

**TAX BRIEFING****TAX CREDIT SYSTEM**

*Minister for Finance, Mr. Charlie McCreevy, T.D. and Chairman of the Revenue Commissioners, Mr. Dermot Quigley.*

### **Launch of Revenue Video/CD-ROM on the PAYE Tax Credit System and Calendar Tax Year**

As part of the changeover plan to ensure the smooth implementation of the PAYE tax credit system and calendar tax year Revenue has produced a training / information video and CD-ROM explaining the changes. The video / CD-ROM provides details of the introduction of a full tax credit system from 6 April 2001, the changeover to a calendar tax year from 1 January 2002 and the short tax "year" from 6 April 2001 to 31 December 2001.

The video / CD-ROM covers the tax changes, tax calculations and start-up dates and is aimed at employers and wages clerks and others involved in the administration of the PAYE tax deduction system to assist them in operating the new tax credit system. During March 2001, a copy of either

the video or CD-ROM was distributed to all employers registered for PAYE/PRSI. Distribution was as follows:

- A copy of the video was issued to employers who operate a manual tax deduction card system and
- A copy of the CD-ROM was issued to employers who operate a computerised payroll system or are part of the Computer Media Exchange Scheme.

Business representative bodies and software developers who develop computerised payroll systems for employers also received a copy of the CD-ROM.

The Minister for Finance, Mr. Charlie McCreevy, T.D., in welcoming the Revenue video and CD-ROM prepared for employers

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**Tax Briefing is produced by:** **Customer Service Unit,  
Office of the Chief Inspector of Taxes,  
4th Floor,  
Setanta Centre,  
Nassau Street,  
Dublin 2.**

**Editor:** **Denis Holligan**  
**Telephone:** **01 - 671 6777, Extn. 70801**

**Assistant Editor:** **Rosemary O'Rahilly**  
**Telephone:** **01 - 671 6777, Extn. 70808**

**Fax:** **01 - 671 0960**

**E-mail** **taxbrief@revenue.ie**

**Design:** **Customer Service Unit**

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## KEY DATES

### April

- 14 PAYE/PRSI**  
P30 monthly return and payment for month ended 5 April
- 14 DWT**  
Return and payment of DWT for month ended 31 March
- 1-28 Corporation Tax**  
Preliminary Tax for APs ending between 1-31 October
- 1-30 Corporation Tax**  
Returns for APs ending between 1-31 July
- 1-30 Corporation Tax**  
Returns of Third Party Information for APs ending between 1-31 July
- 30 Income Tax**  
Payment of any balance of tax for pre-preceding tax year

### May

- 14 PAYE/PRSI**  
P30 monthly return and payment for month ended 5 May
- 14 DWT**  
Return and payment of DWT for month ended 30 April
- 19 VAT**  
VAT 3 return and payment for period March/April
- 21 PAYE/PRSI**  
P35 for year ended 5 April
- 21 PAYE/PRSI**  
Issue P60's to each employee
- 1-28 Corporation Tax**  
Preliminary Tax for APs ending between 1-30 November
- 1-31 Corporation Tax**  
Returns for APs ending between 1-31 August
- 1-31 Corporation Tax**  
Returns of Third Party Information for APs ending between 1-31 August

### June

- 14 PAYE/PRSI**  
P30 monthly return and payment for month ended 5 June
- 14 DWT**  
Return and payment of DWT for month ended 31 May
- 1-28 Corporation Tax**  
Preliminary Tax for APs ending between 1-31 December
- 1-30 Corporation Tax**  
Returns for APs ending between 1-30 September
- 1-30 Corporation Tax**  
Returns of Third Party Information for APs ending between 1-30 September
- 30 PAYE**  
Return Filing Date for Form P11D and SO2

## TAX CREDIT SYSTEM

Continued from page 1

and wages clerks stated *"In relation to tax credits, while the new format PAYE tax credit certificates will take some getting used to, the introduction of tax credits and the abandonment of confusing Table Allowances will, once people have adjusted to the new system, be simpler to understand. And from a tax policy standpoint, the tax credits system will allow far greater flexibility and targeting in the delivery of future tax reliefs."*

The training / information material is set out in easy to follow steps and includes separate sections on the related tax topics. Samples of the new Tax Deduction Cards and Employer Certificates as well as examples of tax calculations under the new system are set out in detail. The audio / visual presentation should be viewed in conjunction with the PAYE Notice to Employers publication which

issued to all employers in February 2001.

The video runs for 15 minutes and is available with English or Irish subtitles. These viewing options are also available on the CD-ROM. In addition, the CD-ROM has interactive capabilities and is compatible with both PCs and MACs. It also provides access to the PAYE Notice to Employers publication and incorporates a link to the Revenue website.

The main objectives of the training / information video and CD-ROM were to:

- n ensure that all employers are aware of and well-informed about the new tax system

- n provide training and information for frontline wages clerks by explaining in clear terms the changes to the procedures for calculating tax on salary / wages, and

- n familiarise employers with the changes from 6 April 2001.

Seminars, workshops and presentations on the new tax system were also held by Tax Offices for wages clerks and business representative bodies.

Copies of the video / CD-ROM and PAYE Notice to Employers are available from the *Revenue Forms & Leaflets Service* at 01-878 0100. **z**

## REPORT OF THE EMPLOYMENT STATUS GROUP

### Introduction

**This report has been prepared by the Employment Status Group set up under the Programme for Prosperity and Fairness (PPF).**

The group was set up because of a growing concern that there may be increasing numbers of individuals categorised as 'self employed' when the 'indicators' may be that 'employee' status would be more appropriate. The purpose of the report is to eliminate misconceptions and provide clarity. It is not meant to bring individuals who are genuinely self-employed into employment status. The remit of the group is contained in the PPF document at page 18, paragraph 9 as follows:

***"The Office of the Revenue Commissioners and the Department of Social, Community & Family Affairs, in consultation with the Social Partners, will seek a uniform definition of 'employee' based on clear***

***criteria, which will determine the employment status of an individual".***

The group consisted of representatives from the following organisations:

- u **Irish Congress of Trade Unions**
- u **Irish Business and Employers Confederation**
- u **Revenue Commissioners**
- u **Department of Social, Community and Family Affairs**
- u **Department of Enterprise, Trade and Employment**
- u **Department of Finance.**

### Considerations

The group considered two approaches in their deliberations. They considered a legislative approach - to define in statute the traits or indicators of 'employee' status using criteria established by common law over many years. The other approach was to reaffirm the criteria as a Code of Practice and to

distribute the material to as widely a relevant audience as possible.

It was felt by some members that a statutory definition would provide clarity for anyone dealing with or considering the issue of a person's employment status. It was felt by other members that the case law and criteria laid down by the courts over the years provided flexibility and that a statutory approach would interfere with that flexibility, while others felt that a statutory definition might prove detrimental to 'employee' status.

It was decided to issue the report as a Code of Practice which would be monitored by the Group with a view to reviewing the position within 12 months. While it was accepted by the Group that the Code of Practice does not have legislative effect, it was expected that its contents would be considered by those involved in disputes on the employment status of individuals or groups of individuals.

*(Continued on page 4)*



## REPORT OF THE EMPLOYMENT STATUS GROUP Continued

It was noted that the Revenue Commissioners and the Department of Social, Community & Family Affairs have already jointly produced a leaflet in September 1998 entitled **Employed or Self-Employed - A Guide for Tax and Social Insurance**.

The Revenue Commissioners also produced a leaflet aimed at the Construction Industry but which would equally have general application. The Department of Enterprise, Trade & Employment also have a range of explanatory leaflets which, while not specifically relating to 'employee' status, set out comprehensively the rights of employees under different aspects of employment law.

This Code of Practice is also recommended for the consideration of all appropriate adjudication agencies where issues concerning employment status are the subject of a dispute.

### Legal Background

The terms "employed" and "self-employed" are not defined in law. The decision as to which category an individual belongs must be arrived at by looking at what the individual actually does, the way he or she does it and the terms and conditions under which he or she is engaged, be they written, verbal or implied or a combination of all three. It is not simply a matter of calling a job "employment" or "self-employment".

In the Irish Supreme Court case of *Henry Denny & Sons Ltd. T/A Kerry Foods v The Minister for Social Welfare* - [1997] Irish Tax Reports Volume V - Page 238 the fundamental test as to whether a person who has been engaged to perform certain work performs it "as a person in business on their own account" was considered among other matters. This fundamental test was drawn from the UK case of *Market Investigations Ltd v Minister of Social Security* - [1969] QB 173 which has

received extensive judicial approval in this country as well as in the UK and other common law jurisdictions. This fundamental test in that case was amplified by a series of specific criteria, as follows:

Does the person doing the work:

- u assume any responsibility for investment and management in the business or
- u otherwise take any financial risk or
- u provide his own equipment or helpers or
- u have the opportunity to profit from sound management in the performance of his/her task.

From consideration of such tests one is better able to judge whether the person engaged is a free agent and has an economic independence of the party engaging the service.

In most cases it will be clear whether an individual is employed or self-employed. However, it may not always be so obvious, which in turn can lead to misconceptions in relation to the employment status of individuals.

The *Denny* case which is an important precedent in the area of whether a person is engaged under a contract of service (employee) or under a contract for services (self-employed) is of assistance because of the atypical nature of the engagement. The main features of the *Denny* case were:

- u The facts were fully established and articulated and relevant legal principles applied by the Social Welfare Appeals Officer. The High Court or the Supreme Court did not disturb the decision.
- u The employment was atypical - the person engaged was a demonstrator / merchandiser of food products in supermarkets
- u The employment was also casual in nature and would have

included a pool of demonstrators to be drawn from

- u Because of the casual nature of the employment 'mutuality of obligation' would have been an issue i.e. whether or not the person engaged had an obligation to take each engagement when offered

The right of substitution was an issue albeit with the approval of the employer

The employment included fixed term contracts

- u References were made to imposed conditional contracts
- u It was confirmed that the Appeals Officer was correct in deciding not to be bound by an unreported Circuit Court judgement, dealing with a similar issue under an unfair dismissal claim under employment law, which he did not agree with
- u The Appeals Officer was correct in considering "the facts or realities of the situation on the ground" i.e. to look at and beyond the written contract to arrive at the totality of the relationship
- u Certain statements included in the contract and other notes of engagement such as:

*"deemed to be an independent contractor",*

*"It shall be the duty of the demonstrator to pay and discharge such taxes and charges as may be payable out of such fees to the Revenue Commissioners or otherwise",*

*"It is further agreed that the provisions of the Unfair Dismissals Act 1997 shall not apply etc",*

*"You will not be an employee of Kerry Foods",*

*"You will be responsible for your own tax affairs",*

## REPORT OF THE EMPLOYMENT STATUS GROUP

were not contractual terms but that “they purported to express a conclusion of law as to the consequences of the contract between the parties”.

In other words, the fact that such or similar terms are included in a contract is of little value in coming to a conclusion as to the work status of the person engaged.

### Code of Practice in determining status

The criteria set out in the next paragraph should help in reaching a conclusion. It is important that the job as a whole is looked at including working conditions and the reality of the relationship, when considering the guidelines. The overriding consideration or test will always be whether the person performing the work does so “as a person in business on their own account.” Is the person a free agent with an economic independence of the person engaging the service?

### Criteria on whether an individual is an employee

While all of the following factors may not apply, an individual would normally be an employee if he or she:

- u Is under the control of another person who directs as to how, when and where the work is to be carried out
- u Supplies labour only
- u Receives a fixed hourly/weekly/monthly wage
- u Cannot sub-contract the work. If the work can be subcontracted and paid on by the person subcontracting the work, the employer/employee relationship may simply be transferred on.
- u Does not supply materials for the job
- u Does not provide equipment other than the small tools of the trade. The provision of tools or equipment might not have a

significant bearing on coming to a conclusion that employment status may be appropriate having regard to all the circumstances of a particular case.

- u Is not exposed to personal financial risk in carrying out the work
- u Does not assume any responsibility for investment and management in the business
- u Does not have the opportunity to profit from sound management in the scheduling of engagements or in the performance of tasks arising from the engagements
- u Works set hours or a given number of hours per week or month
- u Works for one person or for one business
- u Receives expense payments to cover subsistence and/or travel expenses
- u Is entitled to extra pay or time off for overtime.

### Additional factors to be considered:

- u An individual could have considerable freedom and independence in carrying out work and still remain an employee
- u An employee with specialist knowledge may not be directed as to how the work is carried out
- u An individual who is paid by commission, by share, or by piecework, or in some other atypical fashion may still be regarded as an employee
- u Some employees work for more than one employer at the same time
- u Some employees do not work on the employer's premises
- u There are special PRSI rules for the employment of family members
- u Statements in contracts considered in the ‘Denny’ case, such as “You are deemed to be an independent

contractor”, “It shall be your duty to pay and discharge such taxes and charges as may be payable out of such fees to the Revenue Commissioners or otherwise”, “It is agreed that the provisions of the Unfair Dismissals Act 1977 shall not apply etc”, “You will not be an employee of this company”, “You will be responsible for your own tax affairs” are not contractual terms and have little or no contractual validity. While they may express an opinion of the contracting parties they are of minimal value in coming to a conclusion as to the work status of the person engaged.

### Criteria on whether an individual is self-employed

While all of the following factors may not apply to the job, an individual would normally be self-employed if he or she:

- u Owns his or her own business
- u Is exposed to financial risk, by having to bear the cost of making good faulty or substandard work carried out under the contract
- u Assumes responsibility for investment and management in the enterprise
- u Has the opportunity to profit from sound management in the scheduling and performance of engagements and tasks
- u Has control over what is done, how it is done, when and where it is done and whether he or she does it personally
- u Is free to hire other people, on his or her terms, to do the work which has been agreed to be undertaken
- u Can provide the same services to more than one person or business at the same time
- u Provides the materials for the job
- u Provides equipment and machinery necessary for the job,

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## REPORT OF THE EMPLOYMENT STATUS GROUP **Continued**

other than the small tools of the trade or equipment which in an overall context would not be an indicator of a person in business on their own account

- u Has a fixed place of business where materials equipment etc. can be stored
- u Costs and agrees a price for the job
- u Provides his or her own insurance cover e.g. public liability etc.
- u Controls the hours of work in fulfilling the job obligations.

### Additional factors to be considered:

- u Generally an individual should satisfy the self-employed guidelines above, otherwise he or she will normally be an employee
- u The fact that an individual has registered as self-employed or for VAT under the principles of self-assessment does not automatically mean that he or she is self-employed
- u An office holder, such as a company director, will be taxed under the PAYE system. However, the terms and conditions may have to be examined by the Scope Section of Department of Social, Community and Family Affairs to decide the appropriate PRSI Class.
- u It should be noted that a person who is a self-employed contractor in one job is not necessarily self-employed in the next job. It is also possible to be employed and self-employed at the same time in different jobs.

### Consequences arising from the determination of an individual's status

The status as an employee or self-employed person will affect:

- u The way in which tax and PRSI is payable to the Collector-General.

n An employee will have tax and PRSI deducted from his or her income.

n A self-employed person is obliged to pay preliminary tax and file income tax returns whether or not he or she is asked for them.

u Entitlement to a number of social welfare benefits, such as unemployment and disability benefits.

n An employee will be entitled to unemployment, disability and invalidity benefits, whereas a self-employed person will not have these entitlements.

u Other rights and entitlements, for example, under Employment Legislation

n An employee will have rights in respect of working hours, holidays, maternity / parental leave, protection from unfair dismissal etc.

n A self-employed person will not have these rights and protection.

u Public liability in respect of the work done.

### Consequence for the person or company engaging the service of an individual

In most instances a person's work status will be clear. It is however crucial for a person or company to ensure that a person engaged to perform a service is correctly categorised as an employee or self-employed particularly where there is a doubt. There may, in certain borderline instances, be a divergence of opinion between the contracting parties assumptions and that of the Revenue Commissioners, the Department of Social, Community and Family Affairs or the adjudication systems established under Employment and Industrial Relations legislation.

While it is accepted that the operation of the PAYE and PRSI systems and compliance with the rights of employees under Employment legislation creates an administrative burden for employers, the integrity of the systems very much depends on employers operating them correctly.

Under Tax and Social Welfare law if the status of 'employee' is found to be appropriate the person engaging the 'employee' is the accountable person for any PAYE tax and PRSI deductible while that person was engaged (whether or not any deductions were made) together with appropriate interest and penalties that may arise.

There may also be penalties under various Employment Legislation for wrong categorisation of a person's employment status.

### Deciding Status - Getting Assistance

Where there are difficulties in deciding the appropriate status of an individual or groups of individuals, the following organisations can provide assistance.

#### Tax and PRSI

The Local Tax Office or the Local Social Welfare Office, (a listing of Tax and Social Welfare Offices is in the telephone book). Scope Section in the Department of Social, Community and Family Affairs may also be contacted for assistance.

If a formal decision is required, relevant facts will have to be established and a written decision as to status issued. A decision by one Department will generally be accepted by the other, provided all relevant facts were given at the time and the circumstances remain the same and it is accepted that the correct legal principles have been applied to the facts established.

## REPORT OF THE EMPLOYMENT STATUS GROUP

However, because of the varied nature of circumstances that arise and the different statutory provisions, such a consensus may not be possible in every case.

### Employment Appeals Tribunal

The purpose of the Employment Appeals Tribunal is to determine matters of dispute arising under the Acts relating to Redundancy Payments, Minimum Notice and Terms of Employment, Unfair Dismissals, Protection of Employees (Employers' Insolvency), Worker Protection (Regular Part-time Employees), Payment of Wages, Terms of Employment (Information), Maternity Protection, Adoptive Leave, Protection of Young Persons, Organisation of Working Time, Parental Leave, and Protections for Persons reporting Child Abuse. Disputes in relation to any matter arising under the above-mentioned legislation may be referred either directly, or on appeal (from a Rights Commissioner, where appropriate) to the Tribunal.

### Labour Court

The main functions of the Labour Court are: to investigate industrial disputes under the Industrial

Relations Acts 1946 to 1990, and to issue recommendations for their settlement; to make determinations on appeals against recommendations of equality officers, or for the implementation of such recommendations; to make orders in cases of dismissal under the Employment Equality Act 1998, and the Pensions Act 1990; to decide on appeals against recommendations and decisions of Rights Commissioners under the Industrial Relations and Organisation of Working Time Acts; to establish joint labour committees, to make employment regulation orders prescribing legally enforceable pay rates and conditions in employments covered by the relevant joint labour committees; to register employment agreements, which become legally binding; to register joint industrial councils; to approve and register collective agreements under the Organisation of Working Time Act 1997.

### Department of Enterprise, Trade and Employment

The Employment Rights Information Unit of Department of Enterprise, Trade and Employment may also be contacted for information on labour law issues. This Unit has a range of leaflets on employment law that are available on request.

### Irish Congress of Trade Unions

The Irish Congress of Trade Unions is the single umbrella organisation for trade unions in Ireland representing a wide range of interests.

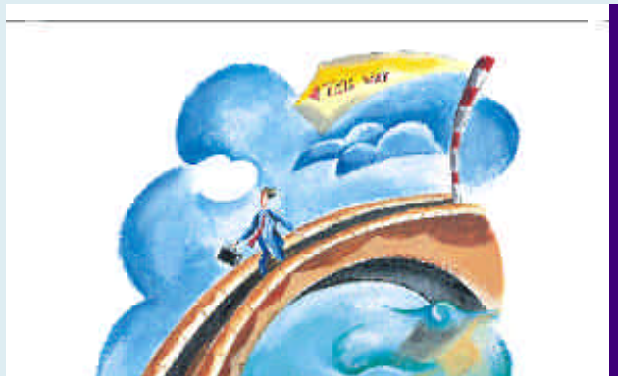
### Irish Business and Employers Confederation

The Irish Business and Employers Confederation represents and provides economic, commercial, employee relations and social affairs services to some 7,000 companies and organisations from all sectors of economic and commercial activity. **z**



## NEW LIFE ASSURANCE REGIME

## Tax Computations



### Introduction

Section 53 Finance Act 2000 introduced new Chapters 4 and 5 into Part 26 of the TCA 1997. Chapter 5 deals with the new exit-tax regime and is not covered in this article. Chapter 4 (including changes made by Finance Act 2001) brings all life assurance companies within a Case I taxing regime, but keeps domestic life business within the I-E provisions to the extent that it relates to life policies written before 31 December 2000.

**Tax Briefing**, Issue 41 (September 2000) gives a general overview of the old and new regimes and how they will interact with one another. This article sets out the Revenue view as to how the provisions of Chapter 4 will apply in practice as regards the format of the tax computation.

The position as set out in this article represents an amendment of the practice as outlined in **Tax Briefing**, Issue 24 (December 1996). The essential difference is that the article in **Tax Briefing**, Issue 24 was concerned with Notional Case I, which is not a real Case I liability, but rather a factor which in the I-E system determines the level of restriction, if any, of management expenses. By way of a long standing practice the Notional Case I figure was taken as the shareholders' profits figure for the purpose of calculating 'pegged rate' relief. As we are now moving on to a full Case I system, regard must be had to what is the true profit after exclusion of amounts belonging to the policyholders. In the case of IFSC companies, there was some ambiguity as to the correct methodology for calculating Case I profits following the article in **Tax Briefing**, Issue 24. As a matter of practice, IFSC companies were allowed to avail of a Notional Case I type calculation. However it should be noted that this practice will no longer apply post 31 December 2000.

The majority of life companies will, from 1 January 2001, have a mixture of old basis and new basis life business and the tax computation will be on the I-E regime for old basis business and on a Case I regime for new basis business. Ultimately, when the old basis business has become

negligible, the new regime will be fully operational for all types of business.

### New Basis Business only

#### Case I Computation - Proprietary Companies

- n The basis of computation will be the transfer to the non-technical account.
- n A proportion of the transfer to the fund for future appropriation (FFA) will be regarded as taxable shareholder profits with the balance treated as belonging to policyholders. The proportion of the transfer to FFA which will be regarded as shareholder profits will be that proportion which represents the upper limit under the company's constitution which may be allocated to shareholders out of any surplus, but subject to a minimum or 'floor' of 5% of the transfer. In the case of negative transfers to the fund, the same proportion will be deductible but only to the extent that the cumulative transfers from 1 January 2001 exceed the value of the fund as at 31 December 2000.
- n The annual transfer to the shareholder non-distributable reserve will be taxable - it is allocated fully to shareholders.
- n Normal add-backs/deductions for tax purposes will be made.
- n A deduction will be allowed in respect of Irish dividend income included in shareholder profits. This will be calculated as follows:

$$\frac{\text{Total Irish Dividend Income}}{\text{Total Technical Income}} \times \text{Profit on Activities (per non-technical a/c)}$$

The following graphic illustrates the position:

	Transfer from technical account	X
Add	Taxation	X
		X
Add	Investment Income	X
	Profit on Ordinary Activities	X
Add	Transfer to fund for future appropriations	X
	Normal add-backs	X
Less	Normal deductions	X
	Capital Allowance	X
	Irish Dividend Income	X
	Taxable profits	X
	Tax payable	X
Less	Tax deducted at source	X
Credits	Double Tax Relief (net basis)	X
	Net Tax Liability	X



## NEW LIFE ASSURANCE REGIME

## Tax Computations

### Notes

- (i) **Technical Income:**  
This is the gross income per the technical account comprised of the following.
  - n Earned Premiums net of reinsurance
  - n Investment Income
  - n Gains on Investments
  - n Any other technical income
- (ii) The reference in the graphic to 'investment income' is a reference to the investment income taken directly to the non-technical account.
- (iii) Total profits will now be assessed under Case I of Schedule D, except for the exceptional circumstances where shareholder assets are disposed of. In that case CGT will apply (e.g. disposal of assets which are not part of the Insurance funds).

### Mutual Companies

- n 5% of the transfer to the fund for future appropriations will be deemed to be profits chargeable under Case III at the trading CT rate.
- n 5% of negative transfers from the FFA can be carried forward against the deemed profits of the following year or carried back against the deemed profits of the preceding year.
- n In the case of a company trading in the State through a branch/agency, the Irish deemed profits will be:
 
$$5\% \text{ of transfer} \times \frac{\text{Irish Mean Liabilities}}{\text{World-Wide Mean Liabilities}}$$

In view of the fact that the FFA is concerned solely with "with-profits" policies the numerator and denominator in the above fraction will exclude non with-profits business.

- n Capital Allowances can be set against deemed profits under Case III.

### Mix of New Basis and Old Basis Business

#### Case I Computation - Proprietary Companies

**Case I** - The total Case I will be calculated on the basis outlined above. However the computation will be adjusted to extract the profits attributable to the 'old basis' business. The methodology would be to attribute income and expenditure into each category to the extent that such income/expenditure is identifiable. Where income/expenditure cannot be the subject of specific attribution e.g. general expenses, capital allowances, then they will be allocated by reference to actuarial valuation. In practice each company will submit a computation with accompanying notes on specific items, as appropriate.

The following is an illustration of the position:

€millions	Old Basis	New Basis	DETE Total	Old Basis	New Basis	Accounts Total
Premiums	70	30	100	70	30	100
Investment Income	40	10	50	40	10	50
Expenses	(5)	(25)	(30)	(5)	(10)	(15)
Claims	(20)	(5)	(25)	(20)	(5)	(25)
Movement in Reserves	(65)	(20)	(85)	(65)	(20)	(85)
Surplus/Profit	20	(10)	10	20	5	25
DETE Transfer	25	(10)	15	N/A	N/A	N/A

Assume that the above example represents the position after a few years into the new regime by which time, say, shareholder tax is 12.5% and standard rate tax is 20%. The company only writes Old Basis business and New Basis business i.e. no pensions or PHI etc. The totals for DETE and for the Accounts bases are from the audited respective annual returns.

It is assumed for simplicity that the only material difference between the two bases is in the treatment of acquisition expenses, these being deferred under the Accounts basis. We also ignore any FFA complications.

The following comments are made in respect of the allocation between Old Basis and New Basis:

- t Premiums will be actual.
- t Investment Income will be actual or mean fund based or a mixture of both.
- t Expenses will be attributed using similar techniques as are currently used to attribute between pension and life business.
- t Claims would be actual.
- t Movement in Reserves would be actual.
- t Surplus or Profit would then fall out from these allocations.
- t It would seem appropriate that the DETE Transfer would be allocated in proportion to Surplus, but restricting any negative transfer on the new basis to the level of negative surplus.

In deriving the tax computation we ignore second order adjustments and in particular we assume that the NCI would equal the DETE Transfer. Accordingly the tax computation would be as follows:

**Old Basis:**  $I - E = 35$  of which 25 (NCI) is taxed at 12.5% and 10 is taxed at 20%.

**New Basis:** 5 is taxed at 12.5% (of course policyholders will have been debited with any exit taxes due).

(Continued on page 10)

## NEW LIFE ASSURANCE REGIME

Continued from page 9

Tax deducted at source - This will follow the relevant attribution of investment income.

**Double Taxation Relief (DTR)** - Again this will follow the relevant attribution of investment income and therefore the amounts of DTR available under each system should be readily available. For new basis business DTR will be available at the CT rate only in respect of the following:

- (i) Investments attributable to new basis life business investments.
- (ii) Investments attributable to Pension, Annuity, and PHI (if already Case I).

Any excess credit will be treated in accordance with the general rules applicable to DTR.

### Pension (PAB) and General Annuity Business (GAB) Case IV

These are to be integrated into Case I going forward. The question of the allowability of pre-31 December 2000 losses arises. It is proposed to deal with these as follows:

- To allow for carry forward of PAB losses to the extent that they can be shown to relate to "unit-linked" business. In the case of non-linked business losses will only be allowed forward to the extent that the valuation of assets in the Case IV tax computation is consistent with the valuation of liabilities in the tax computation. Any other PAB losses are seen as essentially due to timing and therefore adequately covered by the untaxed portion of the FFA.
- To allow carry forward of GAB losses as reduced by any Foreign Fund Relief previously allowed.

### Permanent Health Insurance (PHI)

To allow any losses forward into the new regime, where PHI previously assessed under Case I of Schedule D.

### Mutual Companies

- Deemed profits chargeable under Case III (as outlined above) to be reduced by the proportion of the FFA transfer attributable to 'old basis' business. In practice, each company should submit notes outlining the methodology used for attribution between new and old business.
- PAB & GAB losses to be allowed on the same basis as for proprietary companies.
- 5% of negative transfers to the FFA will be deductible only to the extent that the cumulative transfer from 1 January 2001 exceed the value of the fund as at 31 December 2000 and in so far as they relate to new basis business.

### I-E Basis

This will continue for 'old basis' life business. The existing law and practice will continue to apply and in particular the Notional Case I will be calculated by reference to the position outlined in the **Tax Briefing** article in Issue 24.

### IFSC Companies

- The existing practice will cease on 31 December 2000.
- The new basis for calculation of Case I profits will be effective from 1 January 2001. A separate charge for shareholders investment income will no longer apply from 1 January 2001 and accordingly the losses forward will be available against all IFSC profits.
- IFSC and domestic business will continue to be treated as separate trades for tax purposes. The provisions of *Section 730A(3) TCA 1997* as they apply to IFSC companies are to be interpreted as preventing the set-off of IFSC losses against domestic business written from 1 January 2001, but not over-riding the legislation already in place as regards business written under the IFSC certificate.

### Industrial Branch Business (IB)

All IB business falls within "old basis" business, including business written on or after 1 January 2001. **z**

## REVENUE ON-LINE SERVICE (ROS)

## New Developments



### Phase 2 of ROS went live on 6 April 2001

We are pleased to be able to inform our readers that Phase 2 of ROS went live on 6 April last. Among the additional features and enhancements being provided in phase 2 is the facility for employers to file end of year tax details on P35 and P35L, through ROS.

In order to avail of the new developments you should register as a ROS customer. To register, simply click on the option on the ROS home page and follow the three steps as shown. For security reasons both your ROS Access Number and your Digital Certificate Password will be land mailed to you. Once you have drawn down your digital certificate onto your PC you can access all the ROS services.

If you are already a ROS customer then a notification to file will be e-mailed to you automatically. This facility will automatically appear in the *secure services* option on our home page along with all the other available existing options. It will be possible for both employers and practitioners to make returns, and there will be both an on-line and off-line facility available for P35L. A CD allowing you to make off-line returns will be sent out on request. Existing CD users will be issued with an updated version automatically.

**If you require a CD or further information on this new service, please contact the ROS**

**information desk at 1890 20 11 06  
or e-mail us at  
roshelp@revenue.ie.**

### ROS Information Service

ROS will now provide through its on-line information service an innovative facility whereby tax practitioners and businesses can view on-line VAT and employer tax details for all their clients for the first time. This is a major customer service initiative and will help reduce or eliminate unnecessary contact with the Collector-General's office and with tax offices. This service will include facilities to view a chronological list of activities on any registration. This "Event List" will allow customers to view in much greater detail individual transactions such as payments, refunds or charges and collection details. Customers will continue to be able to view statements of account and detail of returns submitted or outstanding under either the VAT or employer registration.

### More customers

Since ROS went live on 29 September 2000, it has continued to attract new customers at a rate of around 70 a day. These customers have continued to file forms VAT 3, P45 and P30 returns on line. Over 2,000 are going through the set up process to join ROS while a further 2,000 have retrieved their digital certificates and are now fully fledged users of our system.

The original target for payment of tax received through ROS was £50m. to be made by September 2001. As at 30 March 2001 payments to the value of £389m. have been paid through the ROS system, and over 6,000 returns have been electronically filed. We believe the success to date and the addition of new and useful services will serve to increase significantly our customer base.

The system has proven to be quite simple to use, and we are anxious to encourage as many practitioners as possible to avail of the services

offered. ROS is easily navigable and is accessed via the Revenue website at [www.revenue.ie](http://www.revenue.ie). Simply click on the Revenue On-Line Service option on the home page and you can explore some of the features of ROS before actually registering.

With the busy month of January over, it has meant that more practitioners are in a position to apply for their digital certificates and thereby file returns for clients in March and April. In fact there has been encouraging interest shown by tax practitioners in the system, with favourable comment received through the ROS information desk.

### Move to XML

For our more technically minded readers it might be interesting to note that we are now improving the quality of the service by using an XML format for filing forms P45, P35 and P35L off-line. This up to date standard of presentation of documents will make it easier to view files and documents.

### Hints and tips on using ROS

Arising from customer queries to our Information desk, (at 1890 20 11 06) we have put together some useful tips on using ROS. These may be of particular assistance to those who are not too familiar with the operation of the Internet.

### Java virtual machine (vm):

Java virtual machine (vm) is the software required to allow the Java program to operate and effectively help you draw down your digital certificate. You must enable the Java (vm) in order to do this. To enable Java (vm), you must have the software which can be easily downloaded from the Internet. The Java (vm) enable option is accessed on your internet site by choosing Tools/internet options/advanced/java. After enabling it, you have to restart the computer using the restart option in programs. This will ensure the program is active.

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## REVENUE ON-LINE SERVICE (ROS)

Continued from page 11

### Slow response times

Callers to our information desk over the past few months have sometimes said that the response time on their PCs was a little slow. Here are some hints on ways to speed up the reaction times on your system which will help you to use ROS more efficiently.

### Cookies:

Cookies are sent to your computer by various Internet site operators in order to build up a picture of how internet users are using the services they are providing. They are harmless but tend to slow down reaction times. It is useful therefore to clean the cookies from your PC every once in a while. This is done through the C: Directory in WINNT / Temporary Internet Files. This will give more space and allow you to access ROS without undue delay.

### Temporary Internet files:

As with cookies, these should be deleted in order to help speed up response times. This option is found in the Internet options box in the tools menu on your home page. It is also useful to clear the history using the same method.

### Digital Certificates:

As with all important files loaded onto PCs it is necessary to make a backup to ensure a copy is available in the event of something happening to the PC. Your digital certificate is located on the C Drive of your PC, therefore before upgrading your machine or changing the Windows software, copy your Digital certificate onto a diskette. This will ensure that you have a copy in the event of the Hard Drive being cleaned.

If you have any difficulty with your digital cert either downloading it or accessing it or indeed any other aspect of ROS please call the ROS information desk at 1890 20 11 06. Experienced staff are available to take your telephone queries on any issue

pertaining to the ROS system. You can also e-mail the desk at [roshelp@revenue.ie](mailto:roshelp@revenue.ie).

### Computer Gym

Computer Gym is a mobile classroom with eight networked PCs on which it is possible to give customers individual training on the use of ROS. This facility is being made available countrywide and has proved quite successful in giving customers an insight into the use of ROS.

To arrange bookings from most urban areas and to organise an appointment please phone 01-2762824 or e-mail [info@computergym.iol.ie](mailto:info@computergym.iol.ie). The staff at computer gym will make arrangements for a visit to your office or to an area close to your office.

### Future developments

There are significant new developments planned in future phases of ROS. The following services were made available to customers on 6 April this year:

#### Phase 2 - April 2001

- Electronic filing of P35 and P35L
- On-line access to VAT and employer tax details through ROS Information Service
- Release of Apple Mac compatible version of ROS
- Release of screen reader compatible version of ROS for the visually impaired.

**From October 2001 the following facilities will be made available:**

#### Phase 3 - October 2001

- Electronic filing of self-assessment tax return for individuals - form 11
- Electronic filing of self-assessment tax return for companies - form CT 1
- Calculation facilities for both

**As part of the above programme there will be a significant development to enable tax practitioners view on-line data related to Income Tax and Corporation Tax. This will be of assistance in the calculation of preliminary tax payments. It is important therefore to become a member of ROS before October in order to avail of these facilities.**

### Capture of financial accounts information

As advised in of **Tax Briefing** Issue 42 ROS Form 11 and CT 1 filers will have to complete appropriate menus for the capture of accounts information, with different sized menus for cases with turnovers above and below a turnover figure of £150,000.

Within these two categories there will be a number of options catering for General Trades and Services, Professional Services and Farmers.

Proposed menus have now been drafted and circulated to professional bodies, representative groups and a number of tax practitioner firms for their observations. Several software companies are also being consulted as it is hoped that some of these will be in a position to provide ROS compatible software which will facilitate the posting of the relevant accounts data to ROS without the need to re-key the information.

Copies of the menus are available on the Revenue website at [www.revenue.ie](http://www.revenue.ie) in the Electronic Services section of Services. Copies are also available from Seán Leake of ROS at [sleake@revenue.ie](mailto:sleake@revenue.ie) or 01-2090403.

Your comments and suggestions before the end of April are more than welcome.

A detailed article on the electronic submission of self-assessment returns and accounts information will be carried in a future issue of **Tax Briefing** 7

## P35 END OF YEAR RETURN

Tax Year 2000/01

### P35 Time Again

#### Introduction

Most employers have by now received their P35 return for completion. In some cases due to a computer programming error P35 L forms include the name and Personal Public Service (PPS) Number of employees who ceased employment prior to 6 April 2000. **Tax practitioners when completing the forms for clients must ensure that the full details are supplied for all employees who worked with the employer in the period 6 April 2000 to 5 April 2001.** Please draw a line through the names of any employees who left an employment before 6 April 2000.

There will be a delay in sending the P35 return to a number of employers and it will be sent in the week ending 21 April. These P35L Forms will only contain the names of employees who worked with an employer in the 2000/2001 tax year.

#### P35 Helpline

The P35 Helpline is available again this year to assist employers and practitioners in dealing with any queries or problems that they may have completing the returns. The Helpline number is 1890 254565 (ext 63811) and calls are charged at local call rates.

#### Employers with Computer Payrolls

The vast majority of employers with computer payrolls are now forwarding their employee details on diskette.

Returning on diskette is a very attractive option for employers and the benefits include:

- Employee tax credit details are issued to employers on diskette in subsequent years

- Form filling becomes almost non-existent

- The time required to make the return is greatly reduced.

We are again asking those employers with computer payrolls who have not yet started returning on diskette to do so. Further information on the diskette system can be obtained from Mairead Sheedy on 1890 254565 (ext 63172).

#### Pre-formatted Disk

The system whereby practitioners can return employee details using a pre-formatted diskette provided by Revenue has proved to be extremely popular. The feedback from those practitioners who have used the system has been very positive with the following aspects being highlighted as the main benefits:

- The facility to print P60's
- The facility to print P35 Summary Reports for reference purposes if required
- The provision whereby multiple employers' returns can be made on one diskette
- The fact that basic validation rules have been built into the system thereby detecting errors at input stage and thus reducing later queries from Revenue
- The inclusion of a Help facility.
- The 'roll-over' feature which enables all relevant data from the previous year to be automatically pre-filled on return for current year.
- The P35 Declaration becomes the only form for manual completion.

Further improvements to the software package for practitioners include a more comprehensive option to cater for all PRSI classes, an enhanced help facility and generally more user friendly option menus.

The system also caters for customers wishing to submit EURO returns.

A copy of the disk issued recently to all practitioners or it can be downloaded from Revenue's website: [www.revenue.ie](http://www.revenue.ie). If you are not already doing so you may wish to consider filing the P35 Returns on Diskette. If you have any queries or require further information please contact Ann Slevin or Collette Mangan at 067-44013/44172 (LoCall 1890 254565 ext. 63413/63172).

#### Employers with no Employees

A return indicating zero liability must be made for registered employers who had no employees during the tax year.

#### General

Revenue is asking all practitioners and employers to

- **Ensure that the forms and giro are only used for the employer to whom they are issued. This is because each form is pre-coded with details that are unique to that employer.**
- Return the original forms. Photocopies should not be used. Additional stationery is available from the P35 Returns Unit by calling the Helpline number - 1890 254565 (ext 63811).
- Ensure that each employee's PPS (formerly RSI) No. is included. The employee PPS No. is of the utmost importance in ensuring that employees can claim their social welfare benefits. If in exceptional cases, the employee's PPS No. is not available, the employee's name, address, and date of birth must be included on the return. In the absence of this information employees will face huge difficulties in claiming their benefits.

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## P35 END OF YEAR RETURN

Continued from page 13

### P35 Returns On ROS

The Revenue On-Line Service, in addition to the services already provided, will allow customers the facility to submit forms P35 on-line from 6 April 2001. This advance will make it even easier to submit end of year returns.

The completion of forms P35 has been simplified in recent years, specifically with the use by employers of the diskette method of submission. ROS will provide the same facilities for employers on-line, will assist in speeding up the transfer of employers' Tax and PRSI information to Revenue, and will

help Revenue in their dealings with end of year reviews for employees.

In order to help customers change from the current methods of filing there will be a facility to import details from the current diskette system.

In addition to the above, the following are some of the main features of the new P35 filing service in ROS:

- n ROS will facilitate printing of P60's for employees in both on-line and off-line versions and there will be a facility to upload directly to ROS from both third party payroll software and ROS off-line applications.
- n Customers will have facility to print a copy of the P35 in Adobe Acrobat format from their inbox. In addition to this the offline system will also provide an option to print a copy of the P35L and P60.
- n Stationery will be provided to ROS offline customers for printing of P60's.
- n In the event of a loss of data by a customer through damage to their own system ROS will provide a facility for data recovery. This will provide extra security for customers. **z**

## STOCKLENDING & REPO TRANSACTIONS

### Revenue Information Notice

In April 1999, Revenue issued a revised Information Notice on arrangements for the taxation of stocklending/sale and repurchase (repo) transactions. The Notice was published in **Tax Briefing**, Issue 36 (June 1999). The purpose of this note is twofold:

- t To clarify an aspect of the Notice about which concerns have been expressed as to its applicability to IFSC companies engaged in stock borrowing transactions, and
- t To provide details of an amendment to one paragraph in the Notice.

#### Paragraphs (iv) and (v) under the heading "Revenue Approach"

Where all other conditions of the Information Notice are met, an IFSC company which borrows foreign securities and makes a manufactured

payment to the securities lender is not precluded from availing of the terms of paragraphs (iv) and (v) of the Notice.

#### Amendment to Paragraph (iv) under the heading "Revenue Approach"

Paragraph (iv) of the Notice has been amended by the insertion of the second sentence set out hereunder.

(iv) Manufactured payments will normally be deductible by borrowers against the real dividends or interest in computing the borrowers' liability to Irish tax. **In the computation, the amount of the manufactured payment must be deducted directly from the related real dividends or interest and should not be deducted from any other income.** No deduction will, however, be granted for the manufactured payment where the real dividend or interest:

- u is exempt from tax either because the income is franked investment income or because the borrower is an exempt fund, or
- u does not give rise to Irish tax in the hands of the borrower by virtue of an entitlement to credit relief for foreign underlying tax.

Any queries in relation to any aspect of this note should be referred to

*Direct Taxes International and Administration Division,  
Financial Services Unit,  
Dublin Castle,  
Dublin 2.*

Telephone: 01-7024105  
Fax: 01-6793314 **z**



## FINANCE ACT 2001

## Income Tax

### Income Tax

#### Benefit-in-kind - Preferential Loans

*Section 5 Finance Act 2001* increases the “specified rate” of interest used to calculate the benefit-in-kind to employees from loans made available to them at preferential rates of interest by their employers.

For preferential mortgage loans i.e. where the loan is for the purchase, repair or improvement of the borrower’s sole or main residence, the specified rate is increased from 4% to 6% and for other loans it is increased from 10% to 12%. The new rates apply for the year of assessment 2001 and subsequent years of assessment.

#### Health expenses relief

##### Introduction

*Section 8 Finance Act 2001* amends *section 469 TCA 1997* and gives effect to the widening of tax relief in respect of un-reimbursed health expenses. The changes apply for the year of assessment 2001 and subsequent years of assessment.

##### Claims in respect of Dependent Relatives

At present, subject to a de minimis of £100 per individual and £200 per group of dependants, an individual is entitled to claim relief in respect of un-reimbursed health expenses incurred in respect of himself/herself, his/her spouse, dependent children and also dependent relatives who are relatives for whom the taxpayer is in receipt of what is known as the Dependent Relative Allowance. This latter allowance is subject to an income qualification.

*Section 8* amends the definition of dependant for the purposes of health expenses to specifically include categories of persons covered by the dependent relative allowance **but without the income qualifications**. In other words, a

taxpayer will be able to claim health expenses relief directly, in respect of the designated relatives, without first having to qualify for the Dependent Relative Allowance.

##### Educational psychological assessments and speech and language therapy services for children

Relief will also apply in respect of expenses incurred on educational psychological assessments and speech and language therapy services for children.

For the purposes of *section 469*:

“educational psychologist” means a person who is entered on a register maintained by the Minister for Education and Science in accordance with guidelines set down by that Minister with the consent of the Minister for Finance.

“speech and language therapist” means a person approved by the Minister for Health and Children in accordance with guidelines set down by that Minister with the consent of the Minister for Finance.

Unlike educational psychologists, speech and language therapists will not be included on a register but will instead be **approved** by the Minister for Health and Children.

##### Routine maternity care

The present exclusion from relief of expenses for routine maternity care is abolished.

##### Approved Share Option Schemes

*Section 15* provides for a new taxation system for share options granted to employees under schemes approved by the Revenue Commissioners.

Current legislation imposes an income tax charge at the time of the exercise of a share option, at a person’s marginal rate of tax, on the difference between the price paid for the shares and the market value at the

date of exercise of the option. A charge to capital gains tax arises on any subsequent disposal of the shares on the difference between the market value at the date of exercise of the option and the proceeds of the disposal of the shares.

*Section 15* provides that under an approved share option scheme the charge to income tax at the date of exercise of the option will not apply and, instead, the employee will be chargeable to capital gains tax on the full gain (i.e. the difference between the amount paid for the shares and the amount received) on a disposal of the shares. To qualify for this favourable treatment there will be a requirement that the period between the date of the grant of the option and the date of any subsequent sale of the shares must be at least 3 years.

To qualify for approval by the Revenue Commissioners, schemes must be open to all employees and must provide that employees be eligible to participate in the scheme under similar terms. Under the similar terms rule the options may be granted by reference to remuneration, length of service or other similar factors.

In order to assist companies in the retention of those employees who are vital to the companies’ success but who, because of their skills and experience are highly mobile, the scheme may, however, contain a “key employee” element where options can be granted which do not meet the similar terms conditions, provided at least 70 per cent of the total number of shares over which rights are granted under the scheme in any year are made available to all employees on similar terms. Employees cannot participate in both elements of the scheme in the same year. There will be no limit on the number or value of shares that can be covered by tax efficient options.

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## FINANCE ACT 2001

Continued from page 15

Shares used in the scheme must form part of the ordinary share capital of the company and, in general, must not be subject to restrictions that do not apply to other shares of the same class.

Where options are exercised on or after 15 February 2001 but before the scheme is approved by the Revenue Commissioners, these will also qualify for the new relief provided the scheme is approved before 31 December 2001 and that at the time of both the grant and exercise (if prior to approval) the scheme would have been capable of being approved had the legislation been in force from 15 February 2001.

### Relief for premiums under qualifying long-term care policies

*Section 20* provides for tax relief, similar to that currently available for medical insurance, in respect of premiums on qualifying insurance policies designed to provide cover, in whole or in part, for future care needs of individuals who are unable to perform at least two activities of daily living or are suffering from severe cognitive impairment. The relief will be at the standard rate and will be given under a relief at source system, that is, the subscriber will be able to deduct the relief from the gross premium due. The amount deducted will be refunded by Revenue to the insurer. Benefits payable under a qualifying policy will not be taxable. Qualifying policies, which must be approved by Revenue, may be taken out by an individual in relation to himself or herself, his or her spouse and children and other relatives. Policies must generally be renewable, be standalone and must not provide for a termination lump sum payment or surrender for cash.

### Relief for Fees paid for third level education etc.

*Section 29 Finance Act 2001* inserts a new section into the TCA 1997 to provide for the amalgamation of the existing four tax reliefs for third level education fees. The section also extends the reliefs by removing the restrictions for repeat years, on individuals undertaking more than one course, on individuals already holding a third level qualification and the exclusion of certain courses in medicine, dentistry, veterinary medicine and teacher training. The reliefs are also being extended for postgraduate fees paid for third level education in private and publicly funded third level colleges in non-EU countries. Tax relief for undergraduate fees will also now be available in EU countries for duly accredited private third level colleges.

### Seafarer Allowance

*Section 30 Finance Act 2001* amends *section 472B TCA 1997* which provides an annual allowance of £5,000 for certain seafarers.

The *1998 Finance Act* introduced this allowance for those seafarers engaged in voyages to and from a foreign port in an EU flagged ship. The allowance applies to employees on board EU registered passenger ferries and freight carrying vessels, as well as to crews of vessels servicing drilling rigs in foreign waters. The *1999 Finance Act* extended the allowance to the crews of vessels servicing drilling rigs in Irish waters.

For tax years to 2000/01 inclusive, a seafarer must spend at least 169 days at sea in a tax year in order to qualify for the allowance. *Section 30 Finance Act 2001* now provides that for the short tax "year" covering the period from 6 April 2001 to 31 December 2001 the figure of 169 days will be reduced to 125 days [i.e.  $169 \times 74\%$ ] - see following paragraph where the 125 days is reduced to 119 days subject to Ministerial Order.

However, *section 30* also makes provision for a general reduction in the number of days required to be at sea in order to qualify for the allowance. For the short tax "year" 2001 qualification for the allowance will require not less than 119 days to be spent at sea, while for the tax year 2002 and subsequent tax years the number of days required to be at sea will be reduced from 169 days to 161 days. This aspect of *section 30* will be activated by way of Ministerial Order following EU Commission approval for the reduction has been obtained.

*Section 30* also adjusts the amount of the allowance to take account of the short tax "year" 2001. For that short tax "year" only, the amount of the allowance will be reduced to £3,700.

Finally, *section 30* converts the allowance of £5,000 to 6,350 euro with effect from 1 January 2002.

### Foreign earnings Deduction

#### Introduction

*Section 31 Finance Act 2001* amends *section 823 TCA 1997*. That section provides tax relief by way of a deduction against earnings in the case of certain Irish resident employees who work overseas, other than in the UK, during a tax year. The relief does not apply to civil and public servants, military personnel or employees of any State boards or bodies. The relief is aimed at those committed to working abroad for significant periods. Thus, to qualify, a person must work abroad for at least 90 days in a tax year or in a "relevant period".

A "relevant period" is a continuous period of 12 months straddling two tax years. However, no one day can form part of two relevant periods. Each period of absence must include a continuous period of at least 11 consecutive days, referred to in the legislation as "qualifying days". The amount of the deduction is related to the time spent on a foreign employment, but there is an overall

## FINANCE ACT 2001

## Income Tax

cap of £25,000 on the amount of the deduction which may be availed of by an individual in any one tax year.

### Changes made by Section 31

The changes made by *section 31* are threefold:

Firstly, the definition of a “qualifying day” is amended to put beyond doubt that such a day is a day on which an individual is absent from the State for the whole of the day and not just at midnight. This means that no day will be counted more than once as a qualifying day. The new definition of “qualifying day” will apply as on and from 26 January 2001.

The definition provides that a qualifying day is a day on or before 31 December 2003 (this effectively terminates the relief on 31 December 2003) which satisfies certain conditions. The conditions are that the day in question be one of at least 11 consecutive days throughout the whole of which the individual is absent from the State for the purposes of performing the duties of his or her office or employment, or of those duties and the duties of other offices or employments of the individual outside the State, and which (taken as a whole) are substantially devoted to the performance of such duties.

Secondly, a termination date of 31 December 2003 is provided for the relief.

Thirdly, a number of changes are made to the relief consequent on the introduction of the calendar tax year and the necessary operation of a short preceding tax “year” to cover the period from 6 April 2001 to 31 December 2001. The amount of the relief is calculated by way of a formula which includes a denominator of 365 representing the number of days in a normal tax year.

For the short tax “year” this denominator is reduced to 270, being the number of days in the period

from 6 April 2001 to 31 December 2001. In addition, for the short tax “year” the minimum number of days on which it is necessary to work abroad in order to qualify for relief is reduced from 90 days to 67 days. Finally, for the short tax “year” the overall cap on the relief is reduced from £25,000 to £18,500.

### Rent-a-room relief

*Section 32 Finance Act 2001* implements the “rent-a-room” scheme which was announced by the Minister for Finance on Budget day. It provides that where an individual rents out a room or rooms in a “qualifying residence” and the rent received, including sums received for the supply of services such as meals and laundry, is £6,000 or less for a year of assessment, no tax is payable on the rent. To cater for the short tax “year” i.e. the year of assessment 2001, the limit is £4,440. Where more than one person is entitled to the rent the limit is divided between the persons concerned. **Room rentals coming within the scope of the scheme will not affect the person’s entitlement to mortgage interest relief or the capital gains tax exemption on the disposal of a principal private residence.**

Where

- in a year of assessment an individual is chargeable to tax under Case IV or Case V in respect of his or her qualifying residence, regardless of whether the sums are derived from one or more sources, and
- the amount of relevant sums does not exceed the individual’s limit for the year of assessment,

then those profits / gains or losses of that year of assessment arising in respect of all relevant sums are treated as nil. No deductions for expenses are made in ascertaining the amount of relevant sums - [*subsection (2) of section 32*].

The foregoing treatment does not apply for a year of assessment where an individual so elects in writing before the date that a return is due - [*subsection (3) of section 32*].

*Subsection (4)* provides that this section does not affect the obligation to make a return.

“Qualifying residence” means a residential premises in the State which is occupied by an individual as his or her principal private residence during the year of assessment.

“Residential premises” means a building / part of a building used as a dwelling.

“Relevant sums” are sums received by an individual in respect of his or her qualifying residence for the use of a room or rooms in the qualifying residence for the purpose of living accommodation. It also includes sums received for meals, cleaning, laundry and other similar goods and services which are incidentally provided in connection with that use.

### Wear and Tear Allowances

*Section 53 Finance Act 2001* gives effect to the Budget day announcement to reduce from 7 years to 5 years the write-off period for annual wear and tear capital allowances in respect of capital expenditure on plant and machinery.

Up to this point the allowances operate on a straight line basis over 7 years, that is, allowances are given at the rate of 15% in the first 6 years and at 10% in year 7. For capital expenditure incurred **on or after 1 January 2001**, the allowances will be given at the rate of 20% p.a. over 5 years.

This new regime will apply to both the general plant and machinery capital allowances and the allowances for business motor vehicles. It will not apply to taxis and short-term hire

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## FINANCE ACT 2001

## Corporation Tax

vehicles which will retain their 40% p.a. reducing balance arrangement. Nor does it apply in respect of capital allowances on certain fishing vessels.

### Taxation of Credit Unions Dividends and Interest

Section 57 amends the TCA 1997 in order to provide for the measures announced in the 2001 Budget in relation to the tax treatment of credit union dividends and interest and in relation to tax exemptions for certain medium and long-term accounts held in credit unions and other financial institutions.

Under existing arrangements, there are two types of account in credit unions - regular share accounts and deposit accounts. The Budget measures provide for the creation of two additional types of account - a special share account and a special term share account. The present tax treatment of regular share accounts - liability of credit union members to declare dividends to the Revenue Commissioners and pay tax thereon at one's marginal rate of tax - will remain the same under the new measures; the existing similar liability for deposit account interest will be replaced however by the automatic deduction of Retention tax. As regards the new special share and special term share accounts, the tax treatment of which is set out below, these are being created solely for the purposes of giving effect to the taxation provisions and do not create any new rights for the purposes of the Credit Union Act 1997. While one of the conditions attaching to the special term share account is that no more than £500 per month can be deposited in such an account, there will be no restriction on a credit union member depositing any amount in excess of this sum in any of the other accounts i.e. a deposit account, regular share account or special share account.

The section provides that a credit union member:

- (a) will be liable to pay DIRT on deposit interest at the standard rate of tax
- (b) may opt to hold shares in a special share account, the dividends from which will be liable to DIRT at 20%, and
- (c) where the member is an individual, may opt to hold shares in a special term share account for a term of either 3 or 5 years. A tax exemption will apply for the first £375 p.a. of dividends received where the funds are invested for a minimum of three years and for the first £500 p.a. of dividends received where the funds are invested for five years. These amounts are reflected as £278 and £370 respectively for the short tax "year" 2001 and as €480 and €635 respectively for subsequent tax years. Any dividends received in excess of these amounts will be liable to DIRT at 20%. The section further provides that equivalent tax exemptions will apply in relation to interest on deposits held in special 3 and 5 year term accounts with other relevant deposit-taking financial institutions. Annual returns, with details of new special term account holders, must be made by the credit unions and the financial institutions to the Revenue Commissioners.

The provisions of this section will commence by way of an Order to be made by the Minister for Finance.

### Return Filing and Payment

Section 78 amends Part 41 (Self-Assessment) of the TCA 1997 to provide for the introduction of a common tax return filing and tax payment deadline for self-assessed income tax and capital gains tax. The section also makes a number of other changes to the self-assessment system which are largely consequential on

the introduction of this common filing and payment deadline. This topic will be covered in detail in the next issue of **Tax Briefing**.

### Corporation Tax Corporation Tax Rates

Section 83 Finance Act 2001 implements the Budget announcement that a rate of 12½% applies from 1 January 2001 to the trading income (other than trading income taxable at the 10% or 25% rate) of a company where that trading income does not exceed £200,000 in a year. Where the trading income is between £200,000 and £250,000 marginal relief is available so that the rate of tax moves gradually from 12½% up to the standard corporation tax rate of 20%. Prior to 1 January 2001, the 12½% rate applied to the trading income of a company where that income did not exceed £50,000, with marginal relief where the income did not exceed £75,000.

### Interest on certain loans

Section 85 Finance Act 2001 amends section 130 of the TCA 1997. That section sets out the meaning of the term "distribution" for the purposes of the Corporation Tax Acts. Broadly, a distribution is any dividend or other distribution out of the assets of a company in respect of shares in the company. The scope of the definition is widened to include a variety of other payments which are treated as distributions. A distribution is not deductible in calculating a company's income. It is regarded as a distribution out of the company's income rather than an expense in earning that income.

One of the categories of payment which is treated as a distribution is interest paid by a company on a loan if the level of interest on the loan depends on the results of the company's business. This is designed to prevent what are in reality equity investments being disguised by

## FINANCE ACT 2001

## Capital Gains Tax

companies as loans in order to obtain an interest deduction.

A new type of loan - referred to as a "ratchet loan" - which has been developed for commercial reasons has a link between the level of interest on the loan and the borrowing company's profitability. However, the link is that a lower interest rate applies when the borrower's results improve (because the lender's risk thereby reduces) and a higher interest rate applies when the borrower's results disimprove. Nevertheless, as the level of interest on the loan is linked to the borrowing company's profitability, the interest is technically "caught" by *section 130* and treated as a distribution.

As these loans are commercial in nature and are not a mechanism to disguise an equity investment as a loan, the interest on them should not be recharacterised as a distribution. This section provides accordingly.

### Capital Gains Tax

#### Rollover relief on certain investment property

*Section 92* provides for capital gains tax rollover from 5 January 2001 in respect of certain investment property. This relief was previously only available in respect of assets of a trade. The property must be a residential property in respect of which the person is entitled to rent. It must contain at least three separate residential units and must comply with certain Housing Regulations. The relief provides that no capital gains tax is payable where the proceeds from the sale of the property are reinvested in another residential investment property which has at least the same number of separate residential units as the property which was sold. Instead, the gain is deferred until such time as the replacement premises is disposed of.

The same conditions which apply to the existing rollover relief for trading assets apply to the relief for investment property. The principal conditions are that the replacement property must be acquired in the period one year before and three years after the disposal of the original property. Partial relief is available where the property was not a "qualifying" property throughout the whole period of ownership by the person.

#### Transfer of site from parent to child

*Section 93* provides that capital gains tax will no longer apply on the transfer of a site from a parent to a child where the transfer takes place after 6 December 2000 and is to enable the child to construct a principal private residence on the site. The site must not be valued at more than £200,000 to qualify for the relief. However, if the child subsequently disposes of the site without having occupied a principal private residence on the site for at least three years, then the capital gain which would have accrued to the parent on the initial transfer will accrue on the child. However, this gain will not accrue to the child where he or she transfers an interest in the site to his or her spouse.

#### Disposal of certain residential development land

In the *Finance (No. 2) Act 1998*, the capital gains tax rate was reduced from 40% to 20% for disposals of development land to a housing authority, or disposals of development land which had planning permission for residential development. It was provided for, in that Act, that this 20% rate would be increased to 60% for disposals after 5 April 2002.

The *1999 Finance Act* continued this approach by extending the 20% capital gains tax rate for disposals up

to 5 April 2002, of land zoned for residential development and disposals to the National Building Agency and to the Voluntary Housing Sector.

In the *Finance Act 2000*, the rate of capital gains tax on the disposal of land generally was reduced to 20%.

*Section 94 Finance Act 2001* abolishes the 60% capital gains tax rate for the disposal of residential development land which was to take effect for such disposals on or after 6 April 2002. The rate will now be 20% as it is for disposals of land generally.

#### Disposal of farmland under compulsory purchase order

*Section 95* amends the capital gains tax relief which is available where a person disposes of farmland, under a compulsory purchase order, for the purpose of road construction or widening. Where the consideration for the disposal of the farmland is invested in other assets which are used for the purposes of a trade, no capital gains tax is charged on the disposal, but the replacement assets are deemed to have been acquired at the same time as the original farmland. This, in effect, means that the gain on the disposal of the farmland is deferred until the replacement assets are disposed of.

This section extends the relief to all land and also extends the time frame within which replacement assets must be acquired for the relief to be available. Relief will now be available where the replacement assets are acquired within the period of two years before and eight years after the disposal of the land. Previously, the replacement assets had to be acquired in the period one year before and three years after the disposal of the land.

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## FINANCE ACT 2001

## VAT

### VAT

The main VAT changes introduced in *Finance Act 2001* are as follows :

#### Transfer of a business or part thereof

*Section 182* amends *section 3* of the *VAT Act* which deals with the supply of goods.

*Subsection (a)* is part of a series of measures in relation to the transfer of business rules. It amends *section 3(5)(b)(iii)* which provides that the transfer of ownership of goods in connection with the transfer of a business is not a supply of goods. The amendment provides that where a business has ceased trading a transfer of ownership of goods in relation to a transfer of the business is not subject to VAT.

This section has effect from 30 March 2001.

*Section 183* amends *section 5* of the *VAT Act* which deals with the supply of services.

*Subsection (b)* is another part of the package on the transfer of business rules. It amends *section 5(8)* which provides that the transfer of intangible assets, such as goodwill, in the context of a transfer of a business is not a supply of services. It extends the cases where VAT is not chargeable to transfers between farmers and between non-taxable persons generally. In practical terms, this means that, for example, a transfer of a milk quota between farmers does not give rise to a VAT liability. The amendment also provides that the transfer of business rules apply where a business has ceased trading.

The section has effect from 30 March 2001.

*Section 191* inserts a new *section 12D* to provide for new rules in relation to property transferred in connection with the transfer of a business under *section 3(5)(b)(iii)* of the *VAT Act*. It is part of the package of measures

dealing with the transfer of business. These new rules limit the opportunities for a person with restricted entitlement to deductibility to acquire properties totally VAT-free under *section 3(5)(b)(iii)*. This is an anti-avoidance measure to ensure that the VAT-free transfer of business rules are not exploited.

*Subsection (1)* is a definitions section.

*Subsections (2) and (3)* allow the person making the transfer to deduct VAT trapped on his or her acquisition of the property being transferred. *Subsection (2)* provides that a person who makes a transfer in accordance with this section is entitled to get an input credit in respect of the remaining 'VAT-life' of the property. *Subsection (3)* sets out a formula to cover situations where the person making a transfer previously made a payment to the Revenue as a person receiving a transfer under *subsection (4)* of this section.

*Subsection (4)* provides that the person to whom the property is transferred must pay an amount to the Revenue in respect of the trapped VAT associated with the property, again taking account of the remaining 'VAT-life' of the property. This subsection ensures that a person with partial deductibility cannot exploit the VAT-free transfer rules to get a property VAT-free.

The section has effect from 30 March 2001.

#### Electronic Invoicing

*Section 193* amends *section 17* of the *VAT Act* which deals with invoices.

*Subsection (a)* is a simplification measure which will facilitate electronic invoicing. It provides that a person may issue or receive an invoice by electronic means without prior authorisation from Revenue, provided that the system or systems are secure and conform with specifications set down by regulations and that both the supplier

and the recipient comply with regulations.

*Subsection (a)* has effect from 30 March 2001.

*Section 199* makes a number of amendments to the First Schedule to the *VAT Act* which deals with exempted activities.

#### VAT on Research by Universities and Others

*Section 199 (a)* amends the *First Schedule (Par (ii))* of the *VAT Act* to confirm that the supply of research activities carried on by universities and other similar organisations is not an exempted activity and is liable for VAT at 20%. This change is effective from 1 September 2001.

#### Tolls

*Section 199 (b)* amends *Paragraph (iv) of the First Schedule* to exclude the "service of allowing a person to use a toll road or a toll bridge" from the VAT exemption. Such toll charges are liable to VAT at 20% with effect from 1 July 2001. This subsection gives effect to the European Court of Justice Case C-358/97 which ruled that tolls charged for the use of toll roads and toll bridges are subject to VAT.

The charges for entrance to, and tour of, historic houses, gardens continues to be exempt as the letting of immovable goods.

#### Insurance Services

*Section 199 (c), (d), and (e)* deal with insurance services. The subsections amend the exemption for insurance and insurance services to tie it more closely to the wording of the Sixth Directive (Art. 13 (B) (a)). It removes the specific reference to loss adjusters. As a result the latter are now only taxable on their advisory services and qualify for exemption on their supply of the services covered in the new description of insurance services. The purpose of the amendments is to include claims



## FINANCE ACT 2001

## VAT

handling and settlement services in relation to insurance, which are currently treated as taxable, as exempt services where they are carried out by an agent under binding delegated authority from the insurance provider. These subsections are effective from 1 May 2001.

### Direct Debit and Interest payable in relation to Direct Debit

Sections 194 and 195 deal with payments by direct debit and the relevant interest position

Section 194 amends Section 19 in relation to VAT due and payable. Subsection (a) provides a statutory

basis for the system of payments by direct debit and subsection (b) requires a person authorized to pay by direct debit to agree a schedule of payments with the Collector General. The agreed amounts should be the traders best estimate of his/her annual liability and they must be continually reviewed and revised, where necessary. The section has effect from 30 March 2001

Section 195 amends Section 21 in relation to the interest position of those paying VAT by direct debit. The change provides that if the balance of VAT remaining to be paid at the end of the traders accounting

period is more than 20% of the actual liability for that accounting period, then simple interest is payable on that balance from a date six months prior to the end of that accounting period. However if the trader can show that, had he been submitting normal bi-monthly returns together with the payments as made, that the interest payable would be less than now calculated, only the lesser amount of interest will be payable.

The section has effect from 30 March 2001.

## FINANCE ACT 2001

## Capital Taxes



### Stamp Duty

Section 206 gives effect to the Budget announcement exempting from stamp duty a parent to child site transfer, on or after 6 December 2000, provided it is for the construction of the child's principal private residence and the market value does not exceed £200,000. The exemption is limited to one site per child.

Section 208 firstly provides that there will be no clawback of stamp duty relief granted to owner occupiers and first time buyers of dwellinghouses and apartments where the person in occupation, on or after 6 April 2001, receives rent for a letting of furnished residential accommodation in part of the dwellinghouse or apartment concerned. The change applies to instruments executed on or after 6 December 2000. Secondly, the section provides that first time purchaser relief is, subject to compliance with certain conditions, extended to situations where there is a decree of nullity or a deed of separation. This change is effective from 15 June 2000.

Section 209 inserts a new section 92C into the Stamp Duties Consolidation Act 1999 to provide relief for investors from the 9% stamp duty rate for new residential property. The new rate, for instruments executed on or after 27 February 2001, is 3% for new properties up to £100,000 and the same rate as non-first time owner occupiers for properties above that amount. The investor rate for secondhand residential properties remains at 9%.

Rates of Stamp Duty for Residential Property (Including New Changes)

Market Value	First Time Buyers	Other owner occupiers	Investors 2nd hand houses/ apartments	Investors New houses/ apartments
Up to £100,000	Nil	Nil	9.00%	3.00%
£100,001 - £150,000	Nil	3.00%	9.00%	3.00%
£150,001 - £200,000	3.00%	4.00%	9.00%	4.00%
£200,001 - £250,000	3.75%	5.00%	9.00%	5.00%
£250,001 - £300,000	4.50%	6.00%	9.00%	6.00%
£300,001 - £500,000	7.50%	7.50%	9.00%	7.50%
Over £500,000	9.00%	9.00%	9.00%	9.00%

Section 212 exempts Permanent Health Insurance policies and Critical Illness policies, issued on or after 1 January 2001 by the life assurance industry, from the £1 per policy stamp duty charge.

Section 213 firstly provides that the threshold below which stamp duty is not chargeable on mortgages is increased from £20,000 to £200,000 in respect of instruments executed on or after 26 January 2001. Secondly, the section provides for the abolition of the 0.1% stamp duty charge on life assurance policies taken out or varied or after 1 January 2001.

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## FINANCE ACT 2001

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Section 214 amends *section 2 of the Finance (No. 2) Act, 2000* which provides that investors, who have contracts evidenced in writing before 15 June 2000, can avail of the stamp duty rates prevailing prior to 15 June 2000, provided that the conveyance or lease is executed on or before 31 January 2001. This deadline is extended to 31 July 2001.

### Capital Acquisitions Tax

*Section 217* amends the clawback provisions for agricultural relief. This relief is clawed back where the property in question is sold or compulsorily acquired within 6 years of the valuation date unless the proceeds are reinvested within a year of the sale or compulsory acquisition in other agricultural property. In the case of compulsory acquisitions made on or after 6 December 2000, the re-investment period is extended to 4 years.

*Section 218* provides for an exemption from capital acquisitions tax of an inheritance taken on or after 26 January 2001 of a work of art which is on loan to an Irish institution at the time of death of a foreign resident donor.

*Section 219* increases from three to six years the period during which Government securities must be held by an Irish domiciled (or ordinarily resident) donor in order for a gift or inheritance of those securities taken by a foreign beneficiary from that donor to qualify for exemption from capital acquisitions tax. The section applies to gifts or inheritances taken on or after 15 February 2001 where the securities are acquired on or after that date.

*Section 221* inserts a new *section 59D* into the *Capital Acquisitions Tax Act 1976* which provides that foster children will be treated in the same way as other children for CAT purposes under the Group 1 threshold (currently £316,800). To qualify for this treatment the fostered person must have been cared for and maintained from a young age up to the age of 18 for a successive period amounting to 5 years and must also have resided with the donor (foster parent(s)). The 5 year limit will not apply in the case of a formal fostering under the relevant Child Care Regulations where the foster child inherits on the death of the foster parent. The section applies to gifts or inheritances taken on or after 6 December 2000.

*Section 222* inserts a new *section 59E* into the *Capital Acquisitions Tax Act 1976* which provides that gifts or inheritances taken by an adopted child from a natural parent, on or after the passing of the *Finance Act 2001*, will be entitled to the Group 1 threshold (currently £316,800).

*Section 223* amends *section 61(1)* of the *Capital Acquisitions Tax Act 1976* which provides that where one of the parties to a joint deposit account dies the Banker concerned must, before paying money out of the account and to avoid the imposition of a penalty, obtain an inheritance tax clearance certificate from Revenue whenever the account exceeds £5,000. The limit is increased to £25,000 in respect of deaths occurring on or after 26 January 2001.

*Section 225* gives effect to the Budget announcement for the abolition of Probate Tax as respects deaths occurring on or after 6 December 2000.

*Section 228* amends *section 127 Finance Act 1994*, which defines relevant business property for the purposes of CAT business relief. The change allows businesses carried on wholly or mainly abroad, whether through the medium of a company or otherwise, to qualify for CAT business relief. In addition, the requirement that the company in question must be incorporated in the State, or that the land, buildings, plant or machinery in question must be situated in the State, is removed.

*Section 229* amends *section 143 Finance Act 1994*, which provides for the computation of tax on discretionary trusts. In order to encourage early winding up of trusts the initial charge of 6% is reduced to 3% retrospectively by way of refund if the assets of the trust are distributed within 5 years. This section extends this relief to a trust which comes into existence on the death of a life tenant and applies to relevant inheritances taken on or after 26 January 2001.

### Anti-Speculative Property Tax

*Section 230* gives effect to the Government's decision, announced on 27 February 2001, not to proceed with the anti-speculative property tax due to come into effect on 6 April 2001. z

## MEDICAL INSURANCE RELIEF

## TRS



### Tax Relief at Source (TRS)

#### Introduction

Section 19 Finance Act 2001 amends section 470 TCA 1997, which provides tax relief for medical insurance premiums. It has two aims:

- u to widen the range of expenses that can be covered by a medical insurance policy qualifying for tax relief, and
- u to introduce, with effect from 6 April 2001, tax relief at source (TRS) for medical insurance relief.

#### Overview

The first change being effected by section 19 is that the expenses that may be included in medical insurance policies qualifying for tax relief will be the same as those for which health expenses tax relief is allowed (under section 469 TCA 1997). This widening of the range of qualifying expenses will, in particular, include items of primary care (such as the services of a general practitioner) which would not - under present arrangements - come within the scope of qualifying medical insurance policies.

The second change is that under the TRS scheme tax relief for qualifying medical insurance premiums will no longer be given through the tax system. Instead, the relief will be granted at the time the insurance premium is paid to the medical insurer. The premium will be reduced by a percentage equal to the

standard rate of income tax - thereby giving relief to the person paying the premium. The medical insurer will be reimbursed the equivalent of the standard rate reduction by the Revenue Commissioners.

Supporting regulations will deal with administrative aspects of the scheme. In particular, the regulations will deal with the making of repayment claims by medical insurers, the making of annual information returns to Revenue by those insurers and the provision of information to Revenue for the purposes of the regulations.

#### Medical Insurance premiums up to 6 April 2001

Up to 5 April 2001, tax relief for medical insurance premiums (at the standard rate of income tax) was given through the tax system. In the case of PAYE taxpayers, the relief was given in the certificate of tax-free allowances; and in the case of self-employed persons, the relief was given through the self-assessment system.

The relief was allowed in the year following the year in which the premium is payable.

#### Tax Relief will be given "at source" from 6 April 2001

From 6 April 2001, tax relief for medical insurance premiums will no longer be given through the tax system but will instead be granted "at source", that is, the tax relief element will be netted off against the gross premium. At the standard rate of income tax of 20%, subscribers will pay a reduced premium (80% of the gross amount) to the medical insurer and the insurer will claim the tax relief back from Revenue.

The new TRS system is a more efficient way of giving tax relief in respect of medical insurance premiums. Subscribers will get the correct relief in the form of reduced insurance premiums as the payments are made. It will not be necessary to

claim the relief in an annual tax return or to contact the tax office. Adjustments to the tax relief (for example, if an individual changes from a particular health insurance plan to another in the course of the tax year) will be made automatically by the insurer.

#### New scheme will apply to renewals (or new policies) from 6 April 2001

The new system will apply to existing policies which are renewed on or after 6 April 2001 and for new policies taken out after that date. For example, if a subscriber would normally be billed for a gross annual premium of £1,000 on the renewal date of 1 June 2001 (for the year to 31 May 2002), that subscriber will now, under the new relief-at-source scheme, be billed instead for £800 (i.e. £1,000 x 80%). The £200 tax relief (i.e. £1,000 x 20%) will be netted off against the gross premium and claimed by the insurer from Revenue.

#### Transitional arrangements: premiums billed in the tax year 2000/2001

Under the new TRS scheme from 6 April 2001 relief for medical insurance premiums will be given on a current year basis. In order to ensure that tax relief for premiums paid in the tax year 2000/01 is not lost in the move to a current year basis, the full amount of such premiums will also be relieved (through the tax system) in the short tax "year".

As the pre-April 2001 scheme allowed tax relief in the year following the year in which the premium was payable, premiums payable in the tax year 2000/2001 will continue to be allowed through the tax system. In other words, the tax relief for premiums paid in the year to 5 April 2001 will be given for the short tax "year", 6 April 2001 to 31 December 2001.

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If in the example above the subscriber was billed on 1 June 2000 for a premium of £950 (in respect of the year to 31 May 2001), this amount of £950 will be allowed in full, through the tax system, in the short tax "year" commencing 6 April 2001.

### Non-taxpaying individuals

The new method of giving relief for medical insurance premiums will mean an extension of that relief to persons paying such premiums but who, at present, do not get tax relief because their taxable income is insufficient to avail of the relief. Under the TRS scheme, all individuals regardless of their income level and their tax liability will be entitled to the same reduced premium payments.<sup>z</sup>

## Employee Perquisites

### Introduction

Section 21 Finance Act 2001 caters for the situation in which an employer pays the **medical insurance premiums and long-term care insurance premiums** of an employee as part of that employee's remuneration, that is, as a perquisite (or "perk"). As medical insurers would not be able to distinguish such payments from others made by employers on behalf of their employees - usually payments of premiums under group scheme arrangements - all premium payments by employers will be treated in the same way, that is, the reduced premiums under the relief at source scheme (TRS) will be payable in all cases.

This section ensures that both employees and employers are, in effect, treated in exactly the same way as under the pre-April 2001 system in relation to the taxation of the perquisite.

### Tax treatment of perquisite - Employee

An **employee** is chargeable to income tax at his/her marginal rate on the value of the gross premium (as a taxable perquisite) but will be given a credit for tax relief, at the standard rate, in respect of that premium in the calculation of the tax chargeable on that perquisite. As was the case under the pre-April 2001 system, standard rate employees will pay no additional tax on the perquisite while higher rate employees will pay tax (at the difference between the higher and standard rates) on the gross value of the perquisite.

### Tax treatment of perquisite - Employer

To maintain a neutral tax position vis-à-vis the pre-April 2001 situation in the case of the employer, the value of the tax relief at source will be recovered. The employer deducts and retains income tax at the standard rate of income tax (20%) under the relief

at source arrangements and a charge of income tax equal to the standard rate percentage of the gross premium is imposed on the employer.

The employer makes a payment equal to 20% of the gross premium to Revenue. This tax payment will be allowed as a deduction in taxing the employer's profits so that, when combined with the amount of premiums actually paid to the insurer, the employer will get a deduction for tax purposes equivalent to the gross premium as is the case under the pre-April 2001 system.

### Example

*An employee receives a renewal notice on 1 July 2001 from the insurance company showing gross premium, £1,000 and tax relief at source, £200 leaving a net amount payable of £800. The employer company pays the premium as part of the employee's remuneration (i.e. perquisite) i.e. the employer pays the £800 to the insurance company.*

The tax position is:

#### Employee:

The employee is taxed on the gross premium, £1,000 [i.e. net premium, £800 plus tax relief at source, £200] and is given a medical insurance tax credit of £200 [i.e. gross premium, £1,000 x 20%].

#### Employer Company:

The company, which has an accounting date of 31 December, pays the net premium, £800 direct to the insurance company on 1 July 2001. The company gets a deduction for the gross premium, £1,000 in arriving at the taxable profits.

A payment equal to the amount of the tax relief at source i.e. £200 must be made by the company with its payment of preliminary tax on 30 June 2002. Details of the payments of perquisites and tax deducted must be included in the company's corporation tax return, Form CT1 for the accounting period to 31 December 2001 - due 30 September 2002. <sup>z</sup>

## SAVINGS SCHEME

## SSIAs

### New Savings Scheme Special Savings Incentive Accounts

A new savings scheme has been introduced to encourage regular savings by individuals. The main features of the scheme are as follows:

- n For every amount saved in the scheme, the Exchequer will contribute to the individual saver's account a tax credit equal to 25% of that amount. This is equivalent to giving tax relief on savings at the standard rate of income tax.
- n The scheme will start on 1 May 2001 and accounts must be commenced on or before 30 April 2002 (i.e. the first subscription must be made to the account on or before that date) The tax credits will be paid in respect of subscriptions made to the account in the month of commencement and the subsequent 59 months.
- n Special Savings Incentive Accounts will be managed, on behalf of an individual saver, by a range of bodies such as banks, building societies, the Post Office Savings Bank, credit unions, life companies, fund managers and stockbrokers. A Special Savings Incentive Account can comprise investments in deposits, credit union shares quoted shares, government securities, collective funds or life assurance products as determined by the account manager.
- n Tax credits will be forwarded by Revenue directly to the account manager and added to the savings in the account. The Government will not be operating or guaranteeing the account or the return on investment - this will be a matter between an individual and his or her account manager. It will be a matter for each individual to assess the level of risk he/she wishes to take.
- n To obtain maximum benefit from the savings scheme the savings must be held for the full term which ends 30 days after the fifth anniversary of the end of the month in which the account commences. [This is to allow time for the tax credit due in respect of the final subscription to the account to be forwarded to the account manager by the Revenue].
- n Where an account is held for the full term or, if earlier the account holder dies, tax will be deducted by the account manager at the rate of 23% but only from the income or gains arising from investment of the subscriptions and tax credits. In other words tax is applied to the difference between the total value of the account at full term less the aggregate of all subscriptions and tax credits lodged to the account. This tax will be deducted by the account manager when an account has been held for a full term whether or not the funds are withdrawn from the savings account at that time.
- n Where before an account has run its full term there is a withdrawal from an account, the full amount withdrawn will suffer tax at 23%. The tax is applied:
  - n where the withdrawal is in cash, to the amount of the withdrawal,
  - n where the withdrawal is of assets, to an amount equal to the market value of such assets.
- n An individual aged 18 years of age or over can commence an account. An account holder must be resident in the State for tax purposes and either resident or ordinarily resident throughout the period the account is held. Each individual is allowed only one account and on commencing the account will be required to provide documentary evidence of his or her PPS No. (personal

public service number) to the account manager concerned and to complete a declaration

- n SSIAs are individual accounts - joint accounts are not permitted. A husband and wife can each independently open an account. While the general requirement is that each account must be funded out of the account holder's own resources, this requirement does not apply in the case of married couples. For example, if only one spouse has income, that income can fund both spouses' SSIA.
- n The maximum amount that an individual can lodge to an account in any one month will be £200, and the tax credit to the account will be £50 for each £200 lodged. A minimum amount of £10 per month must be saved by an individual for the first year of the account. After the first year an individual may save any amount in a month from £0 to £200 over the remaining four year period.
- n It is possible for an individual to transfer a special saving incentive account from one account manager to another.
- n Lodgements to the account must be made from funds available to an individual and his/her spouse. However funds cannot be borrowed or the repayment of sums borrowed cannot be deferred for the purposes of funding lodgements to the account.
- n The assets held in an account cannot be used as security for a loan.

Set out below are some examples of how the scheme will operate. It should be noted that the figures used in the examples for investment returns are for illustration purposes only; it will be a matter between the individual and the account manager what actual investment return is involved.

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## SAVINGS SCHEME

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### Example 1

Joe opens an account with his preferred account manager and decides to save £50 a month for the five year period. Joe will save £3,000 over the five year period and the Exchequer will contribute a further £750. If the return on investment is assumed to be 4% per annum the return on this £3,750 saved over a period would be of the order of £390 which would be taxed at 23% leaving a net gain of £300. Thus Joe would have £4,050 at the end of the five year period for £3,000 saved, a gain of £1,050 after tax.

### Example 2

Anne decides to open an account and save the maximum of £200 per month. She will save £12,000 over the five year period and the Exchequer will contribute £3,000.

Again assuming a 4% return the gain on this £15,000 would be of the order of £1,564 which would be taxed at 23% leaving a net gain of £1,204. Thus Anne would have £16,204 at the end of the five year period, a gain of £4,204 after tax.

### Example 3

George saves £100 per month throughout the 5 years, but in year 3 he seeks to withdraw some funds to meet a financial emergency. His account is "topped-up" by a tax credit of £25 each month, and at the end of the period he has a balance on the account of £8,100, which is made up of:

- n cash savings of £6,000 ( $£100 \times 12 \times 5$ );
- n a tax credit top-up of £1,500 ( $£6,000 \times 25\%$ );

- n income/gains of, say, £1,100;
- n less: the year 3 cash gross draw-down of £500 (net £385);

In year 3 the savings manager will deduct 23% tax from the gross withdrawal of £500, pay £115 to Revenue and the balance £385 to George.

At the end of year 5 the savings manager will deduct 23% tax (i.e. £253) from the £1,100 income/gains and pay it to Revenue. The balance remaining in the account (£7,847) can be drawn down at that stage without any further tax charge. **z**

## COMPLIANCE CAMPAIGNS

2001

### Introduction

The non-filer compliance campaigns are ongoing and will now include the most recent return due. During the course of these campaigns, non-filers may be contacted by way of telephone or receive a personal visit from a tax official and be asked to submit **all** outstanding returns. In some instances, the person may be asked to call into the tax office to resolve issues relating to non-compliance.

Criminal prosecution under *Section 1078 TCA 1997* in respect of non-filing offences is now a regular feature of our compliance campaigns. A person convicted in respect of non-filing offences or targeted as part of previous compliance campaigns may not receive one of these 'contacts' and is likely to be referred

immediately to prosecution stage in respect of all outstanding tax returns.

### Corporation Tax Return for accounting period ending in year to 31 December 1999

The final due date for all companies in respect of corporation tax returns for accounting periods ending in the year to 31 December 1999 expired on 30 September 2000. The compliance campaign in respect of these returns commenced on 31 January 2001 with the issue of a letter to the secretaries of all non-compliant companies seeking that tax return. This letter is similar to that which issued last year [see **Tax Briefing** Issue 38 dated December 1999]. As in previous years, practitioners will, on request, be able to get a list of their non-filer client cases from tax districts.

### Tax Return 1999/2000

The due date for submission of the 1999/2000 tax return was 31 January 2001. The compliance campaign in respect of this return will commence in April with the issue of a letter to all 1999/2000 non-filers seeking that return. The letter is similar to that which issued for the 1998/99 tax return [see **Tax Briefing** Issue 39 dated March 2000]

As in previous years, tax practitioners will be advised by letter of those of their clients who have been asked to submit their 1999/2000 tax return.

**Note: We would appreciate if you would notify Revenue when a client moves address or ceases to trade. This may avoid further unnecessary contact from Revenue. **z****



## CESSATION OF A TRADE

## Tax Treatment

### Cessation of a trade or profession or change in accounting date - review of preceding year

*This article replaces a footnote to an article on cessations which was published in **Tax Briefing** Issue 36 (June 1999).*

Where a trade or profession is treated as ceasing permanently and the taxpayer has been charged for the tax year preceding the year of cessation on the basis of the profits of a period of 12 months ending in that year, the assessment for that year must be increased to the profits of that tax year [section 67 TCA 1997]. Similarly, where in a tax year there is a change in accounting date, the assessment for the preceding year must be increased to the profits of a corresponding period of 12 months [section 65(3) TCA 1997]. A question has arisen as to whether the taxpayer is required to bring an adjustment for the preceding year to the notice of Revenue.

Section 879 TCA 1997 provides that the amount of profits or gains to be included in a return of income are the profits computed in accordance with the Income Tax Acts. Where under section 65 the profits of a year ending on a date within the year of assessment are to be taken as the profits of a year of assessment, the profits to be included in the return are the profits of that 12 month period.

Where an adjustment under either section 67 or section 65(3) is required the computation of the profits to be included in the return for the

preceding year is changed. In the case of a cessation, the taxpayer is charged on the profits of the year preceding the year of cessation; in the case of a change in accounting date, the taxpayer is charged on the profits of a corresponding period of 12 months ending in the tax year. Accordingly, the profits or gains returned for the preceding year are no longer the profits or gains on which the taxpayer is to be charged to tax and the return requires amendment. The return is no longer correct, in view of the adjustment that is required.

Section 1084(1)(b)(ii) TCA 1997 provides that where a person delivers an incorrect return but does not do so either fraudulently or negligently and it comes to that person's notice, that person will be regarded as not having delivered a timely return unless the error is rectified without unreasonable delay. Where the error is not so rectified, a surcharge will arise.

Section 1053(3) TCA 1997 [Penalty for fraudulently or negligently making an incorrect return] is in similar terms to section 1084(1)(b)(ii). It treats a return as having been made negligently where an error is not corrected without unreasonable delay.

In the case of a return that requires to be corrected by reference to a review under either section 67 or section 65(3), the taxpayer will be regarded as having remedied the error without unreasonable delay if he or she brings the cessation or the change in accounting date to the attention of

the Inspector when making a timely return for the tax year in which the cessation or change in accounting date takes place. The figures necessary for the Inspector to do the review should be provided at that stage. To minimise delays, we would ask practitioners to provide a computation of the revised profits chargeable for the year. The Inspector can then process these figures in accordance with self-assessment principles.

The additional tax due as a result of such an amendment will be due one month from the date of the amendment provided the taxpayer's return for the year is otherwise complete [section 958(8)(b) TCA 1997]. With effect from 6 April 2001, additional tax due as a result of an amendment under section 65(3) will be due and payable on or before the specified return date for the following year of assessment.

The treatment of revisions due under section 65(3) will also apply to any revisions necessary under the new subsections (3C), (3D) or (3F) of section 65 which have been introduced by Schedule 2 Finance Act 2001 - changeover to a calendar tax year of assessment. The due date for tax as a result of these amendments is one month from the date of the amendment provided the return for the year is otherwise complete. **Z**

## REVENUE'S PROSECUTION POLICY

In an article published in June 1999 in **Tax Briefing** Issue 36, entitled Revenue's Prosecution Policy we outlined the developments which had taken place in Revenue in relation to the prosecution of serious tax offences. In particular, we referred to the change of approach since 1996.

The developments since then included the establishment of a Prosecution Policy Unit and dedicated Prosecution Units within the Investigation Branch. They have resulted in the investigation and direct referral by Revenue officers of cases to the Director of Public Prosecutions for directions as to prosecution. This new area of work for Revenue has been a learning curve, involving the acquisition of new skills and methodologies by our officers and their direct involvement in the Criminal Justice system.

We have to date obtained convictions in ten of the cases investigated fully by our officers. Jail sentences have been handed down by the Courts in two of those cases. Suspended sentences were handed down in another two cases and fines in the others. There are thirty cases currently being investigated, two before the Courts and four others are

awaiting the directions of the DPP. We recognise the changing public attitude towards tax evasion. Revenue will build on its progress to date.

Last year, resulting from proposals made by the Management Advisory Committee in Revenue, it has been decided to establish a new Revenue Prosecution Division. This proposal was endorsed in the Report of the Steering Group established by the Minister for Finance. This Division will be established during 2001 and will be responsible for further developing the approach to prosecution of cases of serious evasion. It is intended that ultimately the Division will co-ordinate all prosecution activity undertaken by Revenue. Arrangements for the setting up of a Project Team to design the new Division are currently being made.

In the earlier **Tax Briefing** article, we gave details of six prosecutions taken in 1998 and the convictions recorded. Some of these cases had been passed to the Gardai for investigation under the pre-1996 arrangements. Below are details of some of the cases prosecuted since then.

In February 2000, in the Limerick District Court, Thomas Kirby, director of Kirby Electric Ltd. of the

Corner House, Thomondgate, Limerick, was convicted of consenting or conniving at making an incorrect Corporation Tax return in respect of the company and was fined £750.

In October 2000, Patrick O'Doherty, director of Babel International Language Services Organisation Ltd., Turret St., Ballingarry, Co. Limerick, was sentenced to two years imprisonment in the Circuit Criminal Court, Limerick, for falsely obtaining VAT repayments.

In January 2001, Sean Travers, The Rath, Ardcath, Co. Meath, received a twelve month suspended sentence in the Circuit Criminal Court, Trim, for making a VAT repayment claim based on a false invoice.

On 6 April 2001, Ignatius Forde, Killeslin Rd., Graigcullen, Co. Carlow, a director of Bradford Productions Ltd. (in liquidation), was sentenced to twelve months imprisonment in the Circuit Criminal Court, Carrick-on-Shannon, for submitting false PAYE returns.

Several other cases are at an advanced state of preparation and some of these are expected to reach the Courts later this year.<sup>z</sup>

## VAT COMMITTEE

## Publication of Guidelines



### Introduction

A total of 19 Guidelines have been approved for publication following review by the EU Commission Services of guidelines agreed from meetings of the Committee held in the years from 1996 to 1998 inclusive.

That review of earlier years meetings is still ongoing.

Unless otherwise stated, where unanimous agreement is not reached, it may be taken that Ireland's position is reflected in the majority agreement.

### Meeting No 47 - 11/12 March 1996

#### Article 16 Removal from tax-warehousing arrangements and person liable for payment

A large majority of the delegations confirmed the conclusions agreed by Working Party No 1 at its meeting of 18 and 19 May 1992 and took the view that the fact of goods being removed from warehousing arrangements did not in itself constitute a taxable transaction. Nevertheless, when goods were removed from warehousing arrangements, it should be checked that the amount of value-added tax due on the stored goods was the same as if exemption had not applied. In the event of the goods having been resold successively in the warehouse, the delivery resulting in their being removed from warehousing arrangements no longer qualified for

exemption under Article 16; application of the normal taxation or exemption rules for this delivery makes any other corrective measures superfluous.

However, in cases where removal from warehousing arrangements was unconnected to the delivery of the stored goods, corrective measures should be implemented where the goods remained on the territory of the Member State which authorised the warehouse.

#### Article 16(1)(B)(E) Goods likely to be placed under warehousing arrangements other than customs warehousing

All delegations took the view that goods subject to excise duties could not give rise to exclusive placing under the VAT tax-warehousing arrangements provided for in Article 16(1)(B)(e). However, the Member States agreed that places which were approved as warehouses pursuant to Directive 92/12/EEC on excise duties could be recognised in parallel as VAT warehouses.

### Meeting No 48 - 28 June/8 July 1996

#### Article 16(1)(B)(e) Goods to which warehousing arrangements other than customs warehousing apply

##### Exclusion of the goods intended to be supplied at the retail stage.

The Committee considers **almost unanimously** that in order to preserve the general VAT principle of taxation at each stage of production/marketing, recourse to warehousing arrangements other than customs warehousing should not be automatic.

In this respect, the condition provided under paragraph 1 (e) according to which goods may not have been "*intended to be supplied at the retail stage*" should be interpreted not only with regard to the nature of the goods but also taking account of the possible different destinations of the goods such as whether they are

intended for export or use in a production process as opposed to being destined for distribution for retail sale. The result is that the nature of the goods alone is not sufficient as the criterion to determine tax warehouse treatment but under no circumstances is it permissible for retail stock to be kept in a tax warehouse.

#### Article 28a(5) and 28b(F) Consolidated document on transactions, other than bilateral, involving work on movable tangible property (cases No 1 and 4.2)

The Committee **unanimously** takes note of the up-dating work on the simplification of a number of contract work transactions already agreed by the Working Party No 1 at its meeting on 25 and 26 May 1993. The changes are made necessary (i) by the removal of the term contract work" (deletion of Article 5 (5) (a)) and the amendment of Article 28a(5), and (ii) by the insertion of a new section F in Article 28b in connection with the adoption of Council Directive 95/7/CE of 10 April 1995.

The delegations agreed **unanimously** that:

1. All the simplification cases have the following elements in common:
  - u the agreed simplification for applying tax consists in treating, in an identical manner, transactions which are similar from a tax and economic viewpoint
  - u the conditions governing the application of Section F of Article 28b are met as the goods, that have to undergo the work, are dispatched or transported outside the Member State where the services were physically carried out
  - u if the goods to be worked on are making temporary stops or are strictly speaking not subject of an expedition or re-expedition

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## VAT COMMITTEE GUIDELINES

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towards the principal, the finished products have, from the outset, a known final destination: they are solely destined to the client/principal.

2. All simplifications are based on the **same interpretation**: the requirement that the finished products be returned to the Member State of initial departure, as foreseen in Article 28a paragraph 5 (b) 5th indent, is deemed to have been satisfied everywhere temporary stops occur. This presupposes **that the individual places in which the work is carried out are not regarded as places of arrival of the goods to be worked on.**

The simplification examples described constituted typical cases from which precise conditions have been laid down to enable simplifications to be made. Provided that other Community tax legislation was not affected and subject to the conditions laid down being observed, each of the simplifications envisaged could in practice be combined with any of the other simplifications.

The Committee **unanimously** considers that the document XXI/2118/95 Rev. 2 could be published in order to make this information available to operators and to strengthen the coherence of the implementation of these simplifications within the Union.

### Article 15(2) Method of calculation of the 175 ECU threshold

The delegations are **unanimously** of the opinion that, for the application of the exemption according to Article 15(2), the threshold of ECU 175 (or the lower value specified by the Member State in which the supply is deemed to be located) can be ascertained by invoice: implying that the exemption can concern the delivery of several goods shown on a

single invoice, issued by the same taxable person for the same customer. The threshold mentioned cannot refer to various invoices issued by one or by different taxable persons regarding deliveries carried out for one or more customers.

**Meeting No. 49 -  
8/9 October 1996**

### Article 15 (10) Common form for the application of the Article 15 (10) exemption

**All** delegations agreed to the common VAT and excise duty exemption certificate for the application of Article 15 (10) of the Directive as this had been amended following linguistic comments having been received from delegations.

**Meeting No. 50 -  
7 November 1996**

### Article 18 paragraph 1b) Customs import documents - Indications required to exercise the right to deduction of VAT payable on import

The Committee **unanimously** feels that Article 18 paragraph 1b) of the Sixth Directive must be interpreted as meaning that the import "document" specifying the recipient or the importer of the goods and stating or permitting the calculation of the amount of tax due does not necessarily have to be an original paper copy of a certificate, but may take the form of electronic data insofar as the importing Member State has introduced a system allowing customs formalities to be completed by computer.

In this case, it falls to the importing Member State, which lays down the rules for the making of the declarations and payments of VAT, to take the necessary measures to ensure that the import declaration system provides every opportunity for checking regarding the exercise of

the right to deduction, e.g. via electronic means.

**The vast majority of the Committee** consider that in accordance with Article 3(a) of the Eighth Directive, the current legal situation is such that a taxable person may not obtain a refund of value-added tax if the original paper copies of the import documents are not attached to the application. However, this does not prevent the customs administration from certifying as original a printout of data transmitted electronically.

Indeed, regarding application of the eighth Directive, it must be taken into account that the person applying for a refund does not keep in the refunding Member State any records which include the originals and which would permit checks to be carried out at a later date.

**Meeting No. 52 -  
28/29 May 1997**

### Articles 8 and 9 Construction of buildings

**Virtually all** the delegations considered that the construction of houses constituted a supply of services connected with immovable property which Member States however may, by virtue of Article 5 (5) of the Sixth VAT Directive, consider to be a supply of goods.

Where construction of houses is classified as a supply of goods, **virtually all** the delegations took the view that the location of this supply is governed by the criteria of Article 8 (1) (b) which means that it should be taxed where the work is carried out. They agreed that the dispatch or transport of materials by the construction firm from one Member State in order for this to be used in the construction of a building in another Member State constitutes a transfer followed by an acquisition of goods. In this respect, the non-established firm must, pursuant

## VAT COMMITTEE GUIDELINES

to the third indent of Article 22 (1) (c), register for VAT purposes in the Member State of acquisition and fulfil the obligations as stipulated.

Member States may, under Article 21 (1) (d), adopt arrangements whereby tax is payable by another person, such as a tax representative.

### Article 13A (1) (q) Activities of public radio and television bodies

**Almost all** the delegations took the view that the main element which serves to identify a television body as a public television body is public funding (public authority subsidies or licence fees). However, amongst other characteristics are special obligations such as coverage of a certain territory or a linguistic area.

**Virtually all** the delegations were of the opinion that the broadcasting of programmes for which the radio or television body receives funding through license money and subsidies constitutes the only non-commercial activity of public radio and television bodies. On the other hand, they considered that the sale of television programmes must always be taxed even if the transaction takes place between public bodies.

### Article 9 Packages of services supplied in connection with trade fairs and similar exhibitions

The Committee **unanimously** considers that, when in the framework of a fair or similar exhibition, an enterprise intervenes between the exhibitor and the owner or organiser of the exhibition and, for an all-in price, supplies to the exhibitor, a complex package of services comprising, in addition to the provision of a stand, a number of other, related services, the whole package is to be regarded as a single service comprising various components which cannot and need not to be itemised according to their own place of taxation.

As to the place of supply rules, delegations **unanimously** agree that the provision of a single compound service should be subject to taxation in the Member State where the fair or exhibition is located, either on the grounds of Article 9 (2) (a) or based on Article 9 (2) (c), first indent.

### Article 9 (2) (e) Transfers of football players

**A large majority** of delegations confirm the initial guideline agreed by the Committee in its 34th meeting, namely that transfer fees are to be taxed according to Article 9 (2) (e) at the place where the customer has established his business or has a fixed establishment to which the service is supplied.

### Article 13 A (1) (a) Scope of the exemption applicable to deliveries by public postal services

The delegations **unanimously** agreed that a member state's "public" postal service can only be treated as such when it operates within that country. A public postal service operating in a country other than its own should lose its status as a public service and, therefore, the right of exemption provided for under Article 13 (1) (a).

### Meeting No. 53 - 4/5 November 1997

### Article 4 Services supplied by company directors

**All delegations** agreed that services supplied by a legal person (company) as a member of a company's board of directors should be regarded as economic activities carried out independently within the meaning of Article 4 (1) and (2) and that they should therefore be subject to VAT.

### Article 9 Place of supply of services involving the tracing of heirs

The Committee **unanimously** agrees that the tracing of heirs falls

within the scope of the third indent of Article 9 (2) (e), either as a service similar to one of the activities referred to in that Article or as the supply of information.

### Article 6 Transfers of football players

**A large majority** of delegations took the view that a payment made by a football club to a player's original club (a payment required by law and intended to compensate for expenditure incurred in training and developing the player) after the original contract had expired or had been terminated constituted a supply of services that was subject to VAT, even if the old club no longer had any rights over the player.

### Meeting No. 54 - 16/17/18 February 1998

### Article 12 (3) and annex H category 4 Reduced rates on medical equipment and other appliances

The delegations **almost unanimously** agreed that Member States may apply a reduced VAT rate to products specifically designed for disabled people (medical equipment, aids and other similar appliances) which are normally purchased or used only by (permanently or temporarily) disabled people to alleviate or treat their complaints. Products normally used for other purposes (e.g. cordless telephones) are excluded by the provision, as are also medical equipment and aids designed for general use and not specifically for disabled people (e.g. x-ray equipment).

### Article 4 Assignment of broadcasting rights in respect of international football matches by organisations established abroad

The Committee **unanimously** agrees that the assignment of TV broadcasting rights in respect of football matches by bodies established in third countries

## VAT COMMITTEE GUIDELINES

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constitutes an economic activity taxable in the hands of the customer on the basis of Article 9 (2) (e), first indent, of the Sixth Directive.

### Article 9 (2) (c) 4th indent and 28b (f)

#### Application in cases of total or partial subcontracting

The Committee **unanimously** agrees that partial or total subcontracting of work on movable tangible property does not alter the intrinsic nature of the service supplied by the principal contractor in his relationship with his co-contractor customer and which therefore still ranks as work in respect of movable tangible property, even where the work is not “physically” carried out by the principal contractor who had undertaken to carry out the work, for which he bears full contractual responsibility vis-a-vis the customer.

In the case of partial subcontracting, provided that in the relationship between the principal contractor and the final customer the conditions under Article 28b (F) are not met, a **large majority** of the delegations considered that, in accordance with the fourth indent of Article 9 (2) (c), the place of the supply of the service by the principal contractor (including the work carried out by the subcontractor or subcontractors) in its entirety is the place where his own part of the work is physically carried out.

### Article 28b (b) Distance selling

The Committee agrees **almost unanimously** that Article 28b (B) ensuring taxation at destination of distance sales does not apply to supplies carried out until such time

as, in the course of the calendar year, the amount laid down by the Member State of arrival has been exceeded (except in the situations covered by the second indent of paragraph 2 or where the taxable person has exercised the option under paragraph 3).

Taxation at destination can apply only to supplies of goods which give rise to the overstepping of the threshold, subsequent supplies, and all sales transacted during the year following that in which the threshold was exceeded.

### Article 28a

#### Purchasing a new car before moving to another Member State

The Committee agrees **unanimously** that the transfer of a vehicle which still satisfies the definition of “new means of transport” within the meaning of Article 28a (a) (b), second paragraph, is not a taxable transaction when made by a private individual on moving house. It also agrees that, similarly, the return of a vehicle initially supplied under the exemption provided for in Article 28c (A) cannot be regarded as a taxable transaction authorising Member States to demand that the owner pay the VAT not collected when the initial supply was exempted.

The Committee also agrees **unanimously** that only the initial supply should be checked to ascertain whether the conditions for exemption by reason of transport outside the Member State of departure are met: to this end, registration of the vehicle with normal plates may be sufficient criterion for ruling out definitively any exemption in the Member State

of purchase, conversely, registration of the vehicle under “transit” plates may indicate that the supply in fact concerns a new means of transport sent or transported to the buyer outside the territory of the Member State of departure but within the Community.

### Note:

This guideline applies only where a private individual can produce independent evidence to show that the vehicle was purchased before there was any intention of transferring residence from one Member State to another.

If the vehicle was purchased, with a view to transfer of residence to another Member State, then clearly it was purchased for use in that other Member State, and should therefore be subject to VAT in that Member State.

### Article 28a (1a) (b) Exceeding the threshold for acquisitions of goods

Where the rules on the place at which taxable transactions are carried out have been incorrectly applied, the Committee **unanimously** agrees that:

- Each Member State must exercise its powers of taxation, irrespective of events elsewhere (Member State or third country);
- The Member State which collected the VAT incorrectly invoiced must return it to the person liable for the tax (the supplier of the goods or services) in accordance with its own domestic rules. Refunding the sum thus recovered to the final customer depends entirely on the contractual relations between the supplier and his/her customer. **Z**



## PRSI - SHORT TAX "YEAR" 2001

## Rates & Income Limits

The A and S rates and income limits for the short tax "year", 6 April 2001 to 31 December 2001, are set out for reference.

### Employees paying Class A contributions

The Class A contribution consists of:

- u An Employee Social Insurance Contribution of 4%,
- u A Health Levy Contribution of 2%, and
- u An Employer Contribution.

#### Employee Social Insurance Contribution

A contribution of 4% is chargeable on an employee's reckonable earnings up to a maximum of £28,250.

The first £100 of earnings, in any week that the employee has earnings, is exempt from the contribution.

Separately, in any week in which the reckonable earnings of an employee do not exceed £226, a social insurance contribution is not due.

#### Health Levy Contribution

A contribution of 2% is chargeable on an employee's reckonable earnings. There is no upper limit.

However, a contribution is not due in any week in which an employee's reckonable earnings do not exceed £280.

#### Employers Contribution

A contribution is payable on all reckonable earnings of an employee.

The contribution is 12% in any week in which the reckonable earnings exceed £280.

An 8.5% contribution is payable in any week in which the reckonable earnings do not exceed £280.

### Individuals paying Class S Contributions

The Class S contribution [individuals who are self-employed for social insurance purposes] consists of

- u A Social Insurance Contribution of 3%, and
- u A Health Levy Contribution of 2%.

#### Social Insurance Contribution

A contribution of 3% is chargeable on an individual's income, however, there is a minimum annual contribution is £148.

#### Health Levy Contribution

A contribution of 2% is chargeable on an individual's income. There is no upper limit.

However, a contribution is not due if the individual's income does not exceed £10,775 in the short tax "year".

### Examples

#### Employee earning £220 per week

##### Employee Contribution

As the earnings are less than £226, a social insurance contribution is not due.

As the earnings are also less than £280, the health contribution levy is not due.

##### Employer Contribution

As the earnings are less than £280, the employer contribution is 8.5%.

$$£220 @ 8.5\% = £18.70$$

#### Employee earning £250 per week

##### Employee Contribution

As the earnings exceed £226, a social insurance contribution is due, as follows:

$$[£250 - £100] @ 4\% = £6.00$$

There is no health contribution levy, as the earnings do not exceed £280.

##### Employer Contribution

As the earnings do not exceed £280, the employer contribution is 8.5%, as follows:

$$£250 @ 8.5\% = £21.25$$

#### Employee earning £300 per week

##### Employee Contribution

As the earnings exceed £226, a social insurance contribution is due, as follows:

$$[£300 - £100] @ 4\% = £8.00$$

As the earnings exceed £280, the health contribution levy is due, as follows:

$$£300 @ 2\% = £6.00$$

The total employee contribution is therefore £14.00 [i.e. £8.00 + £6.00]

##### Employer Contribution

As the earnings exceed £280, the employer contribution is 12%, as follows:

$$£300 @ 12\% = £36.00$$

## PRSI SHORT TAX “YEAR” 2001

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### Self-Employed Individual with income of £10,000

A social insurance is due as follows:

$$£10,000 @ 3\% = £300.00$$

There is no health levy contribution due, as the income does not exceed £10,775.

### Self-Employed Individual with income of £26,000

A social insurance is due as follows:

$$£26,000 @ 3\% = £780.00$$

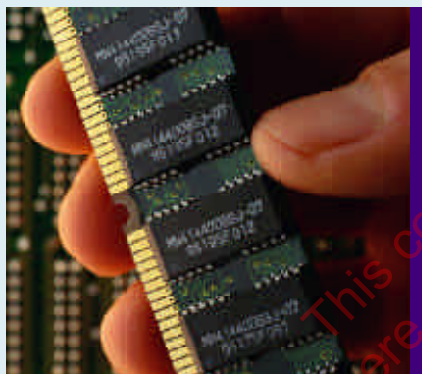
The health contribution levy is:

$$£26,000 @ 2\% = £520.00$$

The total contribution is therefore £1,300.00 [i.e. £780.00 + £520.00]. **z**

## TAXATION OF E-COMMERCE

## OECD



### OECD publishes some conclusions and recommendations in relation to the taxation of electronic commerce

OECD governments have agreed on a number of important conclusions and recommendations that pave the way for greater certainty among businesses and consumers in relation to the taxation of electronic commerce. These conclusions and recommendations by the OECD's

Committee on Fiscal Affairs, and the business/government advisory groups that it has set up, cover three main areas: international direct taxation; consumption taxes; and tax administration. Representatives of the Office of the Revenue Commissioners have actively participated at a number of levels in this process.

On income taxes, OECD countries have now reached a broad consensus on the interpretation of existing permanent establishment rules that are fundamental for deciding where profits from e-commerce can be taxed. They are now working on clarifying the tax treaty treatment of various types of e-commerce payments on the basis of a report just received from a business/government advisory group set up to examine this issue.

In the area of consumption taxes, OECD countries have made

significant progress towards identifying pragmatic ways of achieving the desired result of effective taxation in the place of consumption. In the area of tax administration, OECD governments have reached agreement on the main administrative challenges and opportunities facing tax administrations (including enhanced electronic service delivery and auditing in an e-commerce environment), and on the sort of responses that governments need to consider. **They are now inviting public comments on their proposals, in respect of consumption taxes and tax administration.**

Details of the Committee on Fiscal Affairs' conclusions and recommendations can be found on the OECD's website at <http://www.oecd.org/daf/fa>. **z**

## SHORT TAX "YEAR" 2001

## Points of Interest



### One Parent Family Tax Credit - Section 462 TCA 1997

The amount due in respect of the one-parent family allowance is restricted at present where the qualifying child has income exceeding £720 in the year. This income restriction is abolished with effect from 6 April 2001.

### Incapacitated Child Tax Credit - Section 465 TCA 1997

The amount due in respect of the incapacitated child allowance is restricted at present, where the qualifying child has income exceeding £2,100 in the year. This income restriction is abolished with effect from 6 April 2001.

### Dependent Relative Tax Credit - Section 466 TCA 1997

The amount due in respect of the dependent relative allowance is restricted at present, where the dependent relative has income exceeding the "specified limit" in the year. For the coming short tax "year", 6 April 2001 to 31 December 2001, relief is due if the total income of the dependent relative does not exceed £4989. There is no sliding relief

### Home Carer's Tax Credit - Section 466A TCA 1997

The amount due in respect of the Home Carer's allowance is restricted at present, where the income of the Home Carer exceeds £4,000 in a full year. With the move to tax credits, the restriction of the home carer tax credit for the short tax "year" is by

reference to one-half of the income of the home carer that exceeds £2,960.

#### Example

Income of Home Carer for short tax "year" = £3,400. The excess over £2,960 is £540.  
 $£540 \times \frac{1}{2} = £270$   
 Home Carer's tax credit due is  
 $£444 - £270 = £174$ .

### Relevant Contracts Tax - C2 Renewal 2001

To facilitate the move to a Calendar Tax Year from 1 January 2002:

- u A C2 for the period from 6 April 2001 will be valid for the period from 6 April 2001 [or date of issue if later] to 31 December 2002. C2's for periods commencing on or after 1 January 2002 will be valid from 1 January [or date of issue if later] to the following 31 December.
- u A multi-year C2 issued for the period from 6 April 2001 will be valid from 6 April 2001 [or the date of issue if later] to 31 December 2004, a period of approximately 45 months. A multi-year C2 issued for periods ending after 31 December 2004 will be valid for 3 calendar years. A multi-year C2 which will expire later than 5 April 2001, should be renewed with effect from 6 April 2001.

Forms RCT 47 and RCT 35 for the period from 6 April will be valid for the period from 6 April 2001 to 31 December 2001. For subsequent periods, these forms will be valid for a 12 month calendar year.

### Permanent Health Insurance

The manner of granting relief for approved permanent health insurance policies changes from 6 April 2001. From that date, employers should deduct the premiums on Revenue approved permanent health insurance policies, from the gross pay of employees for tax and PRSI purposes. This grants income tax relief automatically to the employees and it mirrors the treatment of contributions to approved superannuation schemes.

### Short Tax "Year" and Company Directors.

Remuneration of company directors is assessable on the basis of the income 'earned' for the year of assessment. Strictly, the remuneration charged in the company's accounts should be apportioned to the appropriate years of assessment, to arrive at the income chargeable to tax for each year.

However, in practice, the income assessable for a year of assessment is usually taken to be the income charged in the company accounts, in the accounting year ended in that year of assessment. Taking one year with the next, the amounts assessed are closely aligned with the strict statutory position.

In general, this arrangement will continue for the short year of assessment 2001. Consequently, in most cases, 74% of the income charged in the company accounts ending in the period 6 April 2001 to 5 April 2002, will be the amount assessable for the short year of assessment 2001.

This is an administrative arrangement that is not intended to create a tax advantage. The strict statutory position will be applied by Revenue in cases where the application of this arrangement would give rise to a tax advantage. z



## TOPICAL QUESTIONS

### Value Added Tax

#### **VAT registered traders in Ireland selling goods to VAT registered traders in other Member States of the EU.**

**What are supplies of goods to other VAT registered traders in other Member States of the EU called and are they the same as "exports"?**

Supplies of goods to other VAT registered traders in other Member States are called Intra-Community Supplies of goods. The term "exports" only refers to goods dispatched to destinations outside the EU.

**What is the rate of VAT applicable to the supply of these goods?**

The rate of VAT applicable is the zero rate subject to a trader being satisfied that the supply is being made to a trader holding a valid VAT number in the other Member State and where there is clear evidence to show that the goods are being, or will be, dispatched or transported out of the State.

**Does an Irish trader need to verify the VAT number of the trader in the other Member State quoted to him and if so how is that done?**

It is not envisaged that there will need to verify the VAT number quoted in every transaction. However if an Irish trader feels it necessary to verify a foreign VAT number they should contact the VIMA Office, Newry Road, Dundalk, Co. Louth - LoCall number 1890 251010. It is important that the trader has full and accurate details of the relevant VAT number.

**In order to qualify for zero rating does the Irish trader have to arrange the dispatch of the goods or can they be collected here by the VAT registered customer from the other Member State?**

The Irish trader does not have to arrange the dispatch of the goods - the customer can collect them from the premises here. However the Irish trader must ensure that there is clear evidence that the goods will be dispatched or transported out of the State.

**If the Irish trader is not satisfied that the zero rate should apply to the transaction should Irish VAT be charged?**

If the Irish trader is not satisfied that the transaction is a bona fide one that qualifies for the zero rate due, for instance, to the fact that there is no evidence that the goods will be dispatched or transported out of the State, then Irish VAT should be charged. If and when such required evidence is made available, the position can be rectified and the Irish VAT charged can be refunded to the customer by the Irish trader, who must also issue corrective VAT documents reflecting the amended position i.e. credit note, amended invoice etc. Transactions such as this where it is necessary to charge Irish VAT should not arise very often. If the zero rate is applied and there is no such evidence to show that the goods have left the State then the Irish trader may be held liable for any VAT due on the supply. There are also extensive penalties for fraudulent claims for zero rating.

**Apart from showing the zero rated sale on the annual return of trading details are there any other forms that must be completed?**

The Irish trader must complete a VIES return (usually submitted quarterly) giving details of the amount of the sale and the VAT number of the foreign trader to whom the goods were supplied. Traders may also need to complete a

detailed INTRASTAT return. Further information on VIES and Intrastat can be obtained from the VIMA office.

### Further Information

Irish Traders engaged in Intra Community Supplies of goods can obtain additional information in Chapter 11 of the Guide to Value Added Tax (1999 edition) and in the Statement of Practice SP VAT/8/92 "Application of the Zero Rate to Sales and Deliveries of Goods to other Member States after 1 January 1993." Both publications are available from the Revenue Forms & Leaflets Service at 01 - 878 0100, any tax office or on our website at [www.revenue.ie](http://www.revenue.ie).

### Capital Gains Tax

**If I sell part of my garden to a builder who builds a house on it, am I liable to pay capital gains tax?**

**Yes.** Normally when an individual disposes of his/her principal private residence and a garden or grounds of up to one acre (excluding the site of the house) then any gain on such a disposal is exempt from capital gains tax. However, where an individual's dwelling house is sold for greater than its current use value, then this constitutes the sale of development land. The disposal will be liable to capital gains tax and principal private residence relief will apply only to the current use value. Similarly, where an individual sells his/her garden or part of their garden for greater than its current use value, capital gains tax is chargeable and relief is correspondingly restricted. In general, the difference between the consideration and the current use value is liable to capital gains tax.

Development land rules do not apply to disposals where the total consideration from such disposals does not exceed £15,000 in year ended 5 April 2001 (£11,100 in the short tax "year", 6 April 2001 to 31 December 2001).

## TOPICAL QUESTIONS

### Corporation Tax

**Is advance clearance required from Revenue for the treatment as interest of interest which would otherwise fall within Section 130 (2) (d) (iv) TCA 1997, e.g. interest paid by an Irish company to a 75% non-resident parent?**

No, it has never been Revenue practice to insist on advance clearance for the treatment as interest of interest which would otherwise fall within *Section 130 (2) (d) (iv) TCA 1997*. Such interest is to be treated in the same way as interest generally **unless** the relevant tax treaty contains a definition of dividends which includes those deemed to be such under *Section 130 (2) (d) (iv)*. The practice of seeking advance clearance seems rather to have grown up to meet a demand for letters of comfort. There is no necessity for such clearance to be sought as a matter of course.

The list of countries with which treaties have been concluded which do **not** contain a definition of distributions which extends to interest treated as distributions under *Section 130(2)(d)(iv)* is as follows:

- u Belgium
- u Canada
- u Cyprus

- u France
- u Germany
- u Israel
- u Italy
- u Japan
- u Luxembourg
- u The Netherlands
- u Norway
- u Pakistan
- u Zambia.

In the case of these countries interest falling within *Section 130(2)(d)(iv) TCA 1997* is treated in the same way as interest generally under the relevant tax treaty and will be deductible in the accounts of the paying company subject to *Section 81 TCA 1997*.

However from 6 April 2001 (*Finance Act 2001*) interest paid by all companies in the ordinary course of their trade to companies resident in another EU Member State or in a tax treaty country, which interest would otherwise not be tax deductible by virtue of *section 130(2)(d)(iv) TCA 1997*, is, following an election by the company, deductible as a trading expense.

The election is to be made in writing together with the company's return for the period.

### How does one obtain a certificate of Irish residency for the purposes of Double Taxation Agreements?

Applications are now being dealt with by the filing district of the relevant taxpayer and should include sufficient information to confirm the Irish Residence status of the company. Such information would include, **at least**, the following:

- n Corporation Tax reference number of the company
- n Date on which the company was incorporated in Ireland and the company's CRO number
- n Names and addresses of the directors and secretary of the company
- n Business address of the company
- n Exact nature of the trade carried on by the company
- n Country in which the central control and management of the company abides.

Additional information, should it be required, will be advised by the filing district in response to the application.<sup>z</sup>

## RESORT AREAS

## Timing of Claim for Capital Allowances



### Introduction

In the case of a property which is to be registered/listed with Bord Fáilte under the Tourist Traffic Acts and which is to be let, an industrial building allowance cannot be claimed until:

- u It is fully built
- u It is registered or listed
- u It is in use as a qualifying premises i.e. is a registered/listed property, and
- u A tenancy has commenced

Revenue practice in relation to the chargeable period for which a capital allowance claim can be made is set out in the following paragraphs.

### Timing of Claim for Capital Allowances

The capital allowances cannot be claimed until the property is built, is in use for a qualifying purpose and is registered/listed by Bord Fáilte under the Tourist Traffic Acts. In circumstances where the registration process has not been completed by the end of a tax year but the other conditions of the legislation have been met, the claim may be made in respect of that tax year provided the property is registered/listed by Bord Fáilte before the return filing date.

Proof of listing in Bord Fáilte's Accommodation Guide and on the Gulliver electronic reservation system which is operated by Bord Fáilte, the Regional Tourism Authorities and Northern Ireland Tourist Board satisfies the condition of listing under *Section 9 of the Tourist Traffic Act 1957*.

The purpose of this article is to clarify the operation of the practice as it applies to an allowance to be granted under *section 271 TCA 1997* where:

- u A letting is made directly to a tourist, or
- u A letting is made to an operator who on lets the property to a tourist.

### Owner lets directly to a tourist

Where, in a chargeable period, an owner lets a property directly to a tourist but the registration/listing process has not been completed by the end of that chargeable period, industrial building allowance may be claimed for that chargeable period provided the property is registered/listed by Bord Fáilte before the return filing date and all other requirements of the legislation are met before the end of the chargeable period.

### Owner lets to an operator who on lets to a tourist

Where, in a chargeable period, an owner lets a property to an operator but the operator has not let it to a tourist by the end of that chargeable period, subject to compliance with all other requirements of the legislation, industrial building allowance may be claimed for that chargeable period where at the end of that chargeable period the property is fully built and fitted out and is being actively marketed by the operator and bookings are being taken. **z**



## CAPITAL GAINS TAX

## Multipliers

Year Expenditure Incurred	Capital Gains Tax Multiplier for Disposals Years Ended 5 April 1992 to 5 April 2001 and for the period from 6/4/01 to 31/12/01										
	Y/e 5 April 1992	Y/e 5 April 1993	Y/e 5 April 1994	Y/e 5 April 1995	Y/e 5 April 1996	Y/e 5 April 1997	Y/e 5 April 1998	Y/e 5 April 1999	Y/e 5 April 2000	Y/e 5 April 2001	6/4/01 to 31/12/01
<b>1974/75</b>	5.355	5.552	5.656	5.754	5.899	6.017	6.112	6.215	6.313	6.582	6.930
<b>1975/76</b>	4.326	4.484	4.568	4.647	4.764	4.860	4.936	5.020	5.099	5.316	5.597
<b>1976/77</b>	3.726	3.863	3.935	4.003	4.104	4.187	4.253	4.325	4.393	4.580	4.822
<b>1977/78</b>	3.194	3.312	3.373	3.432	3.518	3.589	3.646	3.707	3.766	3.926	4.133
<b>1978/79</b>	2.951	3.059	3.117	3.171	3.250	3.316	3.368	3.425	3.479	3.627	3.819
<b>1979/80</b>	2.663	2.760	2.812	2.861	2.933	2.992	3.039	3.090	3.139	3.272	3.445
<b>1980/81</b>	2.305	2.390	2.434	2.477	2.539	2.590	2.631	2.675	2.718	2.833	2.983
<b>1981/82</b>	1.905	1.975	2.012	2.047	2.099	2.141	2.174	2.211	2.246	2.342	2.465
<b>1982/83</b>	1.603	1.662	1.693	1.722	1.765	1.801	1.829	1.860	1.890	1.970	2.074
<b>1983/84</b>	1.425	1.478	1.505	1.531	1.570	1.601	1.627	1.654	1.680	1.752	1.844
<b>1984/85</b>	1.294	1.341	1.366	1.390	1.425	1.454	1.477	1.502	1.525	1.590	1.674
<b>1985/86</b>	1.218	1.263	1.287	1.309	1.342	1.369	1.390	1.414	1.436	1.497	1.577
<b>1986/87</b>	1.165	1.208	1.230	1.252	1.283	1.309	1.330	1.352	1.373	1.432	1.507
<b>1987/88</b>	1.126	1.168	1.190	1.210	1.241	1.266	1.285	1.307	1.328	1.384	1.457
<b>1988/89</b>	1.105	1.146	1.167	1.187	1.217	1.242	1.261	1.282	1.303	1.358	1.430
<b>1989/90</b>	1.070	1.109	1.130	1.149	1.178	1.202	1.221	1.241	1.261	1.314	1.384
<b>1990/91</b>	1.026	1.064	1.084	1.102	1.130	1.153	1.171	1.191	1.210	1.261	1.328
<b>1991/92</b>	-	1.037	1.056	1.075	1.102	1.124	1.142	1.161	1.179	1.229	1.294
<b>1992/93</b>	-	-	1.019	1.037	1.063	1.084	1.101	1.120	1.138	1.186	1.249
<b>1993/94</b>	-	-	-	1.018	1.043	1.064	1.081	1.099	1.117	1.164	1.226
<b>1994/95</b>	-	-	-	-	1.026	1.046	1.063	1.081	1.098	1.144	1.205
<b>1995/96</b>	-	-	-	-	-	1.021	1.037	1.054	1.071	1.116	1.175
<b>1996/97</b>	-	-	-	-	-	-	1.016	1.033	1.050	1.094	1.152
<b>1997/98</b>	-	-	-	-	-	-	-	1.017	1.033	1.077	1.134
<b>1998/99</b>	-	-	-	-	-	-	-	-	1.016	1.059	1.115
<b>1999/00</b>	-	-	-	-	-	-	-	-	-	1.043	1.098
<b>2000/01</b>	-	-	-	-	-	-	-	-	-	-	1.053

NOTE : The year 1974/75 means the year commencing on 6 April 1974 and ending on 5 April 1975. Other years are described similarly. All periods to be taken as year ended 5 April, except for the period from 6/4/2001 to 31/12/2001. This adjustment is being made to align with the new calendar tax year basis from 1 January 2002. No indexation is available for expenditure made within 12 months prior to the date of disposal. z

## REVENUE NEWS

## Update

### New and Updated Leaflets

#### New VAT Information Leaflet on the treatment of Emergency Accommodation for Asylum Seekers and Homeless Persons

A new VAT Information leaflet VAT No. 1/01 - "Emergency Accommodation, including Accommodation Provided for Asylum Seekers and Homeless People, and Ancillary Services" has been published. This leaflet outlines the appropriate VAT treatment of the short term letting of accommodation to State agencies such as the Directorate for Asylum Seekers, Local Authorities, and Health Boards for use as emergency accommodation, including accommodation provided for asylum seekers and homeless people. The leaflet also deals with the VAT treatment of ancillary services such as catering, laundry, cleaning and security.

#### Allowances, Reliefs & Tax Rates

Leaflet IT1 has been updated to include details of Allowances, Reliefs & Tax Rates for 2000/2001 and Tax Credits and Rates for the short tax "year" 2001.



#### Medical Insurance TRS

A new leaflet - CG11 - Medical Insurance - Tax Relief at Source has been published.

This leaflet sets out details of the new system of tax relief at source for medical insurance and the perquisite implications where an employer pays the medical insurance premiums on behalf of an employee.



Copies of these leaflets are available from the Revenue Forms & Leaflets Service at 01 - 878 0100, any tax office or on our website at [www.revenue.ie](http://www.revenue.ie).

#### Approved Hospitals and Nursing Homes

An updated list of Approved Hospitals and Nursing Homes for the purposes of Section 469 TCA 1997 is now available. The list can be accessed on our website at [www.revenue.ie](http://www.revenue.ie) or in hard copy from the Revenue Forms and Leaflets Service at 01-878 0100.

### Savings Related Share Option Schemes Part 17 Chapter 3 TCA 1997

A revised version of the Guide to Savings Related Share Option Schemes (SAYE) is available on the website [[www.revenue.ie](http://www.revenue.ie)] under Publications - Technical Guidelines. **z**

### Protecting Pension Entitlements

If an individual ceases to be covered by compulsory PRSI, either as an employee or as a self-employed person, and is under age 66, he/she may opt to become insured on a voluntary basis and pay Voluntary Contributions, provided certain conditions are satisfied. Voluntary Contributions is a scheme provided by the Department of Social, Community and Family Affairs. Voluntary Contributions provide cover for long-term benefits, for example, pensions. However, short-term benefits such as Disability (sickness), Unemployment, Maternity, Occupational Injuries and Treatment (dental, optical) Benefits are not covered.

#### How to apply:

To become a Voluntary Contributor, individuals must complete Application Form VC 1, which is available from local Social Welfare Offices or from:

Voluntary Contributions Section  
Department of Social, Community and Family Affairs  
Social Welfare Services Office  
Cork Road  
Waterford

Telephone: Waterford 051 - 356000  
Dublin 01 - 874 8444  
Fax: 051 - 877838  
E-mail: [volcons@eircom.net](mailto:volcons@eircom.net) **z**

### Gift and Inheritance

The Group thresholds for 2000 and the indexed Group thresholds for 2001 are set out in the table below.

\* In certain circumstances a parent taking an inheritance from a child can qualify for the Group A threshold. **z**

	Group	Relationship to Donor	Group Threshold
		2000 (w.e.f. 1/12/1999)	2001 (after Indexation)
A	Son/Daughter	£300,000	£316,800
B	Parent*/Brother/Sister/Niece/Nephew/Grandchild	£30,000	£31,680
C	Relationships other than Group A or B	£15,000	£15,840