

## OFFSET OF REPAYMENTS REGULATIONS

### Offsetting or Withholding of Repayments or Overpayments

#### Introduction

Section 1006A TCA 1997 provides that, where a customer is due a repayment (this includes a repayment arising as a result of an overpayment), Revenue may

- ▼ Offset the repayment if the customer has an outstanding liability or
- ▼ Withhold making the repayment if the customer has a return outstanding.

The Section provides that where a decision is taken by Revenue to offset or withhold a repayment the customer **must** be advised in each case.

The Revenue Commissioners recently signed the *Taxes (Offset of Repayments) Regulations 2001 (SI 399 of 2001)* which set out the order of offset where Section 1006A is applied. These Regulations came into effect on 14 September 2001 with the introduction of ASC taxes into the Integrated Taxation Processing system (ITP) (see page8 in this **Tax Briefing**).

The purpose of this Article is to set out the practical arrangements that are being applied by Revenue in operating Section 1006A.

#### Context

Despite the recent legislation, offsetting is not a new phenomenon. Revenue has for many years accepted customer requests to use a tax repayment for one period to meet a separate tax liability in another period or taxhead. The latest legal changes are simply intended to build on the existing system by providing a more consolidated offsetting operation in the context of ITP, while at the same time ensuring a more effective response to defaulting taxpayers. Despite the legal changes, the basic rule that has always existed continues

to apply – if the customer wishes a repayment to be applied in a certain way Revenue is happy to comply with that request.

There is also no change to the situation where an overpayment entitles a customer to an interest payment – the customer will continue to receive the interest payment.

#### Offsetting/withholding within ITP

ITP now provides a consolidated collection approach to VAT, employer's PAYE and, just recently, IT, CT and CGT. This consolidation provides the opportunity to carry out checks across these taxheads. In practice, where a repayment arises for a customer in any of these taxheads ITP

- Checks across taxheads in ITP for outstanding liabilities/returns
- Offsets if there is a **clear** liability
- Withholds repayment if there is a return **clearly** outstanding
- Advises the customer in each case if the repayment is offset or withheld; otherwise issues the repayment.

It is important to stress that offsetting within ITP only arises if there is a clear liability outstanding. Similarly, withholding of a repayment only arises where a return is clearly outstanding. In order to ensure this a series of control parameters have been built into ITP.

ITP does **not** carry out an offset if:

- The outstanding liability is small
  - £800 in IT, CT or CGT
  - £250 for employer's PAYE from 1995/96 to 1999/00
  - £100 otherwise
- The outstanding liability is old
  - Old in this context means pre 1995 (this will be rolled forward each year)

- The outstanding liability is in dispute or subject to appeal
- The outstanding liability is covered by an agreed payment arrangement (instalment)
- The outstanding liability is a current VAT or employer's PAYE estimate
  - Current in this context means the estimate relates to the most recent two periods
- The repayment relates to IT, CT or CGT and is less than £800

ITP does **not** withhold a repayment unless:

- In the case of VAT, the return is outstanding for at least one month
- In the case of employers PAYE, the P35 return is outstanding for at least two months
- In the case of IT or CT, the return is outstanding for at least two months.

#### Offsetting/withholding by caseworker

Where a caseworker is in contact with a customer (because a particular problem has to be resolved) the monetary/time parameters outlined are not applied because contact with the customer establishes the precise agreed position in that case. However, the same basic principles apply and offsetting will not be carried out if:

- The liability is in dispute or subject to appeal
- The liability is subject to an agreed payment arrangement (instalment)

and repayments will not be withheld unless returns are clearly overdue.

#### Taxheads outside ITP

There are a number of taxes still outside ITP and the provisions of Section 1006A are only applied in relation to those cases in specific instances where there is caseworker

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contact with the customer. These taxheads are

- Relevant Contracts Tax (shortly to be brought within ITP)
- Excise duties
- Capital Acquisitions Tax
- Stamp Duties
- Residential Property Tax
- Vehicle Registration Tax.

### Order of offset

As indicated above, the *Taxes (Offset of Repayments) Regulations 2001* set out the order of offset to be applied. The rules as set out in the Regulations are:

- Offset in accordance with the customer's wishes
- Offset within the taxhead where the repayment arises
- If more than one liability in the same taxhead, oldest liability first (for this purpose only, an interest liability is regarded as having the same due date as the tax liability in respect of which it arises)
- Offset to liabilities at enforcement only if no other liability is outstanding.

The order of offsetting across taxheads (other than where the repayment arises in respect of CT, IT or CGT) is as follows:

- ◆ Within the taxhead where the repayment arises
- ◆ Value Added Tax
- ◆ Employer's PAYE
- ◆ Relevant Contracts Tax
- ◆ Corporation Tax
- ◆ Income Tax
- ◆ Capital Gains Tax
- ◆ Residential Property Tax
- ◆ Capital Acquisitions Tax
- ◆ Stamp Duties
- ◆ Vehicle Registration Tax
- ◆ Excise Duty.

The order of offsetting across taxheads where the repayment arises in respect of CT, IT or CGT is as follows:

- ◆ Within the taxhead where the repayment arises
- ◆ Corporation Tax
- ◆ Income Tax
- ◆ Capital Gains Tax
- ◆ Value Added Tax
- ◆ Employer's PAYE
- ◆ Relevant Contracts Tax
- ◆ Residential Property Tax
- ◆ Capital Acquisitions Tax
- ◆ Stamp Duties
- ◆ Vehicle Registration Tax
- ◆ Excise Duty.

### Misappropriated payments

It is a cause of some regret that there continues to be an unacceptable level of payments that are misappropriated. The single biggest contributor to this problem is agents and customers using payslips for the wrong customer or the wrong period. Revenue would like to renew previous appeals – if a customer or agent does not have the correct payslip for the payment do not “doctor” another payslip. Instead send the payment with a covering letter clearly stating the name and tax reference number and the taxhead and period to which the payment is to be applied.

For simplicity, Revenue will continue to treat misappropriated payments as such and, where such problems come to attention, these will be corrected by transferring the payment to where it was originally intended (rather than applying the ordering rules set out above).

### Further information

Any further information required in relation to the offsetting arrangements can be obtained from Technical Services Section, Office of the Collector-General, Sarsfield House, Francis Street, Limerick (Phone 1890 20 30 70). Questions in relation to individual cases should continue to be addressed to the caseworker dealing with the case. ■

## PRSI/HEALTH CONTRIBUTION & RESIDENTIAL DEVELOPMENT LAND

### Section 644A TCA1997

A comprehensive article on Residential Development Land was published in **Tax Briefing Issue 40** - June 2000.

A number of queries have been received in relation to the

chargeability of PRSI and the Health Contribution on profits or gains chargeable to income tax under the provisions of *Section 644A TCA 1997* at the special rate of 20%.

Considering the context in which *Section 644A TCA 1997* was enacted and the separation of the source from

“total income” for tax purposes, Revenue will not charge PRSI or the Health Contribution on profits or gains chargeable under the provisions of *Section 644A TCA 1997*. ■

## REVENUE AUDIT

Following discussions at the TALC Audit sub-committee between Revenue and the Tax Practitioners it was agreed to publish a list of common adjustments found in Revenue audits.

### Receipts

- ▼ All sales not included (including certain components of trades)
- ▼ Diversions to Casual Wages / Overtime / Bonus Payments, etc.
- ▼ Accumulated assets from unrecorded sales (Bank accounts, Investments, etc.)
- ▼ Long Term Agreements - Rebates to Suppliers.

### Gross Profit

Debtors and Work In Progress understated / omitted

### Profit & Loss A/C

- ▼ Capital versus Revenue Expenditure
- ▼ Non business expenditure included in accounts

### Capital A/C

- ▼ Unexplained Capital introduced / Unrecorded drawings
- ▼ Business assets transferred at less than arms length or below cost

### Directors

- ▼ Untaxed emoluments / Benefit-in- Kind
- ▼ Share Options
- ▼ Directors Loans - implications

### Tax Computations

- ▼ Adjustments omitted

### PAYE

- ▼ All emoluments subject to PAYE
- ▼ Excessive expenses
- ▼ Contracts for and of services

### VAT

- ▼ Individual sales not returned - Capital or stock items
- ▼ Sales of Assets - sale of a business or piecemeal disposal of assets
- ▼ Property transactions - Leasing etc.
- ▼ Apportionment - exempt / taxable, including 4th Schedule Services
- ▼ VAT 3 - checking / verifying procedures (including system failures) by traders before submission of VAT 3. ■

## RELEVANT CONTRACTS TAX



Practitioners are asked to bring the following important matters to the notice of clients to whom RCT applies. RCT applies to payments to subcontractors in the construction,

meat processing and forestry industries.

### Automatic issue of Relevant Payments Cards [RCT 47]

Revenue will issue Payments Cards (RCT47) to Principal Contractors for the year 2002, without the requirement for Principals to make individual application, in respect of subcontractors for whom Principals are issued with Payments Cards for the current period (6 April 2001 to 31 December 2001) and the Payments Card has not been cancelled.

Principals who require a Payments Card for 2002 in respect of any other subcontractor must apply for the

2002 Payments Card on form RCT 46 in the normal way.

These arrangements are to accommodate the changeover to Euro Denominated documents and apply for the year 2002 only.

### RCT Changeover to Euro

The Euro Version of the form RCTDC will be available at local Tax Offices from mid November. To ensure that they have a supply of these forms at the Euro changeover date (1/1/2002) Principal Contractors should contact their local Tax Office with details of their requirements from mid November 2001. ■

## VALUE-ADDED TAX



### VAT on Toll Roads & Toll Bridges

With effect from 1 September 2001, VAT at the standard rate of 20 per cent will apply to the service of using a toll road or a toll bridge. This gives effect to the provisions of the *Finance Act 2001*.

### VAT on Research Services.

*Section 199 Finance Act 2001* amended the *First Schedule* to the *VAT Act*, which deals with exempt supplies. The effect of the amendment is that from 1 September 2001 research carried out by educational bodies is no longer an entirely exempt activity,

but, in certain circumstances, is subject to VAT. Where VAT applies, it is chargeable at the standard rate.

Following the *Finance Act 2001* amendment, paragraph (ii) of the *First Schedule* to the *VAT Act* now exempts "school or university education ...including the supply of goods or services incidental thereto, other than the supply of research services". Prior to the insertion of the words in italics, all research carried out by educational bodies was treated as exempt because it was regarded as incidental to their primary function of education. Therefore, such bodies did not charge VAT on any of their research activities and they were not entitled to deduct VAT on their inputs in relation to such activities.

An information leaflet explaining the types of research which now become taxable is now available on the Revenue website.

### VAT Rates

The Revenue website contains an extensive listing showing the rate of VAT applicable to over 2,500 goods and services. This listing is updated regularly with new classification decisions.

### Freedom of Information Precedents.

Following a review of the freedom of information precedents on the Revenue website a number of previously listed items relating to VAT have been deleted. The reason for these deletions was because the records in question, when reviewed, were not considered to constitute precedent or concessionary treatment but were simply interpretations of the legislation or are now available in other publications (e.g. financial services guide). The records now remaining all relate to concessionary treatment given in relation to specific transactions.

Any queries in relation to these can be addressed to VAT Administration Branch, Dublin Castle. ■

## INSURANCE RELATED SERVICES

### VAT and Insurance Related Services

#### *Section 199 Finance Act 2001*

The *Finance Act 2001* introduced, with effect from 1 May 2001, a change in the VAT treatment of certain insurance related services. Prior to 1 May 2001, claims handling and claims settlement services were regarded as taxable services, liable at the rate of 20 per cent.

As a result of the *Finance Act* changes (*Section 199*) claims handling and

claims settlement services carried out by an agent under delegated authority from the insurer and, where the insurer is bound by the decision of the agent in relation to that claim, may be regarded as coming within the exemption at paragraph (xi) of the *First Schedule* to the *VAT Act*. Where the agent has binding authority to settle claims up to a certain monetary limit only services relating to claims up to that limit qualify as exempt.

Where the agent does not hold full binding authority, or, where services

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relate to claims which exceed the monetary limit, the claims handling or claims settlement services do not qualify as insurance related services and are not, therefore, exempt.

As a result of these changes, loss adjusters, motor assessors and other experts whose activities include claims handling and claims settlement services, formerly taxable, may regard those services which qualify as insurance related services, as described, as exempted activities. ■



## VAT AND PROPERTY TRANSACTIONS

A new Guide entitled "VAT and Property Transactions" dealing with the application of VAT in relation to immovable goods is now available. It updates and brings together the contents of three previous publications, Property Transactions VAT Leaflet No. 2, VAT on Property - *Finance Act 1977* Changes, and Information Leaflet No. 4 concerning post letting expenses.

The Guide also sets out recent changes in the VAT treatment of property in the following areas:

- ▼ The 10% Rule: A maximum figure of £100,000 has been introduced for outlay in relation to alterations, which may be

ignored for the purposes of establishing whether a property was developed. It will operate in conjunction with the existing 10% rule. **Whichever is the lesser must be used.**

- ▼ A system of clawbacks and addbacks has been introduced in relation to the transfer of property as part of the transfer of business, where one or both parties to the transfer are partly taxable persons
- ▼ In the light of the availability of *Section 4A* the Sale and Leaseback arrangements are being discontinued
- ▼ In accordance with the provisions of *Regulation 19* "Valuation of

interest in immovable goods" it is the lesser valuation, which must be used.

Copies of the guide are available from

VAT Administration Branch,  
Indirect Taxes Division,  
Stamping Building,  
Dublin Castle

Tel: 01-6748940, 01-6748861,  
01-6748040, 01-6748632

It is also available on the Revenue website at

[www.revenue.ie/pdf/proptran.pdf](http://www.revenue.ie/pdf/proptran.pdf)

## PAYE TAX SYSTEM

2002

### Introduction

The change to the calendar tax year comes into effect on 1 January 2002. As the 2002 Budget details will not be available until 5 December 2001, there will not be enough time to arrange for a Bulk Issue of tax certificates incorporating any Budget changes.

### Interim Bulk Issue 2002

To overcome this, it is necessary to issue an "Interim" Bulk Issue of Tax Credit Certificates and this will take place on a staggered basis from the end of October to the middle of November 2001. These interim certificates, will be based, (with some exceptions), on the tax credits presently held for the current short tax "year" 2001 but on a 52 week / 12 month basis taking account of the Calendar Tax year from 1/1/2002 to 31/12/2002. An information insert will accompany the certificate. All figures will be in Euros.

### Tax Relief at Source

The tax year 2001 saw the introduction of Tax Relief at Source (TRS) for premiums paid to Medical Insurance Companies. This is being extended to Mortgage Interest

payments from 1 January 2002. Relief for these payments will not appear on Notices of Determination of Tax Credit from now on. As a result, whilst there may be a reduction in take-home pay, those affected will get the same tax relief by way of reduced mortgage and medical insurance payments.

### Main Bulk Issue 2002

Budget changes, will be reflected automatically in the Bulk Issue of revised Notices of Determination of Tax Credits, to issue in February / March 2002. Any adjustment due in respect of the period January 2002 to the date of the amended certificate, will be automatically made by employers.

### Contact with the Tax Office

In most instances, it will not be necessary to contact the Tax Office. If however, personal circumstances have changed i.e. a couple have married or a spouse has died and we have not been previously advised, contact may be made by phoning us, on the new telephone service for PAYE customers at:

**Lo Call 1890 60 50 90**

from inside the Republic, for the cost of a local call. Queries in relation to Employer's PAYE, Income Tax, Corporation Tax, etc. should continue to be made through existing channels.

### Notice to Employers

A notice will issue to all employers advising them of the new procedures.

### Euro P45s

Forms P45 (both IR £ and Euro versions) which were designed to take account of Tax Credits and the short tax "year", will be obsolete in respect of cessations arising on or after 1 January 2002. The P45 has been redesigned and reflects, not only the fact that all forms are required in Euro, but also takes account of the first full calendar tax year. Care should be taken to ensure that the correct P45 is completed for the relevant year. Supplies of Euro P45s will be available from *Revenue Forms & Leaflets Service* at 01-865 5002 and tax offices from mid November.

P45s may also be filed on line by using the Revenue On-Line Service, ROS. You can access the ROS web site at [www.ros.ie](http://www.ros.ie)

## CASE I & CASE II BASIS OF ASSESSMENT Calendar Tax Year

This article is a follow up to an article on the *Changeover to the Calendar Year of Assessment*, which was published in **Tax Briefing** Issue 44 (June 2001). It is confined to the special rules that apply to the taxation of a trade or profession as a result of the changeover to the calendar year basis of assessment.

**References in this article to the 'tax year 2001' are to the period 6/4/2001 to 31/12/2001.**

The *Finance Act 2001* provisions dealt with herein include

- the rules for deciding the basis period for the tax year 2001
- the rules for deciding what is the "corresponding period" where the basis of assessment for the preceding year must be reviewed following a change in basis period for either 2001 or 2002 and
- the commencement and cessation rules to deal with the implications of the short tax year 2001.

### Euro v Punts

All the examples in this article use euro figures only. In practice, accounts for some years may be in punts and accounts for periods ending after 1 January 2002 in euro. When this arises in practice it is very important to remember to first convert the adjusted profit figures into euro before making the apportionments referred to in the article. If necessary, the resulting assessable figures should be converted back to punts for assessing purposes, for example, if the tax return and assessment were made in punts for the year in question.

### Pay & File

The Pay and File system provides for a single date for:

- ▼ payment of preliminary tax for income tax
- ▼ tax return filing for the previous tax year (income tax and CGT)
- ▼ payment of the balance of income tax for the previous tax year
- ▼ payment of capital gains tax for the previous year.

In addition to this, if there is a change in the basis period, requiring a review of the preceding year, any tax payable as a result of such review **must** be fully paid by the same date as above under the Pay and File system - see examples 5, 6, 7 and 8 herein.

The first Pay and File date is 31 October 2002 - See **Tax Briefing** Issue 44 (June 2001) for further details.

### What are the rules regarding the basis of assessment under Case I and Case II for continuing businesses and what are the changes arising from the introduction of the calendar tax year?

The basic rules remain unchanged but a number of transitional rules have been introduced. These new rules are contained in 6 new subsections [(3A) to (3F)], introduced into *Section 65 TCA 1997* by *Schedule 2 Finance Act 2001*.

#### Existing rules:

The general rule is that income tax is charged on the full amount of profits of a trade or profession arising in a year of assessment.

Special rules apply where it has been customary to make up accounts as follows [*Section 65(2) TCA 1997*]:

#### Special Rule 1

- where there is one account for a period of a year made up to a date in the year of assessment

the profits of that period of one year are taken to be the profits of the year of assessment: *Section 65(2)(a) TCA 1997*.

#### Special Rule 2

- where there is an account for a period greater or less than one year ending on a date in the year of assessment

or

- where there is more than one period of account ending on a date in the year of assessment

the profits of the period of one year up to the date on which the period ends or the date on which the last of the periods of accounts ends is taken to be the profits of the year of assessment: *Section 65(2)(b) TCA 1997*.

#### Special Rule 3

- Where there is an account covering the year of assessment but that account does not end in the year of assessment

the profits of the year of assessment itself are to be taken as the basis of assessment: *Section 65(2)(c) TCA 1997*.

### How do these special rules affect the Tax Year 2001?

- Persons assessed to tax on the basis of Special Rule 1 will be assessed for 2001 on the basis of 74% of the profits of the 12-month accounting period ending in the tax year 2001: *Section 65(3A) TCA 1997*.

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## CASE I & CASE II BASIS OF ASSESSMENT Continued from page 15

### Example 1:

A trader normally makes up accounts to 30 June each year. The adjusted profits of the account for the year ended 30 June 2001 are £200,000.

Profits or gains to be assessed for 2001:  
Year ended 30 June 2001 £200,000 x 74% = £148,000

■ Persons assessed on the basis of Special Rule 2 will be assessed on 74% of the profits or gains of the year ending on either:

- (i) the date in the year of assessment to which an account (not being a single 12 month account) is made up [example 2] or
- (ii) the date in the year of assessment which is the date to which the last of two or more accounts is made up [example 3].

### Example 2:

A trader makes up accounts with adjusted profits of £360,000 for an 18-month period to 31 December 2001.

Profits or gains assessed for 2001:  
£360,000 x 12/18 x 74% (see (i) above) = £177,600

### Example 3:

A trader makes up two sets of accounts as follows:

12 months to 30 April 2001	
- adjusted profits	£72,000
8 months to 31 December 2001	
- adjusted profits	£48,000

Profits or gains to be assessed for 2001  
[basis period y/e 31/12/2001] =  
[£48,000 + (4/12 x £72,000)] x 74% = £53,280

### What is the position if the 12 months accounts end in the period from 1 January 2002 to 5 April 2002?

For the purposes of Special Rule 1, an account made up for a period of one year to a date falling in the period from 1 January 2002 to 5 April 2002, in addition to being an account made up to a date in the year of assessment 2002, is **deemed** to be an account made up to a date within the year of assessment 2001. *Section 65(3B) TCA 1997.*

This means that the same 12-month period of account can form the basis period of the tax years 2001 **and** 2002. The assessment for 2001: will be on the basis of 74% of the profits of the account, while the assessment for 2002 will be on the basis of the full profits of the 12 months.

### Example 4:

A trader makes up accounts to 31 March each year as follows:

Year-end 31 March 2001 - adjusted profits	£400,000
Year-end 31 March 2002 - adjusted profits	£100,000

Basis period for 2000/01  
= y/e 31 March 2001 = £400,000

Profits or gains to be assessed 2001:  
Basis period for 2001 = y/e 31 March 2002  
(£100,000 x 74%) = £74,000

Basis period 2002 = y/e 31 March 2002 £100,000

### What is the position if there are changes in the basis period requiring a review of the preceding year?

#### Existing rule:

Where the basis period for a tax year in accordance with Special Rules 2 or 3 does not correspond to the basis period for the preceding year, the preceding year **must** be reviewed.

Where the profits or gains of the corresponding period relating to the previous year of assessment **exceed** the profits or gains assessed for that year, the profits or gains for that corresponding period are to be taken to be the profits or gains of that previous year.

### Example 5:

A trader normally makes up his accounts to 30 April each year. He changes the accounting date to 31 December 2001. The adjusted profits are as follows:

Year ended 30/4/2000	£120,000
Year ended 30/4/2001	£180,000
8 months ended 31/12/2001	£140,000

The basis period for 2001 is the year ended 31/12/2001. The corresponding period for 2000/01 is the year ended 31/12/2000.

Profits assessed originally  
[basis period y/e 30/4/2000] £120,000  
Profits for corresponding period y/e 31/12/2000  
[£120,000 x 4/12] + [£180,000 x 8/12] = £160,000

As the profits of the corresponding period exceed the profits charged to tax, the assessment for 2000/2001 is increased to £160,000. The tax payable on this is due for payment by 31/10/02 under the rules of self-assessment - see **Tax Briefing** Issue 44 (June 2001) page 6.

## CASE I & CASE II BASIS OF ASSESSMENT

### How do you deal with the mismatch of 'corresponding periods' which arise as a result of the introduction of the calendar tax year?

Normally the corresponding period is a period of 12 months ending on the same date in the preceding tax year. The move to a calendar tax year creates problems of matching the basis of assessment with a corresponding period in the preceding year. The legislation sets out how to deal with this as follows:

#### Tax year 2001 and revision of 2000/01

Where the basis period for 2001 is the period 6/4/2001 to 31/12/2001, [Special Rule 3] the corresponding period for 2000/01 is the year ended 5/4/2001: *Section 65(3C) TCA 1997*.

#### Example 6:

A trader makes up accounts as follows:

12 months ended 31/12/2000	
- adjusted profits	£ 72,000
18 months ended 30/6/2002	
- adjusted profits	£ 120,000

**2001** - basis period is the period 6/4/2001 to 31/12/2001

**2000/01 Review:**

Profit originally assessed [Special Rule 1]	£ 72,000
Profits of corresponding period [y/e 5/4/2001]	
= £72,000 x 9/12 + £120,000 x 3/18 =	£ 74,000
Increase assessment to	£ 74,000

As for example 5, the additional tax liability is due and payable by 31/10/02.

#### Tax year 2002 and revision of tax year 2001

- Where the basis period for 2002 is a period of 12 months ending in the year 2002, on the basis of Special Rule 2 the corresponding period for the tax year 2001 is the period of 12 months ending in the calendar year 2001. The profits of the corresponding period are taken as 74% of the profits of this period: *Section 65(3D) & (3E) TCA 1997*.

#### Example 7

A trader makes up accounts as follows:

year ended 30/4/2000 - adjusted profits	£ 120,000
year ended 30/4/2001 - adjusted profits	£ 96,000
9 months 31/1/2002 - adjusted profits	£ 90,000

**2002** Basis period is y/e 31/1/02.

**2001 Review:**

Corresponding period is year ended 31/1/2001	
Profits	
[3/12 x £120,000 + 9/12 x £96,000] x 74% =	£ 75,480
Profit originally assessed [Special Rule 1]	
£ 96,000 x 74%	£ 71,040
Result: Increase assessment to	£ 75,480

The tax payable on this is due for payment by 31/10/03 under the rules of self-assessment - see **Tax Briefing** Issue 44 (June 2001) page 6.

- Where the basis period for 2002 is the profits of the tax year on the basis of Special Rule 3 the corresponding period for the tax year 2001 is the tax year 2001.

#### Example 8:

A trader makes up accounts as follows:

year ended 30/9/2001 - adjusted profits	£ 100,000
18 months ended 31/3/2003 - adjusted profits	£ 200,000

**2002** basis period is profits of period 1/1/2002 - 31/12/2002 [Special Rule 3]

**2001 Review:** Corresponding period is tax year 2001 i.e. profits 6/4/2001 to 31/12/2001

Profits of corresponding period	
£100,000 x 6/12 + 3/18 x £200,000 =	£ 83,334
Profit originally assessed under Special Rule 1:	
£ 100,000 @ 74%	£ 74,000

Result: Increase assessment to £ 83,334

As for example 7, the additional tax liability is due and payable by 31/10/03.

### What are the changes arising in the case of commencement of a trade or profession as a result of the introduction of the calendar tax year?

An article in **Tax Briefing** Issue 35, (March 1999) pages 8 and 9, addressed the special rules applicable at the commencement of a trade or profession.

#### First and second year

The basic rules remain unchanged but where the second year of assessment is the tax year 2001 and the basis of assessment is a period of 12 months ending in that year, the profits chargeable are 74% of the profits of that period.

#### Example 9:

A trader commenced business on 1 June 2000 and makes up accounts as follows:

Profits for 12 months ended 31 May 2001	£ 60,000
Profits for 7 months ended 31 December 2001	£ 40,000

**First Year 2000/01** Basis Period 1/6/2000 - 5/4/2001  
Profits or gains to be assessed

£ 60,000 x 10/12	£ 50,000
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Second Year 2001:

Basis Period 12 months to 31/12/2001

Profits or gains to be assessed =

[£40,000 + £60,000 x 5/12] x 74% =	£ 48,100
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## CASE I & CASE II BASIS OF ASSESSMENT Continued from page 17

### Third Year

#### Existing rule

Where the assessable profits for the second year exceed the actual profits of the second year the taxpayer may elect to have the assessment for the third year reduced by the excess.

#### Transitional Rule:

For the tax year 2002, the review will apply where the trade or profession was set up or commenced in the tax year 2000/01. For the tax year 2003, the review will apply where the trade or profession was set up or commenced in the tax year 2001.

#### Example 10: Calculation of Second Year Excess

A trader commenced business on 1 June 2000 and makes up accounts as follows:

Profits for the year ended 31/5/2001	£20,000
Profits for the year ended 31/5/2002	£15,000
Profits for the year ended 31/5/2003	£40,000

Original assessments will have been made as shown in the table below.

Assessments	Basis Period	Assessable Profits £	Assess £
1st Year 2000/01	1/6/2000 - 5/4/2001	20,000 x 10/12	16,666
2nd Year 2001	Year ended 31/5/2001	20,000 x 74%	14,800
3rd Year 2002	Year ended 31/5/2002	15,000	15,000

#### Second Year Excess:

Profits taxed in second year 2001                      £14,800

Actual profits of second year

i.e. period 6/4/2001 - 31/5/2001

£20,000 x 2/12 =                      £3,333

and period 1/6/2001 - 31/12/2001

£15,000 x 7/12 =                      £8,750                      (£12,083)

Second year excess    £2,717

Since the actual profits for the second year 2001 are less than the amount assessed for that year, the taxpayer may claim that the excess for the second year be deducted from the assessable profits for the third year 2002 as follows:

Profits assessed in Third Year 2002	£15,000
LESS Second Year Excess	(£2,717)
Assessable Profits 2002	£12,283

The claim in respect of the excess must be made in writing by the taxpayer to the Inspector of Taxes no

later than 31 October following the third year of assessment (in this example the claim must be made by 31/10/2003).

### What are the changes arising in the case of cessation of a trade or profession as a result of the introduction of the calendar tax year?

An article in **Tax Briefing**, Issue 36 - June 1999 (pages 17 and 18) addressed the special rules applicable at the cessation of a trade or profession. Again, the basic rules remain unchanged but some technical amendments are necessary to reflect the change to a calendar tax year, including a provision to the effect that the increase in profits charged for the year preceding the year of cessation refers to the profits of the tax year preceding the tax year in which the cessation takes place.

#### Example 11:

A trade is permanently discontinued on 31/5/2002. Accounts are made up as follows:

Profits 12 months ended 30/9/2000	£120,000
Profits 12 months ended 30/9/2001	£80,000
Profits 8 months ended 31/5/2002	£72,000

#### Year of cessation 2002:

Basis period = profits 1/1/2002 - 31/5/2002  
= £72,000 x 5/8

£45,000

#### Penultimate year 2001:

Original assessment 2001 [Special Rule 1]:

£80,000 x 74%    £59,200

Actual profits of tax year 2001

Profits 6/4/2001 - 30/9/2001

£80,000 x 6/12    £40,000

Profits for 3 months

1/10/2001 - 31/12/2001

£72,000 x 3/8    £27,000

Total    £67,000

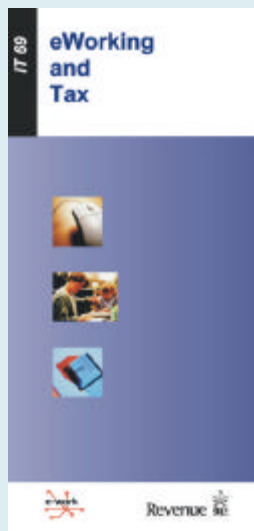
As the profits of the tax year 2001 exceed the original assessment for 2001 the assessment will be increased to £67,000.

The additional tax due is due one month from the date of the amendment - see **Tax Briefing** Issue 43 - April 2001 (page 27) for more details about this.

### What about losses?

Strictly, relief is given for the adjusted loss as actually sustained in the year of assessment and not the loss of the basis period for the year: *Section 381 TCA 1997*. However, Revenue accepts that in the case of a continuing business a loss sustained in the basis period may be treated as a loss of the tax year. Where the basis period is a period of 12 months, relief will be given by reference to 74% of the loss for that period. A detailed article on this issue will appear in the next edition of **Tax Briefing**.

## eWORKING AND TAX



### The tax implications of eWorking employees.

eWorking is regarded as a method of working using information and communication technologies in which work is carried out independent of location. Ways of eWorking include:

- Working at home on a full time or part time basis
- Working some of the time at home and the rest of the time in the office
- Working while on the move, with infrequent or occasional visits to the office.

eWorking involves:

- Working for substantial periods outside the employer's premises

- Logging onto the employers computer remotely
- Sending and receiving email, data or files remotely
- Developing ideas, products and services remotely.

The number of employees eWorking is increasing and this article addresses some of the more important issues that affect them.

### Income Tax

#### Provision of Computer & Ancillary Equipment

An individual's employer may provide computers, ancillary equipment such as printers, scanners, fax machines, etc. and software to enable him or her work at home. Where the provision of such items is primarily for business use, a benefit in kind charge will not be imposed on the employee in respect of incidental private use. The provision of a telephone line for business use will not give rise to a benefit in kind charge.

#### Provision of Other Equipment

Likewise, the provision of other equipment such as office furniture, etc. by the employer to enable the employee work at home will not attract a benefit in kind charge where the equipment is provided primarily for business use.

### Home Expenses

eWorkers will incur certain expenditure in the performance of their duties at home, such as additional heating and electricity costs. Revenue is prepared to allow an employer make payments up to £2.50 (£3.20) per day to employees without deducting PAYE and PRSI. This does not prevent an employee making a specific expenses claim where the actual expenditure is in excess of this amount

### Other Expenses

The tax treatment of motor expenses and subsistence payments which may be made by an employer without attracting a tax liability is set out in Income Tax leaflets IT51 & IT54. In relation to eWorkers, the determination of the individuals base may cause an element of difficulty. In practice, if the employee works part time in the office and part time at home, the base is the office.

Note: These arrangements only apply to eWorking employees. They do not extend to employees who, in the normal course of employment, bring some work home in the evening, etc.

### Capital Gains Tax

Where an eWorking employee uses any part of his or her home for eWork purposes, the capital gains tax exemption for Principal Private Residences will not be restricted. ■

## INTEREST RELIEF

Section 97(2F) restores the tax relief for interest borrowings to purchase, improve or repair certain rented properties converted into multiple residential units before 1 October 1964 and which are purchased on or after 5 January 2001. A question has arisen as to what level of evidence is

required to prove that a property was in fact converted into multiple residential units prior to 1 October 1964.

Revenue would accept a sworn affidavit from the previous owner of the property, produced by the

Solicitor for the Vendor on conveyance, confirming that the property was in fact converted into multiple residential units prior to 1 October 1964. ■

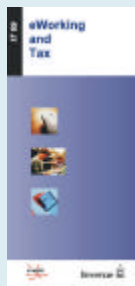
## REVENUE NEWS

## Update

### New and Updated Leaflets

#### eWorking and Tax

A new leaflet - Leaflet IT69 - eWorking and Tax was published in August. Copies are available from the *Revenue Forms & Leaflets Service* at 01-8655002.



#### Relief for Investment in Films

Leaflet IT57 has been updated.

Any queries in relation to the scheme should be addressed to:

Direct Taxes: Incentives,  
Office of the Revenue Commissioners,  
Dublin Castle,  
Dublin 2

#### Code of Practice for determining Employment or Self-Employment status of Individuals

This leaflet has been compiled by Revenue with the assistance of: Department of Enterprise, Trade and Employment, Department of Social Community and Family Affairs, Department of Finance, Irish Congress of Trade Unions, Irish Business and Employers Confederation. Copies are available from the *Revenue Forms & Leaflets Service* at 01-8655002.



#### Bogus Non-Resident Accounts

A booklet was published giving explanatory notes on the operation of the statement of practice "underlying tax" on funds deposited in bogus non-resident accounts. Copies are available from the *Revenue Forms & Leaflets Service* at 01-8655002.



#### Deposit Interest Retention Tax

Guidance notes for deposit-takers can be accessed on our website at [www.revenue.ie](http://www.revenue.ie) or in hard copy from the *Revenue Forms and Leaflets Service* at 01-8655002.

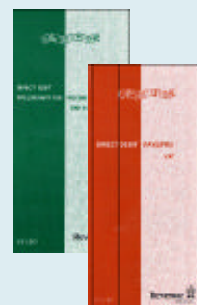


### Tuition Fees List

An updated list of approved IT and foreign language courses is now available. The list can be accessed on our website at [www.revenue.ie](http://www.revenue.ie) or in hard copy from the *Revenue Forms and Leaflets Service* at 01-8655002.

### Collector General Flexible Direct Debit Scheme

**Leaflets CG7(DD) Direct Debit PAYE/PRSI, VAT and CG9(DD) Preliminary Tax - Income Tax** have been revised and are available on our web site at [www.revenue.ie](http://www.revenue.ie) or from *Revenue Forms & Leaflets Service* at 01-8655002



### VAT Guide to Value-Added Tax 1999 - Supplement:

Main Amendments as at 1 September 2001

This information leaflet is intended to supplement Revenue's Guide to Value-Added Tax 1999. The purpose of the Guide is to explain, in general terms, the principal features of the Irish VAT system. The Guide was published in 1999 (9th edition). The purpose of this information leaflet is to outline the main amendments to the Irish VAT system since then.

### VAT and Property Transactions

A new guide entitled *VAT and Property Transactions* dealing with the application of VAT in relation to immovable goods is now available.



### TALC Meetings

The minutes of the TALC Meetings of 23 February 2001 and 27 April 2001 are now available on the Revenue web site at [www.revenue.ie](http://www.revenue.ie).

### Corporation Tax - Change in Due Date

The Minister for Finance made an Order on 25 September 2001 to provide that **20 December 2001** is the due date for preliminary Corporation Tax for companies' accounting periods ending in the period 21 June to 30 June 2001.

The Order was made under *Section 958(2) TCA 1997*. ■