

TAX BRIEFING

BOGUS ACCOUNTS DEADLINE



Bogus Accounts - Deadline Approaches

Time is tight for bogus account holders: two weeks are left in which to secure very real benefits:

- No publication
- No prosecution and
- No interest and penalties in excess of the 100% cap.

For bogus account holders who disclose and pay there will be peace of mind in knowing that long-standing tax issues have been settled.

For those who fail to disclose and pay by Thursday 15 November there will be

- No escape
- No benefits and
- No excuse.

These account holders should know that it is only a matter of time before they are confronted with a range of sanctions that can be avoided by disclosure and payment by 15 November.

Revenue accepts that estimation may be necessary in the completion of Forms BNR1. We have advised that

best estimates based on reasonable assumptions in all the circumstances should be made. Even those account holders who leave it to the eleventh hour will be better served by estimation (based on all the available information and the adviser's experience and judgement) that leads to the submission of a completed Form BNR1 and a cheque by 15 November than by awaiting inevitable identification and investigation.

After 15 November:

- Revenue will not be in the business of "catching out" disclosures made in good faith by the deadline
- Revenue's focus in relation to bogus account holders will be firmly on those who have not disclosed and paid by the 15 November deadline.

It is essential that payment be made by 15 November.

Where there is inability to pay, the maximum amount that can be paid must be paid by 15 November. Where that amount has been agreed by Revenue to represent the maximum capacity to pay, benefits under the Statement of Practice will be assured. Where there is not time for such agreement, there will have been no prior assurance from Revenue in relation to the payment made. Nevertheless, whether or not there is time for prior assurance in relation to benefits, Revenue's advice is clear. To obtain the benefits of the Statement of Practice, account holders unable to pay the full amount due under the Statement should, by 15 November, make the maximum payment possible.

IN THIS ISSUE

Bogus accounts

15 November Deadline

ROS

eFiling Income Tax and Corporation Tax

Calendar Year

Offset of Repayments/Overpayments

International Tax

Revenue Audit

VAT Changes

Revenue News

Change of Due Date for CT Preliminary Tax

see inside for full listings

CONTENTS

Bogus Accounts	1
Change of Editorial Team	3
Revenue On-Line Service (ROS)	4
Integrated Taxation Processing (ITP)	8
Irish Tax Treaties (Section 130(2)(d)(iv) TCA 1997)	9
Offset of Repayment/Overpayments	10
PRSI/Levies & Residential Development Land	11
Revenue Audit	12
Relevant Contracts Tax	12
VAT (Toll Roads & Toll Bridges & Research Services)	13
VAT (Insurance Related Services)	13
VAT and Property Transactions	14
PAYE Tax System (2002)	14
Case I and Case II Basis of Assessment	15
eWorking and Tax	19
Interest Relief	19
Revenue News (Update)	20

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

Editor: **Niall Cody**
Telephone: **01 - 671 6777, Extn. 70801**

Assistant Editor: **Anne Ryan**
Telephone: **01 - 671 6777, Extn. 70810**

Fax: **01 - 671 0960**

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

Design: **Ana Duncan, Customer Service Unit.**

While every effort is made to ensure that the information given in this publication is accurate, it is not a legal document. Responsibility cannot be accepted for any liability incurred or loss suffered as a consequence of relying on any matter published herein.

KEY DATES

October

- 14 PAYE/PRSI**
P30 monthly return and payment for month ended 5 October
- 14 DWT**
Return and payment of DWT for month ended 30 September
- 14 RCT**
C30 monthly return and payment for month ended 5 October
- 1-28 Corporation Tax**
Preliminary Tax for APs ending between 1-30 April
- 1-31 Corporation Tax**
Returns for APs ending between 1-31 January
- 1-31 Corporation Tax**
Returns of Third Party Information for APs ending between 1-31 January
- 31 Income Tax**
Preliminary Tax
- 31 Capital Gains Tax**
Preliminary Tax

November

- 14 PAYE/PRSI**
P30 monthly return and payment for month ended 5 November
- 14 DWT**
Return and payment of DWT for month ended 31 October
- 14 RCT**
RCT - C30 monthly return and payment for month ended 5 November
- 19 VAT**
VAT 3 return and payment for period September/October
- 1-28 Corporation Tax**
Preliminary Tax for APs ending between 1-31 May
- 1-30 Corporation Tax**
Returns for APs ending between 1-28 February
- 1-30 Corporation Tax**
Returns of Third Party Information for APs ending between 1-28 February

December

- 14 PAYE/PRSI**
P30 monthly return and payment for month ended 5 December
- 14 RCT**
C30 monthly return and payment for month ended 5 December
- 14 DWT**
Return and payment of DWT for month ended 30 November
- 1-20 Corporation Tax**
Preliminary Tax for APs ending between 1-30 June (see page 20)
- 1-31 Corporation Tax**
Returns for APs ending between 1-31 March
- 1-31 Corporation Tax**
Returns of Third Party Information for APs ending between 1-31 March

CHANGE OF EDITORIAL TEAM

Due to recent changes in assignments this issue sees the introduction of a new editorial team. I would like to take this opportunity of wishing Denis Holligan, former Editor, and Rosemary O'Rahilly, former Assistant Editor, every success in their new appointments in the Special Projects Team (Ansbacher) and Technical Services, respectively. They consistently produced a high quality publication in Tax Briefing, which provided a timely and comprehensive information service for practitioners and Revenue alike. Denis and Rosemary would like to thank contributors from all areas within Revenue for their welcome assistance during their period in Tax Briefing.

An integral part of the process is the level of feedback and suggestions from practitioners, which ensures the production of a timely and practical Tax Briefing. We look forward to your continued feedback and support in the future. Your comments and suggestions are always welcome.

Anne Ryan has taken over as Assistant Editor and both Anne and I hope that in the ongoing production of Tax Briefing that we in the Customer Service Unit will continue to meet the high standards set by our predecessors.

Niall Cody.

BOGUS ACCOUNTS

Continued from page 1

There will be no escape for account holders who "lie low". We have already drawn up lists of those identified in the DIRT look-back audits. They will be for investigation after 15 November (as soon as those who have disclosed and paid by that date are crossed off those lists). We will be using Revenue powers - principally, but not exclusively, *Section 908 TCA 1997*, which was enacted in 1999 - to complete our lists of bogus account holders. We have been assured by financial institutions of their full cooperation in identifying account holders within the terms of the High Court Orders on foot of Revenue's use of *Section 908* powers.

There will be no benefits for bogus account holders - some will be prosecuted but more will be publicly exposed as tax evaders and will have to make payments greatly exceeding the amount which would have been due if paid before 15 November.

There will be no excuse for bogus account holders who have not taken the opportunity available until 15 November.

Those who reject encouragement will be subject to enforcement. Where account holders consult practitioners at this late stage, it is not a time for equivocal advice. Liabilities should be

calculated, using estimation as necessary. Forms BNR1 should be completed and payment should be made. Account holders must act by the deadline of Thursday 15 November or live with the inevitable consequences of an ill-advised decision. ■

Bogus non-resident account holders



Your time is running out

If you have ever held a **bogus non-resident account**, you will be identified by Revenue.

Pay up before the 15th November to avoid:

- unlimited interest and penalties
- exposure in the media
- criminal prosecution

Act now...before it's too late

For more information

www.revenue.ie

Information line 01 865 5156

A Bogus Non-Resident Account is an account held in the name of an individual who has moved to a foreign country and has a limited claim to Irish tax residency. Revenue can identify such accounts by analysing declarations of domicile, residence, and tax (DRT).



REVENUE ON-LINE SERVICE

ROS

Fast Access Secure Filing

In **Tax Briefing** Issue 44 we informed you that the services on ROS would be expanded to provide customers and tax agents with the facility to electronically file their self-assessment Income Tax details, Form 11, and Corporate Tax details, the CT1 form. In this issue we would like to outline a flavour of the contents of these forms for you, highlight the benefits of using the Revenue On-Line Service and clarify an issue on Form P45 efilling.

How to Register for ROS

There are 3 easy steps to becoming a ROS customer. Simply access the ROS web site at www.ros.ie and take the following steps:

Step 1

Apply for your RAN (ROS Access Number) which is posted to you by land mail

Step 2

Input the RAN and await the receipt of a System Password which is also posted to you by land mail

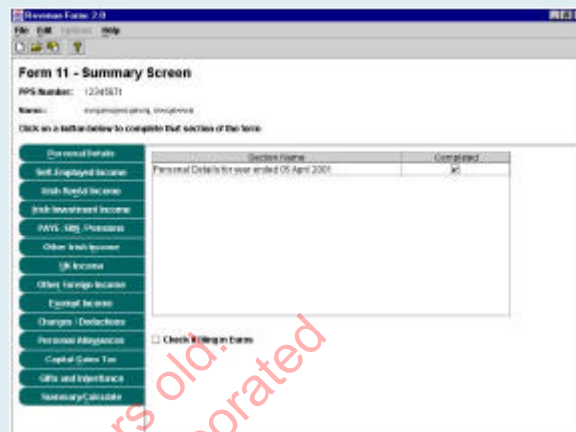
Step 3

Enter your password to retrieve your Digital Certificate.

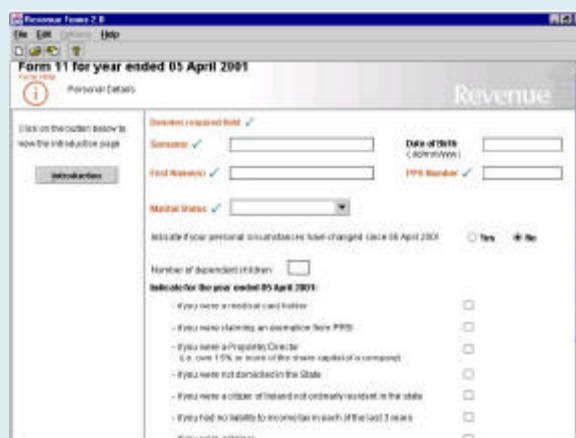
ROS Form 11

The ROS Form 11 contains all the details requested on the existing paper form, is easy to navigate and is presented to you in a manner that allows you to complete your tax details as simply and swiftly as possible. The form is available in both online and offline formats. The first Form 11, which can be completed on ROS is for the tax year 2000/01. A feature of the form is the inclusion of some mandatory fields, data validation checks and calculators, which ensure a lower error rate on the part of the filer.

The form is divided into a number of panels or sections in relation to sources of income, allowances, reliefs and deductions. A navigation bar is provided that allows the filer to identify the sections that require completion at a glance. It is not necessary to insert "nil" or "none" into each source of income field as is current practice on the paper return where there are no details to declare. ROS will process the information entered as your declaration of your income details.



The ROS Form 11 design is based on the information completed on the Personal Details panel. At the start for instance, if the filer selects "single" from the marital status option then the form presented for completion will contain only input fields for "self". Alternatively if "married" is selected as the marital status of the filer then the form presented will contain input fields for both self and spouse. Furthermore, where the date of birth field is completed certain exemptions and reliefs are automatically allowed based on age entered i.e. age tax credit, rent allowance over 55, exemption from PRSI, possible refund of DIRT in exempt cases and increase in exemption limit.



Calculations on ROS

The ROS Form 11 contains a calculation facility that accurately computes the tax liability of the filer at any stage in the completion of the form. This calculation facility allows the filer the opportunity to calculate their tax liability prior to receiving their notice of assessment.

In addition to the main calculator the form also includes 5 mini calculators to assist the filer in calculating their entitlements to certain reliefs or other aspects of their income tax exposure in relation to Benefits-in-Kind on

ROS

cars, vans or preferential loans. The calculators located in the relief section are:

- Medical/dental relief
- Retirement annuity relief
- and in the BIK section of the form:
- BIK on cars
- BIK on vans
- BIK on loans.

ROS CT 1 Form

The first **CT 1** Form acceptable by ROS is for an accounting period ending after 1 March 2001. The ROS CT1 Form is designed and presented in a similar manner to the ROS Income Tax Form and is also available in an offline format. This form also contains the same details as the existing paper Corporation Tax Return. The ROS Corporation Tax Form is also divided into panels and a navigation bar is provided to allow the filer to easily and correctly identify the areas that require completion. Again, a feature of the form is the inclusion of data validation checks and calculators which ensure a lower error rate on the part of the filer.

A feature of the ROS CT 1 Form is the availability of numerous “show and hide” fields, which are in some instances linked to other information completed on the form and only open when related details are input. In other panels of the form sections only open when the filer indicates that they have entries to include in these fields. This design feature ensures that the filer does not have to page down through numerous screens of field descriptions to locate the one they need to complete, for example, shipping trades.

This form also contains a detailed and exact calculation routine which allows the filer at any stage during the completion of the form to immediately view their tax liability by simply selecting the calculate/summary option on the navigation panel.

In addition to the main calculator provided, the form also contains mini calculators in relation to manufacturing relief and small companies relief. These additional calculators provide the filer with invaluable assistance in calculating these difficult and complex reliefs.

Additional features of ROS Forms 11 & CT1

Both forms contain detailed help text specific to the information requested on each panel. In addition to the panel help text provided, detailed Frequently Asked Questions (FAQs) are also available providing the filer with immediate answers to some of the more frequently asked questions surrounding the completion and filing of these forms.

Long notices of assessment will issue subsequent to the transmission of the income tax or corporation tax data via ROS. However in each case an option is available to allow the filer to request a short notice of assessment if that is the preferred output.

ROS

Continued from page 5

Benefits of using ROS for Income Tax, Corporation Tax & Capital Gains Tax

Completing your income tax or corporation tax return on ROS allows you to:

- Complete a simple user-friendly return
- Avail of validation checks and useful calculations
- Receive a speedier, secure and more accurate returns processing and repayments service
- Use your business hours more effectively and efficiently
- Have secure and confidential access to Revenue on a 24 hour, 365 day basis.

Additional ROS Services for Income Tax, Corporation Tax & Capital Gains Tax

- On line access to payment and return information
- Ability to pay Preliminary Tax and balances outstanding on line by laser card or ROS direct debit instruction.

Further ROS Services include:

The ability to electronically file, pay and access information for VAT and PAYE (Employers) for forms:

- VAT 3
- VAT Return of Trading Details
- P30
- P35 & P35 L
- P45

ROS Form 11 & CT1 Form Presentation

Presentations on both of the above ROS forms and accompanying accounts menus will take place in Trident House, Blackrock, Co. Dublin, on 21 and 22 November and the 5 and 6 December this year. If you or your company are interested in attending one of these presentations please contact Gillian at ggrabazo@revenue.ie with details of the number of people attending and your preferred date.

Alternatively you can contact Computer Gym at 01-2762824 and they will come to your premises and provide demonstrations and training in any aspect of the ROS system.

Invitation to participate in Workshops

We would like to take this opportunity to invite all ROS customers to a series of workshops the first of which is scheduled for later this year (date not yet finalised). The objective of these workshops is to identify the areas that ROS customers are experiencing difficulties with, in relation to the system. The topic for the first of these workshops is Access Control and related issues and is targeted specifically for users of this facility.

If you or your company are contemplating becoming a ROS customer why not sign up now and participate in these workshops as an informed ROS customer. There is no compulsion to file returns or make payments.

If you would like to participate in one of these workshops please contact Gillian at ggrabazo@revenue.ie with details of the number of persons attending.

P45 Stationery

It has been brought to our attention that some ROS customers are experiencing a problem in printing Parts 2, 3 & 4 of P45 Forms transmitted through ROS.

When a P45 is transmitted to ROS a PDF document is returned to the filer's inbox and a unique notice number is assigned to the document. To print copies of Parts 2, 3 & 4 of this P45 simply open the PDF document in the inbox and select the print option.

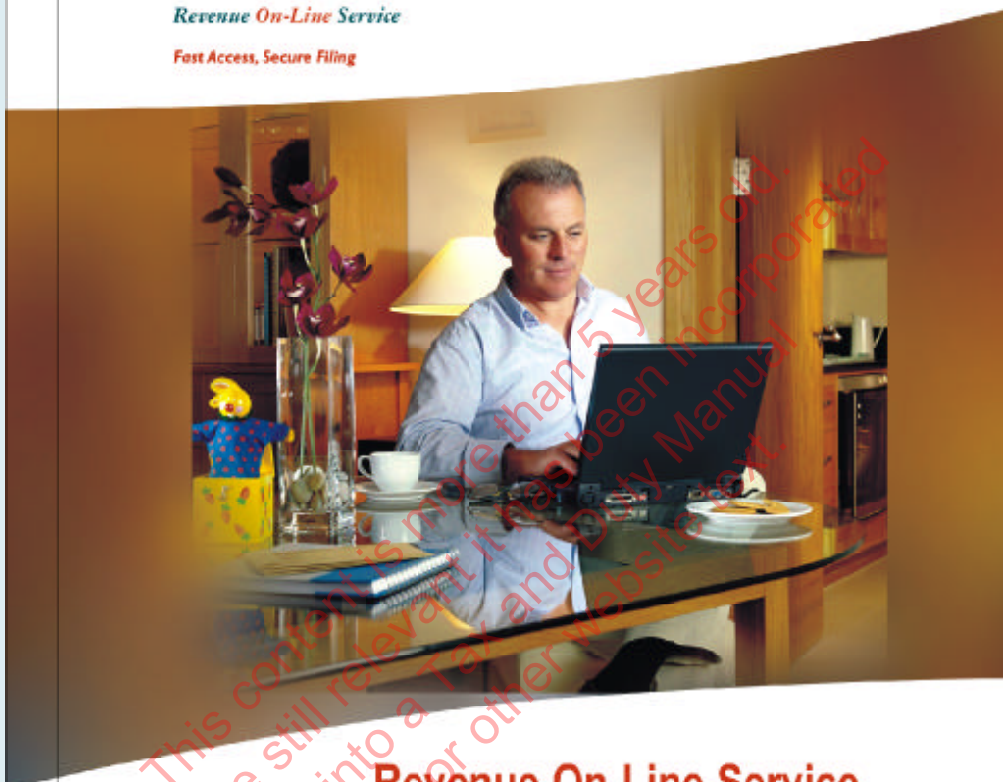
Copies of Parts 2, 3 & 4 can be printed on both Laser printers and the larger impact printers i.e. tractor feed and dot. matrix printers. Special perforated P45 stationery which facilitates the printing of copies of Parts 2, 3 & 4 on the one page is available from Revenue. The unique reference number is printed on to each part of the P45. When printing ensure that this special paper is loaded into your printer.

Payroll Companies who are using Third Party Software should ensure that their software company has aligned their systems to ensure that all copies of the P45 print correctly.

Supplies of stationery are available from *Revenue Forms & Leaflets Service* at 01-8655002.

It is also possible to order supplies through the Revenue website at www.revenue.ie. Click on Services/Electronic Services/Online Forms and Leaflets Ordering Service. Fill in supply request and submit. ■

ROS



Revenue On-Line Service *Making things easier...*

New ROS services now featuring

On-Line information

- Income Tax
- Corporation Tax
- Capital Gains Tax

eFile returns

- Form 11 (Self Employed)
- Form CT1 (Corporates)
- & accompanying accounts details (for both)

Pay Preliminary Tax on-line

- Laser Card or Direct Debit

Enjoy the benefits

- 24-7-365 access to Revenue
- Faster processing of returns and repayments
- Savings in time and money
- eFile / pay VAT and Employer returns



www.ros.ie

e-mail:
ros-help@revenue.ie

Information Line:
1890 20 11 06

INTEGRATED TAXATION PROCESSING

(ITP)

Inclusion of Self - Assessed Taxes

Background

Over the past number of years, Revenue has been working steadily towards an enhanced and more unified tax system. The resulting customer-focused approach now underpins tax administration in Ireland and is a significant element of our programme to provide Revenue's customers with a better and more comprehensive service.

The underlying computer system, ITP, performs the main collection and compliance activities, including payment processing for all the major taxes and return processing for VAT and Employers PAYE / PRSI, using a common set of applications. It caters for a wide variety of data capture and Revenue's online service, ROS.

Employers PAYE / PRSI and Value-Added Tax have already been included in the ITP framework. Corporation Tax, Income Tax and Capital Gains Tax were included in ITP in September 2001.

The Self-Assessed Taxes programme also caters for a series of minor taxes such as Dividend Withholding Tax and Deposit Interest Retention Tax.

Benefits for customers and agents

The inclusion of the additional taxes will extend the benefits already realised for PAYE/PRSI and VAT customers. Improvements to the service will include:

- A consolidation of financial records which will enable Revenue staff to deliver faster and more comprehensive responses to customer and agent enquiries
- Comprehensive statements of account will be available to customers and agents for all the major taxes
- Transactions such as transfers and offsets, which previously took a considerable amount of time to arrange, will now be applied online and will have immediate effect on a customer's account
- Procedures for processing refunds / repayments and credits will be streamlined and enhanced

- The ITP platform will enable customers and agents to file returns and payments, to access account details and exchange information with Revenue electronically at any time, via the Revenue Online Service
- ITP is a Euro based system, which will ensure that all major taxes will change over to Euro, without difficulty, in 2002.

Advances in Refund / Repayment and credit processing

The inclusion of additional taxes in ITP will allow Revenue to 'look across' all the major taxes before issuing a tax refund. Enhanced processing will:

- Facilitate automatic processing of a credit - overpayment or repayment claim occurring in a customer's account by either setting the credit against other liabilities (see page 10 in this **Tax Briefing**) or making a direct refund /repayment. The credit may be offset against an underpayment in any tax i.e. PAYE/PRSI, VAT, Income Tax, Corporation Tax and Capital Gains Tax. If a credit is offset against unpaid tax Revenue will issue the customer with a statement identifying details of the offset.
- Facilitate analysis of status of returns before issuing a refund. A refund may be held pending receipt of overdue returns. If a refund is held Revenue will issue the customer with a notice detailing overdue returns.

Future of ITP

Revenue will continue to develop ITP to include additional taxes and functions in response to legislative and EU developments.

ITP will, into the future, provide Revenue with the flexibility to respond to an ever-changing environment by accommodating swift application of changes in taxation and collection policy and will facilitate increased electronic services to customers. ■

IRISH TAX TREATIES

Section 130(2)(d)(iv) TCA 1997

Payments to Residents of Tax Treaty Countries and EU Member Countries.

Revenue has recently reviewed the operation of *Section 130(2)(d)(iv) TCA* in relation to payments of interest to residents of countries with which Ireland has a double taxation treaty and to residents of EU member countries. This has been undertaken in response to a number of questions, which tax practitioners have raised concerning these issues following the recent legislative changes introduced by *Sections 87 and 88 of Finance Act 2001*. As a result, it has been decided to issue the following points of clarification in relation to the matter.

1. For pre-1976 tax treaties¹, in line with Revenue's established practice, interest which is treated as a distribution under *Section 130(2)(d)(iv)* will continue to be regarded as interest for tax deductibility purposes. Such interest payments will also be treated as interest for the purpose of the "interest" article in the relevant Double Taxation Agreement unless they are treated under the relevant tax treaty as a dividend (see OECD model tax convention commentary on Article 10 - paragraph 25). Therefore Irish dividend withholding tax (DWT), when it applies², will normally be limited by the rate of source taxation applicable to interest in the relevant treaty.
2. For post-1976 tax treaties, DWT treatment will depend on the definition of "dividends" in the dividend article of the relevant treaty. Where the definition of "dividends" is broader than the OECD model definition and allows for assimilation of interest treated as a distribution under *Section 130(2)(d)(iv)*, then DWT, when applicable, will apply up to the limit prescribed in the dividends article. Where the treaty does not contain a broad definition of dividends³, the position outlined above in relation to pre-1976 treaties will apply, namely, DWT will be limited by reference to the provisions of the interest article.
3. Concerning the interest deduction provisions in the non-discrimination articles of post-1976 Irish tax treaties, the majority of the treaties include provisions based on paragraph 4 of Article 24 of the OECD model tax convention. Where this is the case, deduction of interest which would otherwise be disallowed as a result of the application of *Section*

130(2)(d)(iv) will be permitted. It should be noted however that in Ireland's treaties with Israel, Poland, Switzerland and Sweden there are references in paragraph 4 that permit the application of *Section 130(2)(d)(iv)*. Also, Ireland's tax treaty with Australia does not have a non-discrimination article. While there is no paragraph based on paragraph 4 of the OECD model convention in the Russian treaty, there are provisions in the Exchange of Letters that allow for deductibility.

4. In the case of payments to residents of EU member states, *Section 130(2)(d)(iv)* will not be applied. This will not depend on any provisions in a tax treaty with such a member state (for example, Ireland does not yet have a tax treaty with Greece).
5. Accordingly, interest payments to the following tax treaty countries will continue to be treated as distributions for tax deductibility purposes: Australia, Israel, Poland and Switzerland.
6. It should be noted that the provisions of *Section 130(2)(d)(iii)(II)* will apply in all cases in relation to interest which is paid in excess of arms-length rates.
7. Advance application is not necessary where a deduction for interest is sought on the basis set out above.
8. Where a company elects under *Section 452* or *Section 845A* that interest should not be characterized as a distribution under *Section 130(2)(d)(iv)*, then it will not be so recharacterised and will accordingly be treated as interest for Irish tax purposes. DWT will not apply as the payment will not be regarded as a distribution, but regard should be had to the question of withholding tax under *Section 246*.

Any questions arising from the above clarification may be addressed to:

International Branch,
Direct Taxes International and Administration Division,
Blocks 8-10, Dublin Castle,
Dublin 2
Tel: 01-6792777
exts. 48640, 48639, 48796, 24108.
Fax: 6793314 ■

¹ There are 14 pre-1976 treaties: Austria, Belgium, Canada, Cyprus, France, Germany, Italy, Japan, Luxembourg, Netherlands, Norway, Pakistan, Switzerland and Zambia. However, the definition of "dividends" in the Austrian and Swiss treaties was amended and broadened in post-1976 Protocols, placing them in the same position as other post-1976 treaties with broader definitions of dividends.

² As a result of the legislative changes introduced by *Sections 87 and 88 of the Finance Act 2001* (incorporated as *Sections 452 and 845A TCA* respectively), the potential instances where *Section 130(2)(d)(iv)* may apply have been considerably reduced.

³ There are 4 post-1976 treaties which have a definition of "dividends" in the dividend article that was not broadened to cover interest recharacterised on the basis of *130(2)(d)(iv)* - China, India (not yet in force), Israel and Romania.