

REVENUE ON-LINE SERVICE (ROS)

Latest

ROS collects £700m

In the nine months since the Revenue On-Line Service (ROS) went live last September payments of almost £700 million have been made to Revenue by customers using the new service. ROS customers have also received repayments of £30m. The receipts have far exceeded our expectations of £50m. in the first year of operations and if the trend continues ROS customers will account for about 5% of gross receipts by Revenue this year.

Almost 3,000 customers now use ROS on a regular basis and this number is increasing by about eighty each week. When Phase 3 goes live next October with the on-line filing of Income Tax (IT) and Corporation Tax (CT) returns we believe we will be well on our way to achieving our target of getting 50% of business returns filed electronically by 2005.

Revenue customers and tax practitioners now have a quick and secure method for the electronic filing of:

- ▼ Monthly PAYE Returns (P30)
- ▼ Bi-monthly VAT Returns (VAT3)
- ▼ Annual Payroll tax Returns (P35 and P35L)
- ▼ Employee Cessation Returns (P45)
- ▼ Annual Return of Trading Details (RTD)

They also receive immediate acknowledgement of receipt of returns by ROS. From October they will also be able to file Income Tax (Form 11) and Corporation Tax (CT1) returns.

No requirement to file returns to use ROS

However, apart from the access to Revenue which ROS provides outside office hours there are other key features of the service which are proving popular with our customers. These include:

- On-line access to VAT and Employer PAYE details including returns made and outstanding, and payments due or received. This will be extended in October to include Income Tax, Corporation Tax and Capital Gains Tax (CGT) details. To date, there have been 6,460 requests from ROS customers for access to this information.
- An access security system for managing user-rights of staff within a business or tax practice. This allows the 'administrator' in a business or practice decide who among the staff can view certain details or file particular returns.

There is no requirement to file returns to have access to these facilities.

ROS is also available to Apple Mac users and is compatible with screen readers for visually impaired customers. ROS can be accessed via the Revenue website at www.revenue.ie and the ROS help-desk is available from 8.30a.m. to 6.30p.m. Monday to Friday at 1890-201106 or by e-mail: ros@revenue.ie

Also in Phase 3

Apart from eFiling CT and IT returns and providing access to IT, CT and CGT details Phase 3 will also include:

- ◆ An option for the electronic payment of tax by Laser Card and
- ◆ A facility for the payment of Preliminary Tax and payment of

any tax balance due on assessments.

Phases 4, 5 and 6, for delivery in 2002, are well into the planning stage and details of what will be included will be covered in future issues of

Tax Briefing

The goal of making the Revenue On-Line Service the primary way by which our customers do business with us is well on the way to becoming a reality.

New Strategy Manager

Revenue recently announced the appointment of a new Strategy Manager to take over from John Leamy who has been appointed Assistant Secretary in the Office of the Chief Inspector of Taxes. She is Margaret Whelan who served most recently in the Compliance Policy Unit of the Chief Inspector's Office. Margaret has now taken up duty in ROS and can be contacted at 01-2090401 or by e-mail at marwhelan@revenue.ie.

Accounts Information

When Phase 3 goes live, the requirement to file paper copies of accounts and computations with IT and CT returns which are filed through ROS will no longer apply. However, we still require certain accounts information to support the details provided on the return.

In order to ensure equality of treatment between paper and electronic filers, the Revenue Board announced last October that paper filers would be required, as of a certain date, to submit the same level and format of data as electronic filers. Electronic data would not be subjected to electronic interrogation until the same data from paper filers was captured.

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The fundamentals of what has been decided so far are summarised in the following table:

	Turnover < £250,000	Turnover < £10m.
Electronic Filers	<ul style="list-style-type: none"> Accounts Menu of 25 key items Adjusted profit computation of no more than 5/6 items in IT cases and 10 items in CT cases. 	<ul style="list-style-type: none"> 3 IT menus 3 CT menus <p><i>[These menus are:</i> <i>(i) General trades/ services (IT & CT)</i> <i>(ii) Professionals (IT & CT)</i> <i>(iii) Farmer (IT)</i> <i>Construction / manufacturing (CT)]</i></p> <ul style="list-style-type: none"> Adjusted profit computation of 12 items approximately in IT cases and 25 items in CT cases.
Paper Filers	<ul style="list-style-type: none"> Paper accounts with computations and schedules as at present until October 2003 <p>OR</p> <ul style="list-style-type: none"> Accounts Menu of 25 key items and Adjusted profit computation of no more than 5/6 items in IT cases and 10 items in CT cases. <p>The menu will be compulsory from October 2003</p>	<ul style="list-style-type: none"> Paper accounts with computations and schedules as at present until October 2003 Accounts Menus and adjusted profit computations as for electronic filers from October 2003 <p>The menus will be compulsory from October 2003</p>
All Filers with turnovers over £10m.	Paper accounts with computations and schedules as at present	
Partnerships	Individual partners can file electronically with no requirement for menu completion. Paper accounts with computations and schedules must be filed with Form1 (Firms).	
Groups	As for other filers. The consolidated turnover decides category.	

Note: Accounts Menus for paper filers will be available on request from all tax offices from October 2002

We will also be providing a series of yes/no 'tick' boxes to cater for notes to the accounts. These notes will cover:

- Reservations in the Auditor's Certificate/Report
- Accounting policy and change of accounting policies
- Change in nature of the Company's/business' activities
- Prior year adjustments
- Exceptional items arising during the year

A small area of white space will be provided where any additional explanations to the yes/no answers can be provided, if necessary.

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Consultation Menus

Last April we published a consultation document on accounts information and representations have been received from, and several meetings had with, the representatives of tax practitioners and individual practitioners themselves. Submissions and comments were also received from several software companies.

Both practitioner and software inputs are crucial to the success of ROS and to address some of their concerns the turnover limit between smaller and larger menus was increased from £150,000 to £250,000, a single menu of only 25 items is being provided for those below that turnover, and the menus for those filing above the turnover have been reduced in size. In addition the date from which the menus will have to be completed by paper filers was put back by a year from October 2002 to October 2003. Copies of the menus will be posted

on the Revenue website in due course.

Assurances

Revenue is also providing assurances on the following:

- Innocent transposition errors will not lead to additional liabilities or penalties provided they are rectified within a reasonable period (e.g. 2 months from date of assessment) and do not amount to an abuse of the system.
- Subject to any legislative changes and any other imperatives, the accounts menus will remain the same and 12 months notice of any changes will be given.
- The threshold levels will be indexed for inflation.
- There will be flexibility in regard to marginal movements across thresholds.

In addition, statistical data from accounts data captured, such as error

rates, for example, will be made available on a regular basis.

Allowing groups file through ROS and the provision of some white space in relation to expressions of doubt and the notes to the accounts also followed representations made.

Internal and external consultation on what accounts information should be captured has been ongoing for some time now. This will be a continuous process to ensure we get the balance right between customer service, ROS ease of use and Revenue audit requirements.

Software Houses

Revenue recognises the requirements of practitioners that 3rd party software will be available to automate the process of completing the accounts menus. Consultations with software houses is on-going with a view to having appropriate software available as soon as it can be developed. ■

REVERSE PREMIUMS

The Minister for Finance, Mr. Charlie McCreevy, T.D., announced on 7 June 2001 that he intends bringing forward legislation in the *Finance Bill 2002* to clarify the tax treatment of so-called "reverse premiums". The legislation will have retrospective effect as and from 7 June 2001. The Minister said that it has recently come to the attention of the Revenue Commissioners that reverse premiums are being used for tax avoidance purposes and he was acting in the light of this to announce his intention to close off these avoidance opportunities with immediate effect.

The term "reverse premium" is used to describe a payment made (or some other benefit provided) by a property developer or landlord to a prospective tenant in order to induce him to enter into a lease agreement at

a rent which is above the market value rent. While there are specific provisions in the tax code relating to the payment of premiums by a tenant to a landlord, there are no such specific provisions governing the tax treatment of reverse premiums, so the correct treatment has up to now depended on general tax principles.

Some doubts have been raised in recent years about the application of general tax principles to reverse premiums. These doubts open up the possibility that the payer of a reverse premium would claim tax relief on the payment while the recipient on the other hand would claim the premium to be tax free. This would be a clear tax loophole based on a lack of symmetry in the tax treatment of such transactions and would open up major tax

avoidance opportunities with consequential loss to the Exchequer.

The *Finance Bill 2002* will accordingly provide clearly that:

- Reverse premiums received on or after 7 June 2001 will be charged to tax as a revenue (as opposed to a capital) receipt
- In effect the reverse premium will be treated as a receipt of either a trade/profession or a rental business and will normally be spread over a number of years in accordance with accepted principles of commercial accounting
- However, if the parties are connected, the reverse premium will be taxed in full in the period in which the lease is taken out or, if later, the period in which the trade/profession commences. ■

Tax Treatment

DONATIONS TO 'APPROVED BODIES'

Tax Relief

New Scheme of Tax Relief for Donations to 'Approved Bodies' i.e. Charities, Schools etc.

Introduction

Section 45 Finance Act 2001 inserts a new section 848A and Schedule 26A into the Taxes Consolidation Act 1997 to provide for a new uniform scheme of tax relief for donations to certain approved bodies which, as well as introducing new reliefs for donations to domestic charities, schools etc., also merges almost all of the existing reliefs under the umbrella of a single scheme. Different arrangements apply for individual and corporate donations as set out below.

Who are the 'Approved Bodies' for the purposes of the new scheme?

The following are 'approved bodies' for the purposes of the scheme:

- **Charities**, which are authorised by Revenue for the purposes of the Scheme. Applicant charities must meet certain conditions, including the condition that the charity has been exempted from tax (i.e. holds a CHY exemption) for a period of 3 years. Where a charity wishes to apply for an authorisation under the scheme it must submit a completed application form (See Appendix 1 of CHY2 information leaflet) to Charities Section, Revenue Commissioners, Government Offices, Nenagh, Co. Tipperary.
- **Educational institutions** or bodies in the State, including primary and second level schools / colleges and third level institutions, if they meet certain conditions (e.g. their programmes are approved by the Minister for Education and Science or the institution provides courses which are validated by the Higher Education Training and Awards Council).
- A body approved for **Education in the Arts** by the Minister for Finance in accordance with Schedule 26A Part 2
- The Scientific and Technological Education (Investment) Fund (**STEIF**)
- The company incorporated under the *Companies Acts, 1963 to 1990*, on 20 September 1990 as **First Step Limited**
- The **Malting Research Committee** of the Irish Malters Association
- The **European Research Institute of Ireland**
- The **Equine Foundation**
- The **Dun Research Foundation**
- The **Institute of Ophthalmology**
- The **Mater College for Research and Postgraduate Education**
- **St Luke's Institute of Cancer Research**
- A body to which section 209 Taxes Consolidation Act 1997 applies i.e. **a body for the promotion of the observance of the Universal Declaration of Human Rights** or the implementation of the European Convention for the protection of Human Rights and Fundamental Freedoms or both
- The **Foundation for Investing in Communities Limited** or any of its 90% subsidiaries as may be approved for the purposes of this Scheme by the Minister for Finance.

(Note : All approved bodies, including charities and schools, have been circulated with a copy of information leaflet CHY 2 on this new scheme.)

What donations qualify for relief?

The minimum donation in any year that must be made to any one approved body is £200/€250 (£148/€185 for the short tax year 6 April 2001 to 31 December 2001).

There is no maximum qualifying donation. Donations made by instalments (e.g. Standing Order) will also qualify.

A donation must also satisfy the following conditions:

- ◆ It must be in the form of money
- ◆ It must not be repayable
- ◆ It must not confer any benefit on the donor or any person connected with the donor
- ◆ It must not be conditional on, or associated with, any arrangement involving the acquisition of property by the approved body.

Nature of the relief

The arrangements for allowing tax relief on donations will depend on whether the donor is a PAYE taxpayer **or** an individual on self-assessment **or** a company. In the case of donations from individuals, relief will be given at the donor's marginal rate of income tax.

- ▼ For a PAYE taxpayer who makes a donation, the relief will be given on a "grossed-up" basis **to the approved body** rather than by way of a separate claim to tax relief by the donor. In other words, the donation will be treated as having been received by the approved body 'net' of income tax and the approved body will subsequently reclaim the tax from Revenue
- ▼ In the case of a donation made by an individual who pays tax on a self-assessment basis, the individual will claim the relief in his / her tax return for the year of assessment in which the donation is made and there is no grossing up arrangement for the approved body

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- ▼ In the case of a donation made by a company, the donation will be treated as a deductible trading expense or as an expense of management in computing the total profits of the company. The company can make a claim with its tax return for the accounting period in which the donation was made and again, there is no grossing up arrangement for the approved body.

Examples:

PAYE individual

- Individual taxed at the standard rate of tax i.e. 20%
Individual donates £500/£635
Value of donation to the approved body = £625/£794
(i.e. £500/£635 x $\frac{100}{80}$)

Tax associated with the donation
(£625/£794 - £500/£635) = £125/£159

The approved body will therefore be able to claim a repayment of £125/£159 from Revenue at the end of the tax year.

- Individual taxed at the higher rate of tax i.e. 42%
Individual donates £500/£635
Value of donation to the approved body = £862/£1095 (i.e. £500/£635 x 100)
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Tax associated with the donation
(£862/£1095 - £500/£635) = £362/£460

The approved body will therefore be able to claim a repayment of £362/£460 from Revenue at the end of the tax year.

Note: Where sufficient tax has not been paid to cover the donation made, the refund of tax will be limited to the amount of tax actually paid by the donor.

The individual PAYE donor must complete an "Appropriate Certificate" (see copy at the end of this article) and forward it to the approved body to allow it to claim a repayment of the grossed up amount of tax associated with the donation. Additional copies of the "Appropriate Certificate" may be obtained from:

Charities Section,
Government Offices,
Nenagh,
Co. Tipperary

Tel: 067 44310

or from any Local Tax Office or from our website at www.revenue.ie - see "Publications".

At the end of the tax year in which the donation was made, **approved bodies may claim a repayment of the tax associated with PAYE donations received by them through forwarding the details contained in the Appropriate Certificates to Revenue** in an agreed electronic format together with a declaration that the details are correct and complete. Where the approved body does not have the facilities to forward the details electronically, they may be given in writing in a format approved by Revenue. **All repayment claims should be sent to:**

Inspector of Taxes,
Claims Section,
9/15 Upper O'Connell Street,
Dublin 1.

Tel: 01 8746821
Fax: 01 8746862
e-mail: DIRD@revenue.ie

Self-assessed individual

- Individual taxed at the standard rate i.e. 20%
Individual donates £500/£635 and receives tax relief @ 20% (£100/£127). Cost to the individual is £400/£508 and receipt by the approved body is £500/£635 - there is no grossing up arrangement and therefore no repayment claim by the approved body arises.

- Individual taxed at the higher rate i.e. 42%
Individual donates £500/£635 and receives tax relief @ 42% (£210/£267). Cost to the individual is £290/£368 and receipt by the approved body is £500/£635 - there is no grossing up arrangement and therefore no repayment claim by the approved body arises.

Corporate donations

Company X donates £500/£635 to an approved body. Assuming a corporation tax rate of 20%, relief to the company is £100/£127 i.e. £500/£635 @ 20%. While the approved body has the benefit of £500/£635 the cost to the company of making the donation is only £400/£508 (£500/£635 - £100/£127). The company will simply claim a deduction for the donation in its tax return, there is no grossing up arrangement and therefore no repayment claim by the approved body arises.

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What reliefs have been terminated?

The following standalone relief provisions in the *Taxes Consolidation Act 1997* have been repealed and are subsumed under this new scheme of donations:

- ◆ *Section 88* - Deduction for gifts to Enterprise Trust Ltd.
- ◆ *Section 484* - Relief for gifts for education in the arts
- ◆ *Section 485* - Relief for gifts to third-level institutions
- ◆ *Section 485A* - Relief for gifts made to designated schools
- ◆ *Section 485B* - Relief for gifts to the Scientific and Technological Education (Investment) Fund
- ◆ *Section 486* - Corporation Tax: relief for gifts to First Step
- ◆ *Section 486A* - Corporate donations to eligible charities
- ◆ *Section 767* - Payment to universities and other approved bodies for research in, or teaching of, approved subjects
- ◆ *Section 792* (subparagraphs (ii) and (iii) of subsection (1)(b), and subsection (3) - covenants for the conduct of research, teaching the natural sciences and promotion of human rights
- ◆ *Section 848* - Designated Third World Charities: repayment of tax in respect of donations

What is the position when a donor pays tax through both PAYE and self assessment?

Where a person is within self assessment (say self employed) and also has income that is within PAYE, that person is a chargeable person (as defined in *section 950 TCA 1997*) and therefore is entitled to relief for donations at the marginal rate of tax.

What is the position on existing covenanting schemes in place?

Tax relief for payments made under deeds of covenant for the benefit of either the conduct of research or the teaching of natural science subjects or the promotion of human rights has been abolished from 6 April 2001. As such deeds of covenant are no longer effective for tax purposes there is now no requirement to withhold tax on such payments. Furthermore, such payments are no longer an allowable charge on the income of the covenantor (payer).

Whether payments continue to be made under the deeds of covenant in question is a matter for decision by the parties to the deed, i.e. the payer and the beneficiary. Where payments continue to be so made on or after 6 April 2001, Revenue are prepared to treat the

covenanted amounts as a "relevant donation" for the purposes of *Section 45 Finance Act 2001* provided that:

- the qualifying conditions of that Section are met including the requirement relating to the minimum donation applicable in any year of assessment / accounting period, and
- "Appropriate Certificates" (see copy at the end of this article) are received in the case of PAYE covenantors.

What could constitute a "benefit to the donor or to any person connected with the donor" and such as may act to render a donation ineligible for relief question

The general rule is that donations should be at arms-length. Nominal or incidental type benefits, such as the right to receive a newsletter on the approved body's activities, would not act to render the donation ineffective for tax relief benefit. However, benefits such as preferential rights of entry to prestigious events, particularly where entry may normally be subject to a cover charge, would constitute a benefit in consequence of having made the donation.

Certain institutes or professional membership representative associations may be eligible bodies for the purposes of the new scheme having regard to their educational or research activities, for instance. However, annual membership subscriptions to such bodies would generally carry with them a benefit to members.

Any approved body which feels that an issue may arise for them under this heading may wish to clarify the position with Revenue at the address below.

Further Information:

You can obtain further information from:

*Office of the Revenue Commissioners,
Charities Section,
Government Offices,
Nenagh,
Co. Tipperary.*

Telephone: 067 44310
01 6774211 (if calling from Dublin)

Fax: 067 32916

e-mail: charities@revenue.ie

website: www.revenue.ie

or from your local Tax Office. ■

DONATIONS TO 'APPROVED BODIES'

TAX RELIEF FOR DONATIONS TO ELIGIBLE CHARITIES AND APPROVED BODIES

"Appropriate Certificate" for the purposes of Section 45, Finance Act, 2001
(To be completed by PAYE taxpayers only)

(BLOCK CAPITALS PLEASE)

I certify that I _____ (name) have made a donation
to _____ (eligible charity/approved body - See Note 1
overleaf)

in the sum of (in words) _____ £/€ (Total donated).
in the year ended 31 December, _____ (the relevant year of assessment) and that

- I was resident in the State for the relevant year of assessment,
- I have paid or will pay to the Revenue Commissioners income tax of an amount equal to income tax at the standard rate or at the higher rate (delete as appropriate) for the above year on the grossed up amount of the donation (See Note 2 overleaf),
- neither I nor any person connected with me have received or will receive a benefit in consequence of having made this donation,
- the donation was paid in money,
- the donation was not subject to a condition as to repayment nor conditional on, or associated with, the acquisition of property by the eligible charity or approved body other than by way of gift, from me or a person connected with me, and
- the donation was not less than £200/€250 (£148/€185 for the short tax year 6 April, 2001 to 31 December, 2001) in the above year of assessment.

Signature _____ Date: _____ PPS No.: ☐☐☐☐☐☐☐☐☐☐

Address: _____

N.B. When you have completed this certificate, please forward it to the eligible charity or approved body to which you made your donation.

TO BE COMPLETED BY THE ELIGIBLE CHARITY OR APPROVED BODY

CHY Reference Number: _____
or
Tax Reference Number: _____
(in the case of an approved body other
than an eligible charity)

Authorised Signatory _____

REVENUE USE ONLY

Income Tax associated with
donation and confirmed as paid
£/€ _____

Signature of
Inspector of Taxes _____

Date: _____

GAMES AND SPORTS BODIES

Relief from IT & CT



Revised Arrangements for Applying for Relief from Income Tax and Corporation Tax for Certain Games and Sports Bodies

Section 235 Taxes Consolidation Act 1997 provides for an exemption for Games/Sports bodies in respect of **Income Tax, Corporation Tax and Dividend Withholding Tax**, where the income of such a body, *as is shown to the satisfaction of the Revenue Commissioners*, has been or will be applied for the sole purpose of promoting an athletic or amateur game or sport. In addition, relief from **Capital Gains Tax** is available provided the proceeds of the gain are reinvested in acquiring new assets for the promotion of the game/sport in question.

It is necessary to apply to Revenue to secure exemption and those bodies eligible to apply are any clubs or organisations established for and in existence for the sole purpose of promoting an athletic or amateur game or sport. A body must also be:

- ◆ member controlled and owned and not for profit
- ◆ legally established in the State and have its centre of management and control therein. In addition, the majority of its trustees/directors/officers, as appropriate, must be resident within the State.

Without an exemption, a games or sports body, in common with any other organisation:

- may be liable to Income / Corporation Tax on any surplus income, and
- may be obliged to make annual tax returns to the local Inspector of Taxes.

Revenue have recently carried out a review of the taxation position of games and sports bodies who do not currently hold a formal exemption under *Section 235 TCA 1997* and following which new arrangements have been introduced towards enabling clubs etc. to regularise their own particular position having regard to this exemption facility. These arrangements are set out in a new information leaflet (**GS1**) and which also incorporates a simple declaration procedure for clubs applying for exemption. This leaflet is available from the Games/Sports Exemption Section in Nenagh, from any tax office, or from our website at www.revenue.ie. - see "**Publications**".

Meetings have been held with the National Governing Bodies (N.G.B.'s) of the various sporting codes to inform them of the new arrangements and Revenue will be distributing the new leaflet to all games/sports clubs throughout the country with the assistance of the N.G.B.'s. A list of these N.G.B.'s is set out below. Queries on the new arrangements may be addressed to:

*Games/Sports Exemption Section
Government Buildings,
Nenagh,
Co. Tipperary.*

Tel: 067 33533
Fax: 067 32916
e-mail: sportsexemp@revenue.ie

National Games and Sports Governing Bodies in Ireland

Irish Amateur Boxing Association
Irish Cycling Federation
Motorsport Ireland
Irish Canoe Union
Irish Squash
Republic of Ireland Snooker and Billiards Assoc.
Irish Amateur Wrestling Association
Badminton Union of Ireland
Irish Table Tennis Association
Irish Basketball Association
National Rifle and Pistol Association of Ireland
Baton Twirling Sport Association of Ireland
Irish Baseball & Softball Federation
Irish Hockey Association
Irish Sailing Association
Irish Amateur Fencing Federation
Irish Amateur Weightlifting Association
Irish Waterski Association
Motorcycling Union of Ireland
Irish Martial Arts Commission
Irish Surfing Association
Bol Chumann na hEireann
Irish Croquet Association of Ireland
Trout Anglers Federation of Ireland
Cumann Luthcleas Gael
Irish Ladies Golf Union
Irish Hang Gliding Association
Horseshoe Pitchers Association of Ireland
Parachute Association of Ireland
Football Association of Ireland

Tennis Ireland
Volleyball Association of Ireland
Pitch & Putt Union of Ireland
Mountaineering Council of Ireland
Swim Ireland
Irish Amateur Rowing Union
Bowling League of Ireland
Amateur Athletics Ireland
Irish Amateur Archery Association
Irish Gymnastics Limited
Racquetball Association of Ireland
Irish Ten Pin Bowling Association
Irish Olympic Handball Association
Irish Federation of Sea Anglers
Irish Orienteering Association
Irish Clay Pidgeon Shooting Association
Irish Underwater Council
Irish Cricket Union
Contract Bridge Association of Ireland
Republic of Ireland Netball Association
Dublin City Sports and Recreation Forum
Irish Triathlon Association
Cumann Camogaiochta na Gael
Speleological Union of Ireland
National Coarse Fishing Federation of Ireland
Golfing Union of Ireland
Comhairle Liathroid Laimhe na hEireann
Equestrian Federation of Ireland
Irish Judo Association
Irish Rugby Football Union
Irish Tug of War Association

CHANGEOVER TO CALENDAR YEAR OF ASSESSMENT



Introduction

Section 77 Finance Act 2001 provides that the income tax and capital gains tax year is to be aligned with the calendar year from 1 January 2002. This will require a short transitional tax “year” of approximately 9 months covering the period from 6 April to 31 December 2001.

Schedule 2 of the Act makes the necessary changes to various areas of the tax code consequent on the changeover to a calendar tax year. In general, for the short transitional tax “year” 2001, tax credits, allowances, reliefs, etc., are adjusted to 74% of their annual equivalents. The 74% adjustment derives from the fact that there will be only 270 days in the short tax “year” 2001 compared to 365 days in a normal tax year. For the short tax “year” 2001 PAYE taxpayers will be taxed by reference to their earnings in the period from 6 April to 31 December 2001, while self-employed taxpayers will, in general, be assessed to tax by reference to 74% of the profits of their 12 month period of account ending in that “year”.

Overview

Amendments are made to three sections of the *TCA 1997*.

Section 2(1) TCA 1997, which is the interpretation section for the Tax Acts (governing both income tax and corporation tax), is amended by the substitution of a new definition for the existing definition of “year of assessment”. The new definition

reflects the fact that, with effect from 1 January 2002, the year of assessment for income tax is to be the calendar year and not a year commencing on 6 April and ending on the following 5 April and that, consequently, there will be a short preceding “year” of assessment running from 6 April to 31 December 2001 (called the “year of assessment 2001”).

A similar amendment is made to *section 5(1) TCA 1997* which is the interpretation provision for the Capital Gains Tax Acts. The year of assessment for capital gains tax purposes is also to align with the calendar year from 1 January 2002, and there is to be a short preceding “year” of assessment running from 6 April to 31 December 2001 (called the “year of assessment 2001”).

A new subsection is substituted for the existing *subsection (2) of section 14 TCA 1997*. The new *subsection (2)* provides that assessments and the charge to income tax will now be made for a year of assessment (as newly defined as opposed to a year commencing on 6 April and ending on the following 5 April.

The *TCA 1997* is further amended in the manner and to the extent set out in *Schedule 2*.

Schedule 2

This Schedule makes various amendments to the *TCA 1997* consequent on the changeover to a calendar tax year from 1 January 2002 effected by *section 77*. The first calendar tax year will be preceded by a short transitional tax “year” covering the period from 6 April to 31 December 2001. In general, for this short tax “year”, tax credits, allowances, reliefs, etc., will be adjusted to 74% of their annual equivalents. A similar adjustment is made in other areas of the tax code, for example, the number of days in the various tests of residence, the percentages of the original market value of a car on which the BIK

charge on the use of a car is based, and the business mileage necessary to mitigate that BIK charge.

Persons carrying on a trade or profession are generally charged to income tax for a tax year on the profits of the trade or profession for a 12 month period of account ending in the tax year. *Schedule 2* provides that for the short tax “year” 2001 such persons will, in general, be assessed to income tax on the basis of 74% of the profits of the 12 month period of account ending in that “year”. The Schedule also makes necessary amendments to the law governing the basis of assessment in the case of the commencement or cessation of a trade or profession and where traders or professionals change their accounting date.

In the absence of an indication to the contrary, the amendments take effect from 6 April 2001.

The following is a summary of some of the main amendments.

Basis of assessment under Case I and II of Schedule D

Paragraph 2 amends *section 65 TCA 1997* which deals with the basis of assessment to income tax for persons carrying on a trade or profession. Such persons are generally assessed to tax for a tax year on the basis of the profits of a 12 month period of account ending in the tax year. For the short tax “year” 2001 the assessment will be on the basis of 74% of the profits of the appropriate 12 month period of account ending in that “year”. For this purpose, however, a 12 month period of account ending in the period 1 January 2002 to 5 April 2002 will, in addition to being an account made up to a date in the tax year 2002, be treated as an account made up to a date in the short tax “year” 2001. Consequently, the same 12 month period of account could form the basis for the assessment for the short tax “year” 2001 and also the tax year 2002. The assessment for the short

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CALENDAR YEAR OF ASSESSMENT

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tax “year” 2001 will be on the basis of 74% of the profits of the period of account, while the assessment for the tax year 2002 will be on the basis of the full (100%) profits of that period.

The move to a calendar tax year involves a mismatch between the length of the short tax “year” 2001 (period from 6 April to 31 December 2001) and the length of previous and subsequent tax years (12 months). In order to take account of this mismatch, *paragraph 2* also makes appropriate amendments to the law governing the basis of assessment of self-employed taxpayers in cases where such taxpayers who customarily makes up accounts for a period ending in a tax year do not do so or where such taxpayers change their accounting date.

Special basis at commencement of trade or profession

Paragraph 3 amends *section 66 TCA 1997* which provides special rules for the basis of assessment to income tax in the early years of a trade or profession.

In the case of the second tax year in which a trade or profession is carried on, taxpayers are normally assessed to income tax on the full amount of the profits of a 12 month period ending in that year. For the short tax “year” 2001, the assessment will be based on 74% of the profits of the appropriate 12 month period. In addition, because of the mismatch between the length of the short transitional tax “year” 2001 (period from 6 April to 31 December 2001) and the length of previous and subsequent tax years (12 months), some technical adjustments are made to the operation of the law governing the basis of assessment for the second and third tax years in which a trade or profession is carried on.

Special basis on discontinuance of trade or profession

Paragraph 4 makes two amendments to *section 67 TCA 1997* which provides special rules for the basis of assessment to income tax on the cessation of a trade or profession.

Firstly, with effect from 1 January 2002, the profits to be charged to income tax for the tax year in which a trade or profession ceases to be carried on will be the profits of the period from 1 January in the tax year (and not, as is currently the case, 6 April) to the date of the cessation of the trade or profession.

Secondly, as respects the tax year 2002 and subsequent tax years, if the actual profits of the 12 months ending on 31 December (and not, as is currently the case, 5 April) in the tax year preceding the tax year in which the trade or profession ceases exceed the profits on which a person has been assessed for that preceding tax year, an additional assessment can be made to charge the excess.

Expenses allowances and provisions relating to general benefits-in-kind charge

Paragraph 7 amends *section 116 TCA 1997* which is the interpretation section for Chapter 3 of Part 5 of that Act which deals with expenses allowances and the general benefit-in-kind charging provisions. Under *subsection (3) of section 116* directors are within the scope of that Chapter without qualification as to the amount of their income derived from their office. However, employees are within the scope of the Chapter only where for the year of assessment the remuneration from the employment, including expenses allowances and benefits-in-kind, but before any deduction of allowable expenses, is in excess of £1,500.

Paragraph 7 now amends *subsection (3) of section 116* so as to provide that this £1,500 limit will be reduced to £1,110. This reduction will apply for

the short “year” of assessment 2001 only.

Benefit of use of car

Paragraph 8 amends *section 121 TCA 1997* which charges to income tax the benefit to directors and employees derived from the private use of motor cars provided by their employers.

Paragraph 8 provides that for the short tax “year” 2001 the cash equivalent of the benefit of a car will be 74% of its annual equivalent, while the various business mileage limits applicable for tapering relief purposes will be 74% of their 12 month equivalents and the alternative relief to tapering relief will apply where the taxpayer travels at least 3,700 (reduced from 5,000) business miles.

Deferral of payment of tax under section 128 (share options)

Paragraph 9 amends *section 128A TCA 1997* which enables a taxpayer to elect to defer the income tax charge under *section 128* of that Act on the gain arising on the exercise of a share option. Under *subsection (3) of section 128A* the taxpayer must make a written election for this deferral not later than 31 January in the tax year following the tax year (the relevant year) in which the share option was exercised. Under *subsection (4) of section 128A* the tax payable may then be deferred:

- ▼ until 1 November in the tax year following the tax year in which the shares acquired by the exercise of the option are actually sold, or
- ▼ until 1 November in the tax year following the tax year beginning 7 years after the tax year in which the shares were acquired,

whichever is the earlier.

Paragraph 9 changes the 31 January election date (which mirrored the general return filing date for income

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tax returns under the Self Assessment system and which is based on a 6 April to 5 April income tax year) to a 31 October date. The 31 October date will be the new general return filing date for Self Assessment income tax returns under the new pay and file system introduced by way of *section 78 Finance Act 2001*. This amendment will apply where the year of assessment in which the share option was exercised is the year of assessment 2001 or any subsequent year of assessment.

Paragraph 9 also changes the 1 November payment date (which mirrored the payment date for preliminary income tax under Self Assessment and which is based on a 6 April to 5 April income tax year to a 31 October date. Under the new pay and file system 31 October will be the new payment date for both preliminary income tax for a tax year and the balance of income tax due for the previous tax year.

Relief for interest paid on certain home loans

Paragraph 13 amends *section 244 TCA 1997* which deals with tax relief for mortgage interest. Normally, the maximum amount of interest that can be taken into account for this relief for a tax year is £4,000 for married and widowed persons and £2,000 for single persons. In the case of first-time buyers, the limits are £5,000 for married and widowed persons and £2,500 single persons but only for the first 5 tax years in respect of which interest qualifies for relief under *section 244*. *Paragraph 13* now reduces these limits to £2,960, £1,480, £3,700 and £1,850, respectively. *Paragraph 61(a)* makes it clear that these reductions will apply for the short tax "year" 2001 only.

Deposit interest retention tax

Paragraphs 16, 17 and 18 amend *sections 258, 259 and 260 TCA 1997*, which govern deposit interest retention tax (DIRT), so as to secure that financial institutions continue to

pay, in each financial year, DIRT based on 12 months' interest.

Paragraph 16 amends *section 258 TCA 1997* so as to provide that the DIRT payment on account which financial institutions are required to make each October will be based on the interest accrued in the period from 1 January (and not 6 April) to 5 October in the tax year. This amendment will apply as respect the tax year 2002, being the first calendar tax year, and all subsequent tax years.

As respects the short tax "year" 2001 and subsequent tax years, the balancing payment in respect of DIRT for a tax year will be brought forward automatically from April to January as that payment has to be made within 15 days of the end of the tax year which will now fall on 31 December 2001.

Paragraph 16 further amends *section 258 TCA 1997* to provide that interest accruing in any tax year will, to the extent that it is not already paid in that year, be deemed for DIRT purposes to be paid on 31 December in that year. As a result the financial institutions will be required to account for DIRT in accordance with *section 258 TCA 1997* for the tax year for which the interest is deemed to have been paid. This amendment will apply for the short tax "year" 2001 and subsequent tax years.

Section 259 TCA 1997 provides that an alternative payment on account procedure applies in certain circumstances. That section applies to a financial institution if the amount of DIRT it is due to pay in respect of interest paid by it in a tax year is less than the amount of DIRT appropriate to the interest which accrued on the deposits held by it in a specified period of 12 months. The specified period of 12 months ends on the institution's latest general crediting date in the tax year or, if it has no general crediting date, on 5 April in the tax year. Where the section applies to an institution in

respect of a tax year, its October payment on account of DIRT for the following, and for each succeeding, tax year is determined by calculating the DIRT on 12 months' interest accruing to 5 October in the tax year and then reducing the resultant amount by the excess of the DIRT liability for the previous tax year over the amount of the October payment on account for that preceding tax year.

In order to take account of the short tax "year" 2001, *paragraph 17(a)* amends *section 259 TCA 1997* to provide that the specified period of 12 months referred to in that section will be reduced to a period of 270 days, being the number of days in the period from 6 April to 31 December 2001. This reduction will apply only for the short tax "year" 2001.

Paragraph 17(b) further amends *section 259 TCA 1997* so as to change the 5 April reference date in that section to 31 December, the end of the tax year under a calendar tax year system. This amendment will apply as respect the short tax "year" 2001 and subsequent tax years - the short tax "year" 2001 is the first tax "year" with a 31 December end date.

Section 260 TCA 1997 contains provisions to supplement *sections 258 and 259 of that Act*. *Paragraph 18* changes the 6 April date in *section 260(4)(a)(i) TCA 1997* to 1 January consequent on the similar change made to *section 258* of that Act by *paragraph 16*. The amendment to *section 260 TCA 1997* will apply for the tax year 2002, and subsequent tax years.

Capital allowances: wear and tear allowances

Paragraph 19 makes a technical amendment to *section 284 TCA 1997* so as to ensure that wear and tear allowances in respect of machinery or plant will be proportionately restricted for the short tax "year" 2001.

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Relief for health expenses

Paragraph 22 amends *section 469 TCA 1997*. Under that section an individual is entitled to a deduction from total income for tax purposes where he or she has paid qualifying health expenses incurred in a tax year on the provision of health care for himself or herself or for any of his or her qualifying dependants. Normally, the deduction for a tax year is :

- in the case of such expenses incurred by one qualifying individual, the excess of the expenses incurred over £100, and
- in the case of such expenses incurred by more than one qualifying individual, the excess of the expenses incurred over £200.

Paragraph 22 provides that the amounts of £100 and £200 are reduced to £74 and £148, respectively. These reductions will apply for the short tax “year” 2001 only.

Relief for investment in films

Paragraph 23 amends *section 481 TCA 1997* which provides tax relief to both companies and individuals for investment in films. In the case of individuals, the investor is given a deduction from his or her total income for the tax year in which the investment is made in a qualifying film equal to 80% of the amount invested. However, a maximum limit of £25,000 applies on the amount of a qualifying investment or the total amount of qualifying investments in respect of which such a deduction can be given to an individual in any one tax year. There is also a minimum limit of £200 on a qualifying investment.

Paragraph 23 now reduces the maximum and minimum limits to £18,500 and £148, respectively. These reductions will apply for the short tax “year” 2001 only.

Business Expansion Scheme: limits on relief

Paragraph 25 amends *section 490 TCA 1997* which imposes certain limits on the relief available under the Business Expansion Scheme. The minimum and maximum amounts on which relief is available for a normal tax year are £200 and £25,000, respectively. Paragraph 25 reduces these minimum and maximum limits to £148 and £18,500, respectively. These reductions will apply for the short tax “year” 2001 only.

Business Expansion Scheme: individuals qualifying for seed capital relief

Paragraph 26 amends *section 494 TCA 1997* which sets out the conditions which must be satisfied by an individual in order to qualify for seed capital relief under the Business Expansion Scheme. One of the conditions is that the individual must not have been in receipt of income chargeable to tax, other than employment income, in excess of the lesser of :

- the aggregate of the individual's employment income, and
- £15,000.

This income test applies for each of the 3 tax years before the tax year preceding the tax year in which the individual makes his or her first seed capital investment. There is no restriction on the source of the individual's income in the year which immediately precedes the year in which he or she makes that investment.

Paragraph 26 provides that for the purposes of the income test the £15,000 limit will be reduced to £11,100 in the case of the short tax “year” 2001.

Relevant Contracts Tax: interpretation

Paragraph 31 amends *section 530 TCA 1997*. This is the interpretation provision for Relevant Contracts Tax which principal contractors are obliged to deduct at a rate of 35% from payments made to subcontractors in the construction, meat processing and forestry industries.

Paragraph 31 rewrites the definition of “income tax month” in *section 530 TCA 1997* - from 1 January 2002, an income tax month will be a calendar month.

Paragraph 31 also amends the definition of “qualifying period” in *section 530 TCA 1997*. Essentially, this is the 3 year “look back” period on tax compliance to determine whether or not a certificate of authorisation is issued to a subcontractor to enable the subcontractor to receive payments without deduction of RCT. The existing definition contains references to the 5th day of April and the 6th day of April, being the last day and the first day, respectively, of an income tax year. To reflect the change to a calendar income tax year, the dates in question are changed to 31 December and 1 January - this change will apply from 1 January 2002.

Returns, payments and repayments

Paragraph 32 fixes the return and payment deadline for RCT as the 14th day of the month - this change will apply from 1 January 2002.

Paragraph 32 also makes changes to the definition of “the repayment period” in *section 531 TCA 1997*. This period is currently determined by reference to an income tax year commencing on 6 April and an income tax month ending on the 5th day of a month. To reflect the change to a calendar income tax year and calendar income tax months, paragraph 32 provides that “the

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repayment period" will be determined by reference to the 1st day of the tax year and the last day of the income tax month in which the payments subjected to RCT were made. These changes will apply from 1 January 2002.

Capital Gains Tax: annual exempt amount

Paragraph 34 amends *section 601 TCA 1997*. That section grants a capital gains tax exemption to an individual in respect of the first £1,000 of chargeable gains in any one tax year. *Paragraph 34* now reduces this annual exempt amount to £740. This reduction will apply for the short tax "year" 2001 only.

Capital Gains Tax: disposal of principal private residence

Paragraph 35 amends *section 604 TCA 1997*. That section exempts from capital gains tax the gain made by an individual on the disposal of his or her dwelling house together with land occupied as its gardens or grounds up to an area of one acre, exclusive of the site of the residence. Relief is not given for any part of the gain which is applicable to "development land value". However, if the total consideration accruing to the individual in any one tax year from all disposals of assets which are development land, and which would otherwise qualify for relief under the section, does not exceed £15,000, this restriction on the relief does not apply. *Paragraph 35* reduces this annual limit of £15,000 to £11,100. This reduction will apply for the short tax "year" 2001 only.

Capital Gains Tax: exclusion of certain disposals from taxation regime applying to development land

Paragraph 36 amends *section 650 TCA 1997*. That section provides that a disposal of development land by an individual will not be subject to the special capital gains tax regime applying to such disposals if the total consideration accruing to the individual in the tax year concerned from all disposals of assets which are development land does not exceed £15,000. *Paragraph 36* reduces this annual limit of £15,000 to £11,100. This reduction will apply for the short tax "year" 2001 only.

Retirement annuities: amount of relief for qualifying premiums

Paragraph 41 amends *section 787 TCA 1997* which sets out how retirement annuity relief is to be computed. The relief is given as a deduction from or set-off against relevant earnings for the tax year for which qualifying premiums are paid. However, for the purposes of the relief, an individual's net relevant earnings for a tax year may not exceed £200,000. *Paragraph 41* reduces the £200,000 ceiling on the relief to £148,000. This reduction will apply for the short tax "year" 2001 only.

Residence of individuals

Paragraph 42 amends *section 819 TCA 1997* which sets out 2 tests for determining the residence status of an individual for tax purposes.

The first and basic test is that a person is resident in the State for tax purposes for a tax year in which he or she spends 183 days or more in the State. *Paragraph 42* reduces 183 days to 135 days. This reduction will apply in determining residence for the short tax "year" 2001 only.

Where the time spent in the State in a tax year is less than 183 days, the second test comes into play. This is a 2 year test and involves taking

account of a person's presence in the State in both the tax year in question and the preceding tax year. Thus, a person who spends an aggregate of 280 days or more in the State over the combined period of the 2 tax years is regarded as resident in the State for tax purposes for the later tax year. *Paragraph 42* reduces 280 days to 244 days. This reduction will apply only in determining residence for the short tax "year" 2001 and the tax year 2002.

Presence in the State for periods of 30 days or less in any tax year are to be ignored for the purposes of the 2 year residence test. For example, an individual who is present in the State for 280 days over 2 tax years is normally regarded as resident in the State in year 2. However, if the individual is present in the State for 30 days or less in year 2, he or she is regarded as non-resident in that year. *Paragraph 42* reduces 30 days to 22 days. This reduction will apply in determining residence for the short tax "year" 2001 only.

Application of sections 17 and 18(1) and Chapter 1 of Part 3 in case of persons ordinarily resident in the state

Paragraph 43 amends *section 821 TCA 1997*. That section creates an exception to the general rule that a non-resident person is taxable only on Irish source income. It provides that a non-resident person is subject to income tax on foreign investment income of £3,000 or more in any tax year for which he or she is ordinarily resident in the State. *Paragraph 43* reduces the £3,000 limit to £2,220. This reduction will apply for the short tax "year" 2001 only.

PAYE system

Paragraph 53 rewrites the definition of "income tax month" in *section 983 TCA 1997* which is the interpretation section for the primary legislation governing the PAYE system. The current definition of "income tax month" is based on a 6 April to the

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following 5 April tax year and, consequently, provides that an income tax month commences on the 6th day of any of the months of April to March in any year. The rewritten definition maintains this position for the period to 5 December 2001, provides that the short period 6 December to 31 December 2001 will be treated as an income tax month and, to coincide with the introduction of the calendar income tax year from 1 January 2002, secures that from that date an income tax month will be a calendar month. ■

Professional Services Withholding Tax



Interpretation

This article gives an overview of Professional Services Withholding Tax (PSWT) and outlines the changes in relation to the changeover to the calendar year of assessment.

Schedule 2, paragraph 28 FA 2001 amends *section 520 TCA 1997* which is the interpretation section for PSWT.

PSWT deducted in a basis period for a tax year is available for set-off against the income tax chargeable for that tax year. The term "basis period" is defined in *section 520 TCA 1997* as being, in general, the period on the profits or gains of which income tax for a tax year is finally computed. In the case of the commencement or cessation years of a business, or in cases where a business changes its accounting period, the basis periods for income tax purposes for two tax years can overlap or coincide or, indeed, a period may not form part of a basis period for any tax year. The definition of "basis period" provides rules to deal with such situations, the purpose of which is to ensure that each day in the life of a business on which a payment subject to PSWT is received is to be included in one, but only one, basis period for PSWT purposes.

In general, self-employed persons will be assessed for the short tax "year" 2001 on the basis of 74% of their profits for the 12 month period of account ending in the short "year".

Those taxpayers who customarily make up annual accounts to a date in the period from 1 January to 5 April will not have a 12 month period of account ending in the short tax "year" 2001 as their normal 12 month period of account will end in the period from 1 January to 5 April 2002. Notwithstanding this, such taxpayers are to be assessed for the short tax "year" 2001 on the basis of 74% of the profits of the 12 month period of account ending in the period from 1 January to 5 April 2002. The same 12 month period of account will also be the basis period for the tax year 2002, albeit that for that year the taxpayer will be assessed on the basis of 100% of the profits of that 12 month period of account.

Under the definition of "basis period" in *section 520 TCA 1997*, where there is an overlap between, or a coincidence of, basis periods, the period common to both is regarded for the purposes of PSWT as being referable to the later tax year. On this basis taxpayers who prepare annual accounts to dates in the period from 1 January to 5 April 2002 would not get any credit for PSWT deducted in the period of account against income tax payable for the short tax "year" 2001, since all of the PSWT would be treated as being referable to the basis period for the tax year 2002.

Paragraph 28 amends *section 520 TCA 1997* so as to provide a special rule to deal with such cases. In essence, where a 12 month period ending in the period from 1 January to 5 April 2002 is the basis period for both the short tax "year" 2001 and the tax year 2002, the 12 month period in question will be treated for PSWT purposes as the basis period for the short tax "year" 2001 only. This will ensure that the taxpayers concerned will get credit for PSWT deducted in that 12 month period against income tax payable for the short tax "year" 2001. The credit will not be deferred to the tax year 2002.

PROFESSIONAL SERVICES WITHHOLDING TAX

Paragraph 28 also rewrites the definition of “income tax month” in *section 520 TCA 1997* - from 1 January 2002, an income tax month will be a calendar month.

Returns and collection

Schedule 2, Paragraph 29 FA 2001 fixes the return and payment deadline for PSWT as the 14th day of the month - this change will apply from 1 January 2002.

Interim refunds

Paragraph 30 amends *section 527 TCA 1997* which deals with interim refunds of PSWT. A person carrying on an ongoing business may make a claim for an interim refund of PSWT referable to a basis period for a tax year if the profits of the immediately

preceding basis period have been finalised and the tax for the tax year referable to that immediately preceding basis period has been paid. The amount of the interim refund is the excess of the total amount of PSWT deducted and vouched over the amount of the income tax liability for the tax year referable to the immediately preceding basis period, less any value-added tax, PAYE tax, and PRSI contributions due but unpaid.

The move to a calendar tax year involves a mismatch between the length of the short transition tax “year” 2001 (270 days from 6 April to 31 December 2001) and the length of previous and subsequent tax years (12 months).

In the case of claims for interim refunds of PSWT referable to a basis period for the short tax “year” 2001, *paragraph 30* provides that the comparison for refund purposes will be with 74%, and not 100%, of the income tax liability for the tax year 2000/2001.

In the case of claims for interim refunds of PSWT referable to the basis period for the tax year 2002, for which year 100% of the profits of the basis period will be charged to income tax *paragraph 30* provides that the comparison for refund purposes will be with 135% of the income tax liability for the short tax “year” 2001. ■

RETIREMENT ANNUITY CONTRACTS

The legislation governing income tax relief for retirement annuity contract premiums is covered in *section 787 Taxes Consolidation Act 1997*. Generally, relief is given by way of deduction from an individual’s relevant earnings (income from non-pensionable office or employment or from a trade or profession) for the year of assessment in which the premium is paid.

However, *section 787(7)* provides that a premium paid after the end of the year of assessment but on or before the return filing date may be treated as paid in the preceding year of assessment if the individual so **elects on or before the return filing date**.

The legislation is specific with regard to the time limit for making an election. It allows almost ten months after the end of the year of assessment for individuals to finalise their accounts, make a decision on whether to take out a retirement annuity for the preceding year, and to make a timely election to have the premiums treated as having been paid in the preceding year of assessment if they so wish.

In view of :

- (a) Revenue’s waiver of the requirement to submit RAC certificates in support of claims, (see *Tax Briefing* Issue 29) and

- (b) the period available between the end of the year of assessment and the return filing date in which a taxpayer may make RAC contributions and an election to treat the premiums as paid in the preceding year of assessment if he or she so wishes,

tax practitioners and taxpayers are reminded that Revenue apply the election requirement strictly. Under no circumstances will an election made outside the prescribed time limit be admitted. ■

TAX RELIEF AT SOURCE (TRS)

In the December 1999 Budget, the Minister for Finance, Mr Charlie McCreevy, T.D. announced that Tax Relief at Source (TRS) would be introduced for certain tax allowances previously allowed through the Tax Free Allowance (TFA) System. From 1 January 2002, tax relief on interest payable on new and existing mortgages will no longer be given through the tax system but will instead be granted at source. This means that the tax relief element on the mortgage interest will be administered by the lending institutions and the relief will be "built into" the monthly mortgage repayment.

The TRS system will apply to secured mortgage loans - these are loans secured by the mortgage of freehold or leasehold estate or interest in a principal private residence. Any interest relief due on unsecured [non-mortgage] home loans will continue to be given through the tax system - generally by way of a claim at the end of the tax year.

TRS will simplify the administration of mortgage interest tax relief where the borrower will see the benefits of the relief in the monthly mortgage repayment. In addition, any future adjustment in tax relief (for example, arising from a change in interest rates) will be made automatically by the lender. The introduction of Tax Relief at Source also provides an opportunity to extend the tax relief on

Mortgage Interest

mortgage interest to persons whose taxable income up to now was insufficient to avail of the tax relief. These borrowers will be entitled to the tax relief from 1 January 2002.

Commencing on 18 June and continuing into July 2001, Revenue will be writing to each of the 450,000 borrowers who are at present claiming mortgage interest relief through the tax system. Where Revenue have the full mortgage details, Revenue will be writing to confirm the details with each borrower by letter and no further action is necessary unless some of the details need to be updated.

For the remaining cases, the borrowers will be asked to supply details of their mortgage account and return the details to TRS Section, Collector-General, Sarsfield House, Limerick.

Help Line

Revenue is establishing a special TRS help line to assist borrowers with any queries they may have. The help line will be open from 8am to 8pm each week, Monday to Friday, commencing 18 June 2001. The Locall number is 1890 463626.

An explanatory leaflet on Tax Relief at Source (TRS) for Mortgage Interest is available from any Revenue Office and on the Revenue website at www.revenue.ie ■

HEPATITIS C COMPENSATION PAYMENTS

Tax Briefing Issue 35 (March 1999) contained an article dealing with the tax treatment of Hepatitis C compensation payments.

Section 189 Taxes Consolidation Act 1997 exempts from income tax any income arising to an individual following the investment of any payment made

- to or in respect of an individual who is permanently and totally incapacitated by reason of mental or physical infirmity from maintaining himself or herself, and
- following the institution by or on behalf of the individual of a civil action for damages in respect of personal injury giving rise to that mental or physical infirmity.

Where it is medically certified that an individual is suffering from a degenerative condition which will ultimately cause a permanent and total incapacity by reason of mental or physical infirmity and the condition gave rise to the compensation payment, Revenue accepts that the requirements of *subsection 1(a), section 189 Taxes Consolidation Act 1997* are met.

This applies to individuals who have been diagnosed positive for Hepatitis C antibodies or Hepatitis C.

The other provisions in *section 189 Taxes Consolidation Act 1997* relating to sole or main income and returns of income continue to apply. ■

PERSONAL INJURIES

Exemption of income arising from the investment of compensation payments in respect of personal injuries

Introduction

Section 189 TCA 1997 exempts from tax certain income arising to permanently incapacitated individuals from the investment, in whole or in part, of compensation payments in respect of personal injury claims made by the Courts, or under out-of-court settlements. The exemption only applies where the income in question forms the sole or main income of the individual.

This article considers whether the exemption applies:

- ▼ where investment assets funded by the compensation payment have been realised (perhaps appreciating in value) and reinvested in other assets and
- ▼ where assets have been financed partly by the qualifying compensation payment and partly by borrowings.

Re-investment in other assets

The section specifies that the exemption from income tax applies to income arising from the investment **in whole or in part of such payments or of income from such payments.**

Income (in this subsection referred to as "the relevant income") which arises to an individual, to or in respect of whom payments to which this section applies are made, from the investment in whole or in part of such payments or of income from such payments, being income consisting of dividends or other income which but for this section would be chargeable to tax under Schedule C or under Case III, IV (by virtue of section 59 or section 745 or V of Schedule D or under Schedule F, shall be exempt from income tax... (Section 189 (2) TCA 1997)

It is recognised that an asset may over the period of an investment appreciate in value and any re-investment of such funds may also qualify for exemption.

For example, say in 1990 an individual had used £200,000 from a qualifying compensation payment to acquire a property the full cost of which came from the compensation payment. The property was let and the rental income generated was covered by the exemption under *Section 189 TCA 1997*. If the property was sold in the year 2000 for £600,000 and all the proceeds (after costs and CGT) were re-invested in another investment property, the exemption would also apply to all the rental income from the new property. In these circumstances the source of income clearly arises from the investment of the compensation funds alone and not from any other source.

Assets financed partly by borrowings

However, where a relevant individual finances the purchase of an asset partly with a qualifying compensation payment and partly with say a loan, then only a portion of the income will qualify for exemption. The income which qualifies is the proportion to which the compensation payment (together with any capital appreciation thereof) used to finance the asset bears to the total funds expended to finance the asset. The exemption can only be given, as the legislation requires, in respect of income arising from the investment of the compensation payments.

Revenue Precedent 391 regarding Section 192 TCA 1997

Revenue Precedent 391 dealt with compensation payments in thalidomide cases. The precedent indicated that where a rental property is financed partly by thalidomide

Exemption of Income

compensation funds and partly by a mortgage that the full amount of the rental income is treated as exempt. Revenue have re-examined that precedent and it is now withdrawn. The policy in regard to assets financed by borrowings which is set out above in connection with *Section 189* will also now apply to exempt income under *Section 192 TCA 1997*. Any cases which had availed of precedent 391 can continue to do so, however, any new additional financing by borrowed funds in such cases will not be covered by the relief.

Special Trusts for Permanently Incapacitated Individuals.

Revenue policy as set out above, applies also to the exemption under *Section 189A TCA 1997*.

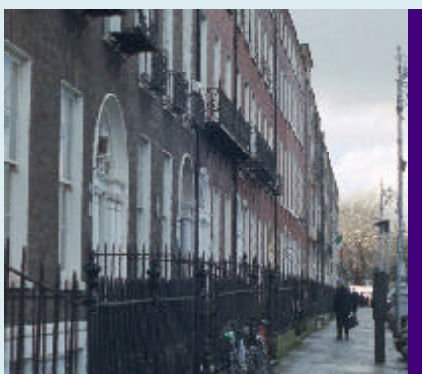
Conclusion

The primary purpose of *Section 189* is to grant exemption from income tax on the investment of the compensation funds. While it is Revenue's intention to interpret the section in a broad manner so as, for example, to allow for capital appreciation and not to impose restrictions on the switching of investments, income derived from borrowed funds does not come within the scope of the section.

Finally, it should also be noted that the provisions of *Section 189* require that the exempt income (relevant income) be the sole or main income of the individual. 'Sole or main' means more than 50%. Where the person claiming the exemption is in receipt of certain payments by the Department of Social, Community and Family Affairs in respect of the same injury or disability which gave rise to the compensation payment those benefits are not taken into account when calculating whether the investment income is the sole or main income of the individual. ■

STAMP DUTY

Revenue Certificates in Deeds



Introduction

This article sets out the treatment of Revenue Certificates in Deeds in relation to stamp duty. It outlines the situations where certification is necessary and gives the rationale behind the wording of the various Revenue Certificates involved.

Historical Background

The concept of certification in deeds for stamp duty purposes first came into use as far back as 1910. Under the *Finance (1909-10) Act 1910* lower rates of stamp duty were introduced for property transactions under a certain value and in the absence of what is commonly known as the “transaction certificate” the maximum stamp duty rate was payable.

Over time certification in deeds has been expanded to identify

- the type of property being transferred under a deed
- the nature of the transaction involved and
- situations where certain exemptions or reliefs from stamp duty are being claimed.

The rationale behind certification in deeds is that the maximum rate of stamp duty will be chargeable unless the correct certificates are endorsed to support the lower rate or exemption being claimed.

The wording of the current Revenue Certificates is set out in Leaflet SD10 which is available on our website at www.revenue.ie. The different forms

of certification that currently apply are described below.

Transaction Certificate (Nos. 8A-D in Leaflet SD10)

This was the first form of certification introduced for stamp duty purposes and one that practitioners will be most familiar with. Originally this certificate dealt solely with the amount or value of the transaction but now it also identifies whether the property is residential or non-residential in nature since the introduction of different rates of duty for residential and non-residential property.

The rationale for this certificate is to prevent the breaking up of a larger transaction into a number of smaller transactions in order to avoid a higher rate of duty. However, in a mixed property situation the residential part of the transaction is not aggregated with the non-residential portion for the purposes of determining the appropriate rate of duty. The consideration should be apportioned between the residential and non-residential elements and each type of property is separately certified to the applicable threshold and the appropriate rate of duty is chargeable in respect of the residential and non-residential parts of the transaction. The current rates of stamp duty are included in the Leaflet SD10.

The position where contents of a property are acquired is that they are to be taken into account for the purposes of the threshold to be inserted in the transaction certificate even though the contents themselves do not attract a charge to stamp duty where they pass by delivery. The contents of residential property are deemed to be residential property for aggregation purposes.

The wording of the transaction certificate should be adapted in the case of a lease or gift.

Certificate under Section 29/53 Stamp Duties Consolidation Act 1999 (Nos. 2A/B or 3A/B in Leaflet SD10)

Section 29 (in the case of a conveyance / transfer) and *section 53* (in the case of a lease) apply to the acquisition of a site where there is an arrangement to build a house on the site. Under these sections a charge to stamp duty is imposed on the aggregate of the consideration paid for the site and the consideration paid in respect of the building of the house on the site.

Both sections have similar wording except that *section 29* deals with conveyances / transfers and *section 53* deals with leases. The reason for this apparent duplication is that conveyances / transfers and leases are chargeable under separate headings in the *Stamp Duties Consolidation Act 1999*.

Every instrument chargeable as a conveyance / transfer or lease must contain a certificate that *section 29/53* either applies or does not apply to the deed. Additional certification will be required to determine the appropriate stamp duty rate which applies.

Occupancy Certificate (Nos. 7A-C in Leaflet SD10)

This certificate is required in order to obtain the reduced stamp duty rates in the case of the acquisition of a house by a first time buyer or other owner-occupier.

The certificate may be given where:

- ▼ the property is to be occupied as a person's only or principal place of residence for a period of 5 years from the date of the instrument,
- ▼ the occupancy is by the purchaser or a person in his right and
- ▼ no rent is to be derived from the property other than rent received after 6 April 2001 under the rent-a-room scheme introduced under the *Finance Act 2001*.

STAMP DUTY

Under the rent-a-room scheme the purchaser or the person in right of the purchaser must continue to occupy the property as his principal place of residence while deriving rent from the letting of part of the property.

A clawback, of an amount equal to the difference between the higher rate of stamp duty and the reduced stamp duty paid, arises where rent, other than under the rent-a-room scheme, is derived from the property during the 5 year period.

First Time Purchaser Certificate (No. 6 in Leaflet SD10)

In this certificate a person certifies that he/she is a first time purchaser in order to avail of the reduced rates of stamp duty for first time buyers. An occupancy certificate is also required in conjunction with this certificate.

The term "first time purchaser" is defined in *section 92B Stamp Duties Consolidation Act 1999* (which was inserted by the *Finance (No.2) Act 2000*). The definition broadly includes a person who has not on any previous occasion, either individually or jointly, purchased or built on his/her own behalf a house in the State or abroad. Where there is more than one purchaser each of the purchasers must come within the scope of the definition in order to avail of the reduced rates.

There are a number of special situations to which the first time purchaser relief applies on a deemed basis. The category of persons originally catered for was a spouse to a marriage which was the subject of a judicial separation or a decree of divorce. The *Finance Act 2001* extended the legislation to situations where there is a decree of nullity or a deed of separation.

The effect of this provision is to grant first time buyer relief to a spouse in any of the above situations in the case of the first acquisition of a house following the separation /

divorce / nullity where that spouse has:

- ▼ left the former family home and
- ▼ not retained any interest in that home

and the other spouse continues to occupy the former family home since the separation / divorce / nullity.

Exemption for new grant-size houses (No.1 in Leaflet SD10)

There is an exemption from stamp duty in *Section 91 Stamp Duties Consolidation Act 1999* for the acquisition of new grant-size houses. The exemption is available for all owner-occupiers whether first time buyers or not.

The certification required to avail of the exemption confirms that:

- the house is newly erected
- a floor area certificate (must not exceed 125 sq.m.) has issued by the Department of the Environment and Local Government and
- the occupancy criteria previously referred to has been satisfied.

The clawback provisions apply where rent, other than rent under the rent-a-room scheme, is obtained during the five years after the date of the acquisition.

Relief for new houses with no floor area certificate (No.2A/B or 4A/B in Leaflet SD10)

Section 92 Stamp Duties Consolidation Act 1999 provides that the chargeable consideration in the case of the purchase of a non-grant size house for owner occupation is:

- ▼ 25% of the total consideration in the case of the purchase of a completed house subject to certification that the house is newly erected and that *sections 29 / 53 and section 91* do not apply. An occupancy certificate is also required.

or

- ▼ the greater of (i) the site consideration or (ii) 25% of the aggregate of the site consideration and the consideration paid for the building of the house, where it is certified that *section 29 / 53 Stamp Duties Consolidation Act 1999* applies. An occupancy certificate is also required.

Stamp duty will then be chargeable on the basis of the reduced consideration (exclusive of VAT) at the appropriate rates for first time purchasers or other owner-occupiers subject to the appropriate certification already referred to. The full range of certificates required is set out in Table 2 in Leaflet SD10.

The clawback provisions apply where rent, other than rent under the rent-a-room scheme, is obtained during the five years after the date of the acquisition.

Second-hand house certificate (No. 5 in Leaflet SD10)

This certificate confirms that the transaction relates to the purchase of a house and is required in conjunction with the owner occupancy certificate and / or the first time buyer certificate where the benefit of the reduced rates are claimed in connection with the purchase of a second-hand house.

The full range of certificates is set out in Table 2 in Leaflet SD10.

The higher 9% rate of stamp duty applies in the case of an investor acquiring a second-hand house regardless of the consideration paid.

Reduced rates for New Houses acquired by investors (No.2A/B or 4C/D in Leaflet SD10)

Under the *Finance Act 2001* reduced stamp duty rates were introduced for new houses acquired by investors. The reduced rates are set out in column 4 of Table 1 in Leaflet SD10

Continued on page 32

STAMP DUTY

Continued from page 31

and apply to instruments executed on or after 27 February 2001. The certification confirms either:

- in the case of a completed house that the house is newly completed and that *section 29 / 53* does not apply
- or
- that *section 29 / 53* applies where there is a site acquisition combined with a building contract.

The charge to duty arises on the entire consideration paid for the house exclusive of VAT. The appropriate rate is then determined on the basis of the threshold included in the transaction certificate.

Relationship Certificate (No.10 in Leaflet SD10)

Stamp duty at half the normal rate is chargeable where the relationship certificate is included in a deed. This is known as consanguinity relief and in order to avail of this relief each of the persons to whom the property is transferred must be related to each of the transferors to the required degree. The degree of relationship is mainly based on direct ancestry and extends to nieces / nephews but does not include cousins or in-laws. The relief is not available where only one of the parties is related to the required degree and there is no provision for granting the relief to the part of the transaction between the related persons.

The relief is provided for in paragraph 15 of the heading "Conveyance or Transfer on sale of any property" in *Schedule 1 Stamp Duties Consolidation Act 1999*. The relief is available in the case of either a sale or a gift of property but does not apply to a lease or to the transfer of stocks or marketable securities. Adjudication is required where the relief is sought.

Young Trained Farmer Exemption (No. 11 in Leaflet SD10)

Section 81 Stamp Duties Consolidation Act 1999 provides for an exemption from stamp duty on certain conveyances / transfers of property to young trained farmers. The parties do not have to be related and the relief applies to both sales and gifts but does not apply to leases. Full details of the relief are contained in Leaflet SD2 and the relevant qualifications must be satisfied as at the date of the transfer.

Where relief is claimed the instrument should contain a certificate that *section 81* applies. Adjudication is also required.

Woodlands Relief (No. 12 in Leaflet SD10)

This relief is contained in *section 95 Stamp Duties Consolidation Act 1999* which excludes from the charge to stamp duty that portion of the consideration attributable to trees growing on lands for commercial purposes. The relief only applies to sales and the consideration must be apportioned between the lands and the trees and the rate of duty chargeable on the lands is determined by the amount of the total consideration for the sale.

Where this relief is claimed the instrument should contain a certificate that *section 95* applies. While the section does not provide for adjudication it is in practice required.

Reliefs not requiring certification

Certification does not arise in the case of every relief or exemption provided for under the Stamp Duty code. Listed below are a number of examples of situations where there is no statutory requirement for having a certificate in the deed.

- Spouse exemption (*section 96 Stamp Duty Consolidation Act 1999*) - a certificate may be included if desired to confirm the relationship of the parties. Spouse transfers do not require to be presented for stamping in order to obtain the exemption.
- Relief for intra-group transfers (*section 79 Stamp Duty Consolidation Act 1999*) - no certification is required in the deed but adjudication is necessary. A statutory declaration setting out the basis of the claim should be filed.
- Relief for company reconstructions/amalgamations (*section 80 Stamp Duty Consolidation Act 1999*) - no certification is required in the deed but adjudication is necessary. A statutory declaration setting out the basis of the claim should be filed.

Exemption for transfer of site from parent to child for building purposes (No. 9 in Leaflet SD10)

This exemption was introduced under the *Finance Act 2001* by the insertion of *section 83A Stamp Duties Consolidation Act 1999*. It applies to instruments executed on or after 6 December 2000 and adjudication is required. The certificate required to obtain the exemption confirms that:

- ▼ a site only is being transferred
- ▼ the transferee is a child of the transferor
- ▼ the value of the site does not exceed £200,000
- ▼ the purpose is the erection of a house to be occupied as the only or main residence of the transferee and
- ▼ this is the first occasion that the child has claimed this relief.

STAMP DUTY

Exemption from Fixed Duty of £10 (Nos.13A-D in SD10)

Instruments, which are liable to the fixed duty of £10 under the following headings in *Schedule 1 Stamp Duties Consolidation Act 1999*, are exempt from this charge where they bear the appropriate certificate.

“Conveyance or Transfer of any kind not already described in *Schedule 1*”.

“Exchange” (other than an exchange chargeable under *section 37 Stamp Duties Consolidation Act 1999*. This section imposes a charge to ad valorem on exchanges involving immovable property.).

“Release or Renunciation of any property, or right or interest in any property”.

“Surrender of any property, or of any right or interest in any property”.

The transactions involved do not attract ad valorem duty as they are not on sale or by way of gift. There is no need to present such instruments for stamping where they are so certified.

Transitional Certificate

Under the *Finance (No.2) Act 2000* transitional arrangements apply where the purchase of a house was the subject of a contract evidenced in writing prior to 15 June 2000. Under these arrangements a person who was disadvantaged as a result of the stamp duty changes can opt to have the rates in force prior to 15 June 2000 applied to the instrument of conveyance/lease provided that the instrument has been executed on or before 31 July 2001 (extended from 31 January 2001 under *Finance Act 2001*).

To avail of the transitional arrangements the instrument of conveyance/lease must contain the following certificate:

“It is hereby certified that this instrument was executed solely in pursuance of a contract evidenced in writing prior to 15 June 2000”.

Incorrect Certificate

Section 8 Stamp Duties Consolidation Act 1999 requires full disclosure of all the facts and circumstances at the time of stamping. Penalties can be incurred by either the parties to a deed or any person involved in the

preparation of a deed where incorrect information is furnished or non-disclosure occurs.

Under *section 17 Stamp Duties Consolidation Act 1999* the furnishing of an incorrect certificate for stamp duty purposes is a Revenue offence which may be subject to the sanctions provided for in *section 1078 Taxes Consolidation Act 1997*.

Further Information

For further information, please contact

*Capital Taxes Division,
Stamp Duty Customer Service Unit,
Stamping Building,
Dublin Castle,
Dublin 2.*

Dublin Office:

Telephone: 01 6792777
ext. 48552 / 48176 / 48093

Fax: 01 6793261

Cork Office:

Telephone: 021 4968783
ext. 73191 / 73142 / 73103

Fax : 021 4318088 ■

FOREIGN EFFECTIVE RATES

Current foreign effective rates are as follows:

Belgium	49%	Italy	46%
Canada	47%	Japan	44%
France	46%	Luxembourg	42%
Germany	37%	Norway	35% ■

PARTITION OF FAMILY TRADING COMPANIES

CGT

Introduction

The intention of this article is to explain the relief available in the case of a partition of a family trading company together with the circumstances in which the relief may be granted. This article essentially sets out how precedent 701* is to be applied.

Background

There are occasions where a family carries on separate identifiable trades under the umbrella of a single company (or a single trade which is capable of division into more than one separate trade). Similarly, the trades may be carried on by more than one company or within a group structure. This might arise, for instance, where the original corporate structure was put in place by a deceased parent and inherited by the various family members. For commercial or other reasons the family members may now wish to divide the separate trades between the family members so that each trade can be owned and carried on wholly by individual members.

Partition

Where, in the case of a family trading company

- shares are reorganised into separate classes
- new companies are formed to take over the separate trades allocated to the different classes
- with each group of shareholders receiving shares in a different company

the reliefs provided by *section 587* and *615* will apply, if the conditions set out below are satisfied. The desired separation must occur on the transfer of a trade to another company, in exchange for the issue of shares by that company.

Conditions

- ◆ No money or moneys worth changes hands
- ◆ No value shifting takes place, i.e. the value of each shareholder's holding before and after the partitioning is identical
- ◆ Acceptance that assets transferred between companies pass to the transferee company at the original date of acquisition and cost to the transferor company
- ◆ Acceptance that new shares received in exchange take on original date of acquisition and cost of old shares
- ◆ Applies to 'family' partitions only ['family' as defined in *section 598(1)(a) TCA 1997*]

- ◆ Applies to 100% family companies only
- ◆ All parties must be Irish tax resident
- ◆ Applies to separation of trading companies only i.e. trades capable of division into separate trading entities, e.g. a number of retail outlets, two distinct trading activities such as manufacturing and distribution/sales. In practice where the value of non-trade assets does not exceed 10% of the value of the trading entity as a whole relief will be given
- ◆ The separate trades must continue post partition / not available as an alternative to a partial winding up or to be used as a mere separation into trade assets and investment assets
- ◆ Where the partition involves the division of a group of companies, the entity to be transferred can be a 100% trading subsidiary of a 100% family company. The provisions of *section 623 TCA 1997* will, however apply
- ◆ Relief does not extend to stamp duty
- ◆ Must be for bona fide commercial reasons and not to secure a tax advantage of any kind.

Advance Approval

Advance approval should be sought for this relief. Requests for approval should identify the parties involved (quoting full tax references) and outline the existing structure, the reasons for the partitioning and the proposed new structure together with the proposed steps to achieve the new structure. Undertakings may be sought in relation to some of the conditions above. Requests for approval should be made direct to:

Office of the Revenue Commissioners
Direct Taxes Interpretation and International Division, CGT
Stamping Building
Dublin Castle
Dublin 2

Telephone: 01 6475000

Fax: 01 6799287

*Precedent 701 reads:

"Where a family trading company (or group of companies) is broken up into separate individual trading companies, such an event will not be regarded as a disposal for CGT purposes provided that the value of each individual's holding in the company or group remains strictly unaltered and also provided certain other conditions are met."

PARTITION OF FAMILY TRADING COMPANIES

CGT

Example

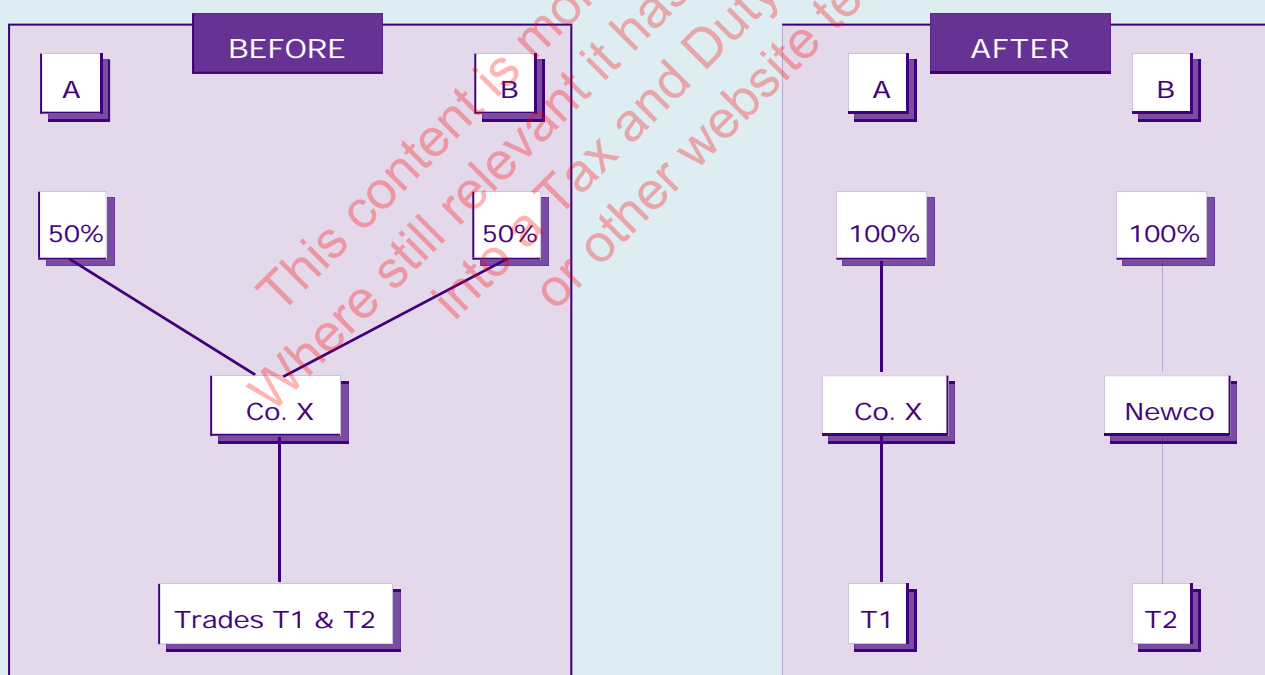
A & B hold shares 50/50 in Co. X, which carries on two trades, T1 & T2. The following steps could be put in place to achieve the relief under this precedent:

1. Co. X reorganises its share capital into two separate classes to reflect the trades, which are to belong to the respective shareholders post partition. [There would then be two classes of shares, one class held by A which derives its value solely from the assets and trade of T1, and the other class held by B, which derives its value solely from the remaining trade, T2.]
2. B sets up Newco which he owns 100%
3. Co. X transfers trade T2 to Newco in return for Newco issuing new shares to B in respect of his holding in Co. X
4. B's shareholding in Co. X is cancelled.

5. A holds all the shares in Co. X, which now carries on the trade of T1. B holds all the shares in Newco, which now carries on the trade of T2.

If the conditions outlined above are satisfied, the relief provided by *section 587* will apply to the shares issued by Newco and the transaction will be treated as an exchange of shares. The new holding will be treated in the hands of the shareholder as if it was the original holding.

Additionally, the relief provided by *section 615* will apply to the transfer of the trade by Co. X to Newco, so that no corporation tax will be charged in respect of chargeable gains accruing to Co. X, but Newco will be treated as if it had acquired the assets at the time and the price, at which they were acquired by Co. X.



DEPOSIT INTEREST

Whether a Trading Receipt?

The following **Revenue Information Notice** was published in May 2001.

Deposit Interest - Whether a Trading Receipt

The purpose of this statement is to clarify Revenue's position in relation to deposit interest arising to companies generally and, in particular, to specific classes of financial services companies. Revenue considers that the views expressed in this Notice are in line with the relevant case law on this subject, including *J. A. Browne (Inspector of Taxes) v Bank of Ireland Finance Ltd.* [3 ITR 644] and *Nuclear Electric v Bradley* [68 TC 670].

General Rule

The general position in relation to deposit interest is that it is prima facie passive income and is assessable as Case III/Case IV income. In order for an alternative treatment to apply, there is a very high burden of proof on the taxpayer.

Exceptions

Revenue accepts that deposit interest arising in the following specific circumstances is assessable as Case I income:

Regulatory Capital Requirement

Where a company is required by Irish or foreign regulatory authorities, e.g. the Central Bank of Ireland, the Department of Enterprise, Trade and Employment, to retain a certain level of permanent capital in the business, any deposit interest which derives from the investment of such regulatory capital is assessable Case I. This includes capital in excess of the minimum capital requirement where the amount concerned has been agreed by a regulatory authority as being appropriate to a particular company, provided that the amount is reasonable and is not excessive.

Capital which is integral to the trade

Deposit interest arising from deposits held by banks and insurance companies (life and non-life, including reinsurance) is chargeable as Case I income on the grounds that such deposits are integral to the trades of banking and insurance.

The same treatment applies to deposits held by the following classes of financial services companies

- Agency treasury company
- Standalone treasury company
- Captive finance company
- Asset finance company (where deposits are an integral part of the financing arrangement)
- Leasing company (where deposits are an integral part of the lease arrangement)
- Investment trader.

In the case of managers of financial services and other similar type companies, deposit interest on deposits held will not be regarded as arising in the course of the company's trading operations and will be taxable at the full rate of corporation tax unless the company can satisfy the very high burden of proof that the deposits are integral to its trade. In this regard, the company must be able to demonstrate that the holding of the deposit is an essential part of the business of the company and that they are necessarily held in the course of that business. The funds on deposit must be actively employed and at risk in the business.

Examples of managers of financial services and other similar type companies are:

- Insurance Manager/Reinsurance Manager
- Insurance broking company
- Fund management/administration company

- Trustee/Custodian company
- Agency treasury manager/Captive finance company manager.

IFSC Certificates - Clarification

While the views expressed in the previous paragraphs have always been Revenue's position on the circumstances in which deposit interest would be acceptable for inclusion as trading income for tax purposes, it is acknowledged that, in the context of some financial services companies trading in the IFSC, there may have been some confusion regarding the scope of the certificates issued by the Minister for Finance under *Section 446 TCA 1997*. It should be noted, however, that the following proviso is included in all such certificates:

'any income arising from the trading operations.....is chargeable to tax under Case I of Schedule D as part of the Company's trading income. [The question of whether or not the Company is trading, and if so, whether any of its particular operations are trading operations and therefore chargeable to tax under Case I of Schedule D is primarily one of fact to be determined after the events in question have taken place.]'

For the sake of clarity, the Revenue view is re-stated hereunder:

- ▼ the return on funds which are merely placed on deposit is not regarded as constituting income taxable under Case I in its own right - *section 18(2) TCA 1997* refers
- ▼ while it may be the case that the management and investment of funds **on behalf of clients** is an integral part of the activities of IFSC certified companies which act as managers of financial services companies, there is a clear distinction between this activity, which is after all part of the service for which the company is paid, and the making

DEPOSIT INTEREST

of deposits by the company out of fee income received and share capital

- ▼ the proviso contained in the IFSC certificate ensures that unless a source is, of its own right, part of the Case I profits, it cannot become so simply by being included in the overall trading operations described in the certificate.

Other Points

- ◆ Where deposit interest is regarded as trading income assessable under Case I rules, it will be regarded as such for all of the purposes of the Taxes Acts.
- ◆ In considering the question of the tax treatment of interest income, Revenue will look at each case on the facts and circumstances of that case. Account will not be taken of the fact that a company is part of a larger group nor will Revenue have regard to the activities of the group but will make its determination solely on the basis of the specific circumstances surrounding the placement of funds on deposit by the company itself.
- ◆ Revenue will not, under any circumstances, regard deposit interest which arises from the proceeds of a sinking fund for potential future liabilities, as trading income even where the liabilities being provided for relate to a future occurrence or event such as the replacement of a wasting asset or, providing for changes to computer equipment arising from (say) the "millennium bug".
- ◆ Where part of the deposit interest arising to a company is regarded as trading income and part is

regarded as non-trading income, the total of such interest income may be apportioned on a suitable basis e.g. the proportion of regulatory capital to total capital invested.

Effective Date

In regard to cases where there has been ongoing debate, it should be noted that it is Revenue's intention to apply the above rules **for accounting periods commencing on or after 1 January 2001.**

This statement replaces any previous practices which were applied in dealing with this matter.

Further Information

Any person who has a query on the application of this information notice or requires an opinion in relation to a particular set of circumstances should contact:

*Office of the Chief Inspector of Taxes,
Technical Services,
Setanta Centre,
Nassau Street,
Dublin 2*

Telephone No. 01-6470710

If the query or request for an opinion relates to a financial services company, correspondence can be referred to

*Dublin Audit District No. 5,
Lansdowne House,
Lansdowne Road,
Dublin 4*

Telephone No. 01-6316700

However it should be noted that the final determination in a case is a matter for the person to agree with the appropriate Inspector of Taxes. ■

VAT COMMITTEE GUIDELINES

The following Guideline has been approved for publication following review by the EU Commission Services of Guidelines agreed from the meeting of the VAT Committee held on 14 November 2000.

Meeting No. 62. - 14 November 2000

Articles 9 and 21—Place of supply when the supplier of the service is registered in the Member State of establishment of the client

All the delegations believed that, according to Article 9(1) of the Sixth VAT Directive, the place of supply of a service should be deemed to be the place where the supplier had established his business or had set up a fixed establishment from which the service was supplied. The fixed establishment should be regarded as determining the place of supply of taxation only when it was obvious that the service was effectively supplied from that fixed establishment. If this condition was not fulfilled the principle of taxation at the place where the supplier had established his business should be maintained.

The question as to whether or not the branch in question took part in the supply of services, to what extent, and whether this intervention was of such a kind as to change the place of taxation, should be examined on a case by case basis.

Finally, the Committee accepted that, in order to simplify control procedures, Member States might create a rebuttable presumption (*juris tantum*) whereby once a foreign trader was established and registered with a VAT registration in their territory the supply was considered to take place from that establishment. Nevertheless, it is certain that the presumption could never reverse the principle laid down in Article 9(1) of the Sixth VAT Directive. ■

BLOODSTOCK INDUSTRY

VAT Rates

Goods and Services in the Bloodstock Industry

The list below sets out the VAT rates applying to goods and services in the bloodstock industry. Category VAT rate applicable

Category	VAT Rate Applicable
1. Accommodation	
(a) If letting only of paddocks, stables	exempt (or 20%, if waiver of exemption in place)
(b) Letting, minding etc. supplied by unregistered farmers	not taxable
(c) Letting, minding etc. supplied by others	12.5%
2. Bridles	20%
3. Exports of horses	zero
4. Equine swimming pools: Lettings Short- term	exempt (or 20%, if waiver of exemption in place)
5. Farrier's services:	
(a) Repair and maintenance of hooves	12.5%
(b) Supply and fitting of shoes	20%
6. Livery:	
(a) By unregistered farmers	Not taxable
(b) Other	12.5%
7. Groom's services:	
(a) By unregistered farmers	not taxable
(b) Other	12.5%
8. Horses:	
The supply of horses by	
(a) Unregistered farmers	not taxable
(b) Other	4.3%
The hiring / leasing of horses by	
(a) Unregistered farmers	not taxable
(b) Other	4.3%
9. Horse boxes:	20%
10. Imports of horses:	
(a) Permanent	4.3%
(b) Temporary	not taxable
11. Insurance and Agency services:	
(a) Intra E.C.	exempt
(b) Outside E.C.	zero

Category	VAT Rate Applicable
12. Jockey Services:	12.5%
13. Jeeps: Commercial	20%
14. Livery: Feeding and keeping	12.5%
15. Nominations:	
(a) By unregistered farmers	not taxable
(b) Other	4.3%
(c) Mares in the ownership of foreigners imported for services by stallions owned by taxable persons and afterwards exported	zero
16. Pedigree Research	20%
17. Pony Trekking	12.5%
18. Prize money	not taxable
19. Racing admissions: Spectator	exempt
20. Racehorse training:	20% (payable on appropriate turnover)
21. Repair Services:	12.5%
22. Riding Schools:	12.5%
23. Show jumping admissions: Spectator	exempt
24. Stabling (the erection of):	12.5%
25. Transport:	
(a) Within the state -	20%
(b) International	zero
26. Valet's services:	20%
27. Veterinary Fees:	
(a) Treatment	12.5%
(b) Oral medicines	zero
(c) Other medicines	20%

LOSSES, CHARGES & GROUP RELIEF OFFSET

CT

Offset of losses, charges and group relief for corporation tax purposes :

This article sets out the position in relation to the offset of charges, losses and group relief following the enactment of *Section 90 Finance Act 2001*. It also covers the Revenue practice in relation to the tax treatment of losses, charges and group relief.

Section 90 :

Section 90 Finance Act 2001 introduces a provision with effect from 6 March 2001 to restrict the use of trade losses/charges and group relief. Where a company is engaged in an activity which is taxable at the standard rate of corporation tax or at the 10% rate, losses, charges and group relief may only be used against 'relevant trading income' i.e. trading income of a company for an accounting period other than trading income which is taxable at the 25% rate.

This rule is subject to the second rule which provides that for the **financial years 2001 and 2002**, charges and losses incurred in a trade, the income from which is taxable at the 10% corporation tax rate, may be set sideways in the current accounting period, backwards (in the case of losses only) to the previous accounting period or against income of a related company under group relief **only against income which is taxable at the 10% rate**.

The 1988 and 1992 Finance Acts ring-fenced the sideways and backward offset of losses and charges incurred in a trade which was within the 10% corporation tax regime. Such losses could only be so offset against income taxable at the 10% rate and not against profits taxable at the higher corporation tax rates. **However, this ring-fence has not worked satisfactorily in the case of charges and group relief since the introduction in 1999 of a 25% corporation tax rate on non-trading income.** The legislation concerned is being amended by this section to ensure that the ring-fence works as intended. The amendment will prevent the offset of "10% losses" of an accounting period against income of the accounting period, or of the previous accounting period, which is taxed at the 25% rate. It will also prevent such losses being offset against income taxed at the 20% rate in 2001 and the 16% rate in 2002. There will be no barrier on their offset against income taxable at the 12½% rate from 2003.

■ **Unused losses** may be **carried forward** for offset against **all trading income of the trade in which the loss was incurred**

■ Where an accounting period crosses the commencement date viz. 6 March 2001 or 1 January 2003 it is to be divided into two accounting periods, one before the date in question and the other after it.

Example

Prior to introduction of Section 90

Techno Ltd is a distribution company and had the following results for the y/e 6/3/01:

Trading Losses	(800,000)
Rental Income	250,000
Interest Income received gross	200,000
Patent royalties paid	100,000

Draft tax computation year ended 6/3/01

Case III	200,000
Case V	<u>250,000</u>
	450,000
Less: Trade charges (S.243)	(100,000)
Trade losses (S.396)	(350,000)
Taxable Income	NIL

Loss Summary

Trading loss	800,000
Less: utilised year ended 6/3/01	<u>(350,000)</u>
Unutilised loss	450,000

This unutilised loss may be carried back to the year ended 6 March 2000 and set off against the company's total profits. Alternatively, it may be carried forward for offset against future trading profits of the company.

After application of Section 90

Results for year ended 6/3/02

Trading Losses	(800,000)
Rental Income	250,000
Interest income received gross	200,000
Patent royalties paid	100,000

Draft Tax computation y/e 6/3/02

Case III	200,000
Case V	<u>250,000</u>
Taxable Income	450,000

Corporation Tax @ 25% :

112,500

Loss Summary

Relevant trading loss	800,000
Relevant trading charges	<u>100,000</u>
Unutilised losses and charges	900,000

In accordance with Section 396A and Section 243A, relevant trading losses and relevant trading charges may only be offset against profits from a trade liable to the standard corporation tax rate. They may be carried back

Continued on page 40

GROUP RELIEF

Continued from page 39

(in the case of losses only) to the preceding accounting period and offset against trading profits taxed at the standard corporation tax rate. Alternatively, these unutilised losses may be carried forward for offset against future trading profits.

Results as above with the following addition:

Manufacturing Profits	400,000
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In this case, the unutilised relevant trading losses and relevant trading charges may be offset against the manufacturing profits. The only restriction in relation to manufacturing activities applies to the ability to offset manufacturing losses and manufacturing charges against non-manufacturing profits.

Off-set of charges, losses and group relief incurred up to 5 March 2001 :

Prior to this enactment it had been the practice to allocate charges and losses proportionally across total profit. Each

element of profit was proportionately relieved rather than allowing offset of losses, etc. against income chargeable at the highest rate. Although this basis has been generally accepted it is felt that the matter may not be entirely free from doubt and therefore company Returns in respect of losses etc. incurred up to 5 March 2001 which claim offset of these losses against income chargeable at the highest rate will be accepted. (see Note 1.3 on the new CT1 form).

Equally, as non-trade charges are not affected by the ring-fence introduced by *Finance Act 2001* in respect of trade charges it is accepted that such charges may be claimed against income chargeable at the highest rate.

This treatment will apply to returns submitted after the publication of the *Finance Act 2001* and to cases under enquiry. Liabilities which have been determined in accordance with the previously prevailing practices will not be disturbed. ■

TOPICAL QUESTIONS

Rent-a Room Relief

The following Questions and Answers address a number of queries in relation to the new relief.

When does the relief apply?

Rent-a-room relief applies where an individual receives sums in respect of the use, for residential purposes, of a room or rooms in the individual's sole or main residence. The sums received may include payment for meals, cleaning, laundry and other similar services. The total amounts received cannot exceed £6,000 per annum (£4,440 for the year 2001). Where more than one individual receives such sums in respect of a "qualifying residence" the limit of £6,000 is divided between the individuals concerned.

What is a "Sole or Main Residence"?

The "qualifying residence" must be part of the individual's sole or main residence.

Whether a property is the sole or main residence of an individual is a question of fact. In general, a property will be an individual's sole or main residence if it is the individual's home and it is the place where friends and correspondents would expect to find him/her. The residence does not have to be owned by the individual, for example, it could be rented accommodation.

Does rent from a self-contained unit qualify for the relief question

Yes. A "qualifying residence" for a year of assessment is a residential premises situated within the State which is occupied by the individual as his/her sole or main residence during the year of assessment. A "qualifying residence" includes a self contained flat where that flat is part of the sole or main residence of the individual e.g. a basement flat, a converted garage which is attached to a house. The self-contained unit

must be in use for residential purposes.

Is the income that qualifies for relief liable for PRSI and Health Levy?

No. Where the relief applies the profits/gains are nil for income tax purposes and accordingly the income is not liable for PRSI or the Health Levy.

Does the letting of an entire house qualify?

No. We have been asked for a view on situations where a house owner lets an entire house. The relief applies to the letting of a room or rooms in a "qualifying residence". It does not apply to the letting of an entire residence. Also, the residence must be occupied by the person receiving the rent as his or her sole or main residence. Where an entire house is let, this condition is not satisfied.

Does the income have to be included in a tax return?

Yes. Where an individual is in receipt of such income it must be included in the individual's tax return.

Can rent allowance be claimed by a tenant where the relief applies?

Section 473 Taxes Consolidation Act, 1997 provides relief for rent paid by an individual in respect of residential premises which is the main residence of the individual. Rent includes any periodical payment in the nature of rent but excludes a payment or part of a payment where:

- ◆ it is paid for the maintenance or repair of the premises for which the tenant would generally be liable
- ◆ it relates to the provision of goods or services
- ◆ it relates to any right or benefit other than the bare right to use, occupy and enjoy the premises, or
- ◆ any part of the rent is recoverable by the tenant.

Whether a payment is rent within the meaning of section 473 depends on the facts of each case. Where the facts and circumstances are such that Section 473 applies the rent allowance may be claimed. In the case of payments made by children in respect of the family home it is Revenue's view that, in general, such payments are not rent within the meaning of section 473.

Industrial Buildings Allowance

Section 843 Taxes Consolidation Act 1997 applies the industrial buildings allowance provisions to expenditure incurred on the construction of certain buildings and on the provision of plant and machinery in use for the purpose of third level education. Subsection (5) of that section provides that a balancing charge will not be made in relation to the qualifying premises where certain events occur more than 7 years after the qualifying premises is first used.

Does this balancing charge provision also apply to the plant and machinery in such a premises?

Do the ring-fencing provisions of Section 404 TCA 1997 apply in respect of the leasing of such plant and machinery?

The expenditure on plant and machinery that comes within section 843 is treated as expenditure that qualifies for industrial buildings allowance.

A balancing charge will not apply to the plant and machinery by reason of any of the events specified in section 274 (1) which occurs more than 7 years after the plant and machinery is first used.

The ring-fencing provisions of section 404 Taxes Consolidation Act 1997 do not apply to plant and machinery that qualifies as expenditure for the purposes of section 843 Taxes Consolidation Act 1997. ■

SUPREME COURT DECISIONS

Summaries

Case:	Patrick J. O'Connell (Inspector of Taxes) v Thomas Keleghan
Points at issue:	<ul style="list-style-type: none"> (i) Whether an inducement payment was assessable to tax under Schedule E. (ii) Whether the redemption of a loan note, which had been acquired for shares in a "paper for paper" exchange, was to be treated as an a disposal of the original shares and whether the loan note was a "debt on a security".
Decision made by:	The Supreme Court
Decision Date:	16 May 2001
Relevant Legislation:	<ul style="list-style-type: none"> (i) Section 110 Income Tax Act 1967 (Section 112 Taxes Consolidation Act 1997) (ii) Schedule 2 to the Capital Gains Tax Act, 1975 (Sections 584 to 586 Taxes Consolidation Act 1997) (iii) Section 46 of the Capital Gains Tax Act, 1975 (Section 541 Taxes Consolidation Act 1997)

Summary of Supreme Court decision:

- (i) The payment was found to be assessable under Schedule E - *Shilton v Wilmshurst* [1991] STC 88 approved.
- (ii) The asset realised by way of redemption was, in law, as it was in fact, a disposition of the loan note. The loan note was found not to be a "debt on a security".

Case:	Sean MacAonghusa (Inspector of Taxes) v Ringmahon Company.
Point at Issue:	Whether a payment of interest was laid out wholly and exclusively for the purposes of a company's trade.
Decision made by:	The Supreme Court
Decision Date:	29 May 2001
Relevant Legislation:	Section 61(a) Income Tax Act 1967 (Section 81(2)(a) Taxes Consolidation Act 1997).

Summary of Supreme court decision:

The Supreme Court found unanimously that interest paid on a loan taken out to redeem preference shares was laid out wholly and exclusively for the purposes of the company's trade. Mr. Justice Geoghegan found considerable support in the Canadian case of *Trans Prairie Pipelines Limited v Minister of National Revenue* 70 DTC 6351 for the views he had taken.

These summaries is for reference only and readers are recommended to read the full text of the judgments. ■

REVENUE'S ON-LINE NEWSLETTER SERVICE

www.revenue.ie

Did you know that Revenue have an On-Line Newsletter Service?

You can access this on our site at www.revenue.ie Go to “What’s New” and then to “Subscribe to Newsletter”.



What is the purpose of the On-Line Newsletter?

As part of our ongoing commitment to providing a quality Customer Service and using the internet to deliver an enhanced information dissemination service to our customers, we are delighted to have available an electronic means of contacting customers to advise of items of particular interest. One of the ways we have chosen for this is the electronic newsletter.

How does the On-Line Newsletter work?

Subscribers to this free service will be issued with periodic e-mails relevant to the topic selected. These e-mails will contain a link to the relevant part of our site containing the information. For example, if you have indicated that you are interested in **Tax Briefing**, we will send an e-mail to advise you that the latest edition is now on the web. A link on the e-mail will bring you directly to the **Tax Briefing** issue on the website. Its simple and effective.

What type of information is available using the newsletter?

Currently there are five different headings. You can choose any, or indeed all, of the headings. The table below outlines what information is available under each heading.

■ What's new on Revenue's Web Site

Notification of, and link to, the latest information on What's New?

■ PAYE Tax Credit System

Notification of, and link to, the latest information on the PAYE Tax Credit System

■ Procurement by Revenue

Notification of, and link to, the latest information on Procurement by Revenue i.e. Request for Information. Requests for proposals and Requests for Tenders

■ Tax Briefing

Notification of, and link to, the latest edition of **Tax Briefing**

■ Euro Buletin

Notification of, and link to, the latest Euro Bulletin.

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The steps are easy

- ◆ Go to our website at www.revenue.ie.
- ◆ Go to “What’s New”
- ◆ Go to “Subscribe to Newsletter”.
- ◆ Click the box(es) that interest you
- ◆ Enter your name and your e-mail in the boxes provided
- ◆ Click Submit ■

REVENUE NEWS

Update

PAYE Tax Credit System

An interactive spreadsheet containing a sample Notice of Determination of Tax Credits and Standard Rate Cut-Off Point for the period 6 April 2001 to 31 December 2001 is available at

www.revenue.ie/wnew/taxcredx.htm on our website. You will need Microsoft Excel 5 or later, or equivalent compatible software to open this spreadsheet. The spreadsheet may be useful for practitioners who wish to become more familiar with the new tax system.

Form P11D year ended 5 April 2001

A selective issue of Forms P11D has taken place in respect of the year ended 5 April 2001. Form P11D requires the employers concerned to return details of benefits, non-cash emoluments and payments not subjected to PAYE provided to employees with emoluments of £1,500 or more and to all directors. A euro version of the form is available for employers who have elected to switch to the euro for Employer's PAYE and PRSI. The return filing date for these forms is **30 June 2001**.

Form SO2

A selective issue of Forms SO2 has also taken place in respect of the year ended 5 April 2001. Form SO2 requires employers to provide particulars of:

- ◆ share options and other rights granted, assigned or released
- ◆ shares allotted and assets transferred in pursuance of a share option or other right to acquire shares or assets

to employees and directors.

Notwithstanding that an employer may not receive a Form SO2 for completion the return of particulars must be made in all cases where share options or other rights are granted, assigned etc. The return filing date for these forms is **30 June 2001**.

Toll Charges - VAT

Toll charges are liable to VAT at 20% with effect from **1 September 2001** - this change was provided for at the Report Stage of the Finance Bill 2001.

New and Updated Leaflets/Guides

Guide to the Functions and Structures of the Office

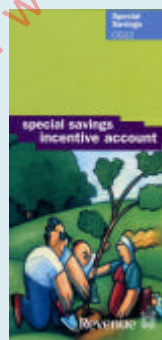
(May 2001)

Revenue's *Guide to the Functions and Structures of the Office* which we publish under section 15 of the Freedom of Information Act 1997 has been updated. The material has been revised to reflect changes since its first publication in 1998. We have also developed its design and layout. The reference book outlines:

- ◆ Revenue's structure and functions
- ◆ Services provided
- ◆ Classes of records held.

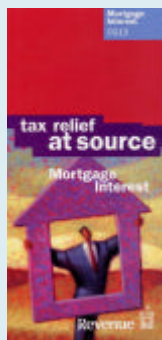
Special Savings Incentive Account - CG12 (April 2001)

This leaflet outlines details of the new Special Savings Incentive Scheme which came into operation on 1 May 2001.



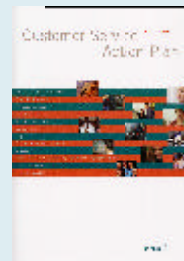
Mortgage Interest - Tax Relief at Source - CG13 (May 2001)

From 1 January 2002 tax relief for home mortgage interest will be granted at source i.e. the tax relief element on the mortgage interest will be built into the mortgage repayment. Leaflet CG13 sets out details of the new system.



Customer Service Action Plan 2001-2004 (May 2001)

This Action Plan sets out the steps Revenue will take over the next three years to deliver under each of the 12 Quality Customer Service Principles which, as part of the



Strategic Management Initiative, the Government have endorsed for the Public Service.

PAYE/PRSI for Small Employers - IT50 (March 2001)

This simplified guide shows how the PAYE/PRSI system is operated. It is designed to cater for employers new to the operation of PAYE/PRSI or those who have a small number of employees with straightforward pay arrangements.

Scheme of Tax Relief for Donations to Eligible Charities and Approved Bodies

- CHY 2 (April 2001)

This leaflet sets out details of the new scheme of tax relief for certain "eligible charities" and other "approved bodies" in respect of donations received on or after 6 April 2001.

Relief from Income Tax and Corporation Tax for Certain Sporting Bodies - GS1 (April 2001)

This leaflet outlines:

- ◆ the tax exemptions for Games/Sports bodies.
- ◆ the eligibility conditions for exemption.
- ◆ how a Games/Sports body may apply for exemption.
- ◆ the conditions which apply once exemption has been granted.

The leaflet also incorporates a simple declaration procedure for clubs applying for exemption.

The leaflets / guides listed above are available from the Revenue Forms & Leaflets Service at 01-8780100, local tax offices or from our website at www.revenue.ie