 will not apply.

It is the view of the Revenue commissioners that the effect of such a joint election is to permit the transfer of the stocks for tax purposes at the lower of cost or market value.

The joint election must be made within two years of the end of the year of assessment in which the successor commences to carry on the farming trade.

Section 33 also applies where a farmer dies, and the trade is transferred to a successor who meets the conditions at 3 above. In such cases, the joint election will be made by the personal representative of and successor to deceased farmer.

4. AUDIT

4.1 Fund Accounting for Captive Insurance Companies in the IFSC

The Revenue Commissioners are prepared to permit the extension of fund accounting to captive insurance and captive reinsurance companies in the IFSC.

It has been represented to the Revenue Commissioners that an annual premium received by the captive is, in effect, an annual instalment towards the instance of a permanent risk. This situation arises because of a captive's restriction to intra group business. Based on this proposition, it is valid to say that the captive is carrying out an insurance business of a long tail nature and it is in this context that Revenue is prepared to accept returns from captives on a funded basis. The deferral of tax which will arise as a result of this proposal will have significant cash flow benefits for the companies concerned as well as creating, in essence, a reserve out of which claims for catastrophes can be met.

The details of the agreement arrangements are as follows:

- Fund accounting will allow for tax returns to be prepared on the basis that the company's income is as would be disclosed on a five year fund account system, notwithstanding the fact that the statutory accounts are prepared on an annual basis. For instance, under this system, the account for year one will be closed in year six.
- Fund accounting will apply to all classes of business operated by captive insurers and captive reinsurers. The proposal includes captives of industrial and commercial organisations (excluding professional insurance corporations).
- Underwriting income only may be considered i.e. no part of the investment return shall be included in the fund. The investment return will be taxable separately as it arises on an annual basis.
- Any emerging losses will be regarded as Case 1 losses off-settable immediately against profits from the same or any other class of insurance business for underwriting periods which are currently being closed for tax purposes. These emerging losses can be on any class of insurance for any open underwriting period(s) (without waiting entitle need of the 5 year deferral period in respect of such underwriting period(s) computed in accordance with Paragraph 115 of the Association of British Insurers Statement of Recommended Practice “ABI SORP”).
- Use of fund accounting (except where it is on a statutory basis) will be optional. In the case of a

company doing mixed business, fund accounting may apply to long-tail business, while other classes are on an annual basis. Once an election is made for fund accounting, the company must remain on that basis form a consistency stand point.

- Incurred but not reported claims “IBNR’s” may be allowed in arriving at the profit of a closed year, providing 117 of the ABI SORP. In view of the five year deferral, the question of IBNR’s should only arise in relation to long-tail business.

In the case of captives writing long-tail liabilities business, where the maintenance for a minimum level of risk reserves in a requirement of the Regulatory Authority in the jurisdiction where the risk resides, as a condition of trading, the minimum reserve requirement will be deductible for tax purposes, provided that losses arising as a result of such reserves are ring-fenced from other classes of business written by the captive.

The agreed practice is to apply on a current basis.

Enquiries will be dealt with by :

**Dublin Audit District 5,
Lansdowne House,
Lansdowne Road,
Dublin 4. Tel (01) 6689400 Fax: (01) 668 9706**

4.2 Treatment of Debtors Creditors and Work-in-Progress in Professional Accounts

Practitioners are reminded that the transitional measures provided for in paragraph 3.6 of the Statement of Practice S-P IT/2/92 are available to individuals or partnerships where the 1992/93 accounts were finalised at 1 December 1992 the date of the “Statement”.

An individual or partnership who wishes to avail of the transitional measures must change to an earnings basis or to an acceptable conventional basis when preparing the accounts which form the basis for 1993/94. If such a change is effected:

- The Inspector will not normally seek to re-open prior years.
- Any necessary uplift in the opening balances which fails to be taxed under Section 26 of the FA 1970 may be spread evenly over the years of assessment up to and including 1987/88. The first year for this spread will be 1993/94.

5. VAT

5.1 Section 97 Finance Act 1994

In Issue 15 of Tax Briefing at Note 8.1, we outlined the provisions of Section 97 Finance Act 1994 whereby traders whose annual turnover from taxable supplies does not exceed £25,000 may opt for the cash basis of accounting irrespective of the taxable status of their customers.

To give effect to this legislation, the Revenue Commissioners have made Regulations entitled “Value-Added (Determination of Tax due by Reference to Moneys Received) - (Amendment) Regulations 1994 (S.I. No. 259 of 1994). These Regulations take account of the extended eligibility.

The Principal regulations and these new Regulations should be construed together as the Value-Added Tax (Determination of Tax Due by reference to Money’s Received) Regulation, 1992 and 1994.

Copies of the Regulations may be purchases from:
**Government Publications Sales Office
Sun Alliance House
Molesworth Street
Dublin 2**
Or any bookseller. - Price £1 plus postage 48p,

5.2 Threshold for Advance Payment of VAT

The Minister For Finance made an Order on 14 November 1994 (S.I. No. 342 of 1994) increasing the threshold amount from £300,000 to £1,000,000).

All of the other provisions relating to the advance payment of VAT remain unchanged. (Refer to Issue 12, Paragraph 5.1, Tax Briefing October 1993).

5.3 VAT Enquiries - Dublin

We have been asked to remind practitioners that the "Dublin VAT District" as such, no longer exists and that its main functions other than registration have been incorporated into the Dublin Audit Districts.

A list of all Dublin Audit Districts was included in the "Directory of all Dublin Tax Offices" as appended with Issue 10 of Tax Briefing - April 1993. A list is also included at page 48 of the 01 Telephone Directory 1994/95.

Matters concerning VAT are dealt with as follows:

Enquiries on VAT should be made to the appropriate Dublin Audit District.

VAT Returns and Remittances for periods up to and including November/December 1994 should be sent to

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

VAT Returns and Remittances for all subsequent periods should be sent to the :

**Office of the Collector General,
Sarsfield House,
Francis Street,
Limerick.**

VAT registration forms should be sent to :

Taxes Central Registration Office, Arus Brugha,
Cathedral Street, Dublin 2.

General information in relation to the making of enquiries on VAT or other matters to Revenue is contained in the "Guidelines for Practitioners on making Enquiries to Revenue Offices" inserted with Issue 12 of Tax Briefing - October 1993. A general outline of the functions of the Audit Districts was contained at paragraph 1 Issue 10 of Tax Briefing - April 1993.

6. CAPITAL TAXES

6.1 Stamp Duty

Customer Service to Callers

Practitioners are reminded that officials at the Stamp Duty Offices at Dublin Castle, Dublin 2, and Government Building, Sullivans Quay, Cork, provide a service to personal callers from Monday to Friday (inclusive) at the following times:
Dublin Office : 10 a.m. to 4.30 p.m. (including lunchtime)

Cork Office: 9 a.m. to 12.45 p.m., - 2 p.m. to 4 p.m.
The service provided includes the Stamping of Deeds and the adjudication of Deeds.

Many practitioners already avail of this service and those who opt to avail of it in the future should find this 'on the spot service' is far more satisfactory from a business point of view than the equivalent but slower service available through the postal system.

6.2 Young Trained Farmers

Introduction

In our last issue of Tax Briefing we referred to the relief from Stamp Duty on certain transfer to Young Trained Farmers and outlined the conditions to be met before relief would be granted. With this issue of Tax Briefing we enclose an explanatory leaflet on the relief entitled - "Stamp Duty Relief on transfers of Land to Young Farmers" and outline the steps to take when applying for a refund of duty.

Applications for Refunds of Duty

Because of the retrospective nature of the legislation, refunds of duty already paid may arise to certain customers. In such cases applications for the refund should be made to the relevant Stamp Duty Office i.e. Dublin or Cork, whichever originally levied the duty.

When applying for a refund the following steps should be taken:

- Submit a completed application form i.e. Form SD2 as included in the explanatory leaflet.
- Quote the appropriate adjudication number. If the case was not previously adjudged, a Warrant for Adjudication of Stamp Duty should be completed.
- Submit the original stamped document duly endorsed and re-executed having regard to Section 112, Finance Act, 1994.
- Where the original stamped deed has been lodged with the Land Registry, it will not be available for re-execution. In this instance a statement should be submitted from all parties to the deed confirming that the provisions of Section 112, Finance Act, 1994, apply. The deed should be clearly identified by:

- Date of Execution.
- Names and addresses of parties
- Folio number.

Arrangements have been made by the Revenue Commissioners whereby the Land Registry will release the deeds direct to them for amendment of the duty. To facilitate this, the transferee should submit a letter of consent, quoting the relevant deadling number, authorising the Revenue Commissioners to take up the Deed. On completion of the refund procedure the deed will be returned to the Land Registry by the Revenue Commissioners. Further information may be obtained from the addresses and telephone numbers listed below:

**Capital Taxes Office (Stamp Duties),
Stamping Building,
Dublin Castle,
Dublin 2.**

Tel.: (01) 679 2777 Exts : 4558/4610
Fax.: (01) 679 0636

**The Stamp Duty Office,
Government Building,
Sullivans Quay
Cork**

Tel.: (021) 968783
Fax.: (021) 318088

7. CAPITAL ACQUISITIONS TAX

7.1 Business Relief

The main changes introduced in the Finance Act 1994 were outlined at Note 11 Issue 15 of Tax Briefing. Included at Note 11.1 was a paragraph entitled "Business Property" which outlined the new relief provided by Sections 124 and 135 Finance Act 1994.

We have been asked to remind practitioners that this Business Relief apply only to Gift and Inheritance Tax; it does not apply to Discretionary Trust Tax or Probate Tax. The booklet enclosed entitled "Business Relief" outlines the principal features of the relief.

8. COLLECTOR GENERAL

8.1 Single Tax Clearance Certificate

In his Budget Speech earlier this year the Minister for Finance announced that he would ask the Revenue Commissioners to examine the feasibility of introducing a single tax clearance certificate in respect of contracts worth £5,000 or more with public bodies. We are pleased to advise practitioners that effect was given to this proposal with the introduction of the Single Certificate in respect of such contracts from August 15

of this year. As of that date, any enterprise which obtained a tax clearance certificate in respect of any public body may use that tax clearance certificate in respect of contracts with all other public bodies.

This development is of course designed to lessen the bureaucratic burden on the business community which will be of a particular advantage to small enterprises.

The single tax clearance will generally be valid for a period of twelve months.

A separate tax clearance certificate continues to be required in respect of grants and subsidies worth £5,000 for more.

Procedure Where a Tax Clearance Certificate is Required.

Where the successful tenderer is required by a public body to produce a tax clearance certificate, the public body must have sight of the original tax clearance certificate and should retain a copy for its records. The particular of a tax clearance certificate (i.e. the applicant's name, address, certificate number and expiry date) may be verified, by any public body to which it is presented, with Tax Clearance Section in

**The Office of the Collector General,
5th Floor,
Sarsfield House,
Francis St.,
Limerick.**

Tel : (061) 310310

Dublin callers may telephone 677 4211 at local call price

Fax: (061) 410311

In seeking verification the certificate number should be quoted Duplicate certificates will be provided where circumstances warrant such a requirement.