

TAX BRIEFING

REVENUE OFFSHORE PROJECT



The deadline for the submission of a notice of intention to make a qualifying disclosure has now expired. To date, Revenue has received in the region of 15,000 notices where individuals have come forward and submitted a notice of intention. Acknowledgement letters are being issued by the Offshore Assets Group in relation to all submissions received. In order to retain the benefits of a qualifying disclosure individuals who have submitted a notice of intention must now prepare and submit their computation and payment no later than 28 May 2004. A failure to meet this further deadline may result in the removal of the benefits of a qualifying disclosure.

In order to assist individuals and practitioners in the preparation of a computation and submission Revenue has produced a booklet to accompany this project. This booklet together with interactive spreadsheets is available on our website at www.revenue.ie or from any Revenue office. The booklet sets out, in a series of questions and answers, issues which may be of concern to individuals and practitioners and covers *inter alia* the benefits available from making a qualifying disclosure,

the taxation consequences where a tax default arises in a corporate structure and the penalty rules applicable for the various tax years. In addition, the booklet contains worksheets for all years setting out the tax rates applicable for those years and highlights a number of errors discovered in previously submitted computations. Finally, the booklet sets out the PRSI and Levies due on offshore income.

This booklet will be updated regularly on our website and already additional questions and answers have been included. These additional questions and answers are included in the appendix to this article.

In submitting a computation for the 28 May deadline it is only necessary to complete the four page pull-out from the Revenue booklet.

Practitioners should retain any background papers, bank statements, working sheets etc., as a percentage of the cases submitted will be examined in detail as part of Revenue's audit programme. Therefore, if a practitioner has a doubt on any matter or has made what are considered, because of lack of documentation or other evidence, to be reasonable assumptions the practitioner should notify Revenue of these matters either in a covering letter or by including these details in the background section of the four page pull-out. ***The declaration of a full disclosure must be completed by a taxpayer in all cases.***

Practitioners will be aware that the deadline for the submission of the notice of intention coincided with a postal dispute. Revenue had stated

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KEY DATES

April 2004

14 PAYE/PRSI

P30 monthly return and payment for March 2004

14 Dividend Withholding Tax

Return and payment of DWT for March 2004

14 Relevant Contracts Tax

RCT30 monthly return and payment for March 2004

1-21 Corporation Tax

2nd Instalment PT for APs ending between 1-31 October 2003

1st Instalment PT for APs ending between 1-31 May 2004

Returns for APs ending between 1-31 July 2003

Pay balance on APs ending between 1-31 July 2003

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Returns of Third Party Information for APs ending between 1-31 July 2003

May

14 PAYE/PRSI

P30 monthly return and payment for April 2004

14 Dividend Withholding Tax

Return and payment of DWT for April 2004

14 Relevant Contracts Tax

RCT30 monthly return and payment for April 2004

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VAT3 return and payment for period March/April 2004

1-21 Corporation Tax

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14 PAYE/PRSI

P30 monthly return and payment for May 2004

14 Dividend Withholding Tax

Return and payment of DWT for May 2004

14 Relevant Contracts Tax

RCT30 monthly return and payment for April 2004

1-21 Corporation Tax

2nd Instalment PT for APs ending between 1-31 December 2003

1st Instalment PT for APs ending between 1-31 July 2004

Returns for APs ending between 1-30 September 2003

Pay balance on APs ending between 1-30 September 2003

1-30 Corporation Tax

Returns of Third Party Information for APs ending between 1-30 September 2003

July

14 PAYE/PRSI

P30 monthly return and payment for June 2004

14 Dividend Withholding Tax

Return and payment of DWT for June 2004

14 Relevant Contracts Tax

RCT30 monthly return and payment for June 2004

19 VAT

VAT 3 return and payment for period May/June 2004

1-21 Corporation Tax

2nd Instalment PT for APs ending between 1-31 January 2004

1st Instalment PT for APs ending between 1-31 August 2004

Returns for APs ending between 1-31 October 2003

Pay balance on APs ending between 1-31 October 2003

1-31 Corporation Tax

Returns of Third Party Information for APs ending between 1-31 October 2003



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that a fax notice would be accepted and details of fax numbers were published in the national media and through TaxFax. However, where a notice of intention was received after the 29 March deadline Revenue will accept that the notice was timely where the submission was delayed due to the postal dispute.

APPENDIX Foreign Pensions

I am resident in Ireland and in receipt of a pension from the UK. Is this taxable in Ireland or in the UK?

Up to and including the 1998/99 tax year, a pension paid relating to services rendered to the United Kingdom or a political subdivision or local authority thereof in the discharge of functions of a Governmental nature is **only** taxable in the UK if the recipient is a UK national or holds dual nationality. If the recipient holds only Irish nationality then the pension is taxable in Ireland if the individual is resident in Ireland but a credit is available for any UK tax paid.

From the 1999/2000 tax year onward, if the pension relates to services rendered to the United Kingdom or a political subdivision or local authority thereof in the discharge of functions of a Governmental nature and the recipient is a UK national but not an Irish national, the pension is **only** taxable in the UK. If, however, the recipient is a resident and national of Ireland then the pension is **only** taxable in Ireland.

All other UK pensions received by an Irish resident for whatever period, whether occupational or social welfare, are only taxable in Ireland.

I am resident in Ireland and in receipt of a pension from the USA. Is this taxable in Ireland or in the USA?

Up to and including the 1997/98 tax year, US pensions paid to an Irish resident relating to services rendered to the United States in the discharge of functions of a Governmental

nature, received by a US citizen or an individual holding dual nationality were **only** taxable in the US, and not taxable in Ireland. If the recipient held **only** Irish nationality, the pension was taxable in Ireland, but a credit is available for any US tax paid.

From the 1998/99 tax year onwards, if the pension relates to services rendered to the United States of America or a political subdivision or local authority thereof in the discharge of Governmental functions, and the recipient is a US citizen but not an Irish citizen, the pension is **only** taxable in the USA. If however, the recipient is a resident and citizen of Ireland then the pension is only taxable in Ireland.

Up to and including the 1997/98 tax year, US Social Security pensions received by Irish residents were not treated as taxable in Ireland. From the 1998/99 tax year onwards, such pensions received by Irish residents are taxable **only** in Ireland and not in the USA.

All other US pensions received by an Irish resident are generally taxable only in Ireland.

Is a person in receipt of a foreign pension entitled to claim the PAYE allowance or tax credit?

If the pension is a social security pension from another EU country, the Irish resident recipient can claim the PAYE allowance or credit.

If the pension is an occupational pension, whether from a EU country or non-EU country, the Irish resident recipient can claim the PAYE allowance or credit where the occupational pension is chargeable to tax in the country in which it arises and is subject to a tax deduction system similar in form to our PAYE system.

If the pension is a social security or similar pension from a non-EU country, the Irish resident recipient cannot claim the PAYE allowance or credit, unless s/he is entitled to claim it in respect of another source of income.

Interest and Penalties for Capital Acquisitions Tax

The money in the offshore account arose from a gift or inheritance on which Capital Acquisitions Tax (CAT) is payable. What statutory interest and penalties are due on the CAT?

Statutory interest is due on CAT at the same rate as other taxes. It is chargeable from the date the CAT fell due until the date it is paid.

Under CAT legislation, Revenue may mitigate the interest to 100% of the tax unpaid or underpaid, depending on the circumstances of the case.

For gifts and inheritances received before 1 October 2003 but not declared or not wholly declared to Revenue, if a CAT return was not filed there is a fixed penalty of €2,535. If an incorrect CAT return was filed there will be a "tax-geared" penalty which can be mitigated on the same lines as penalties for other taxes. If the tax default arose in a period ending on or before 5 April 1991 - that is, up to the tax year 1990/91 - by law, the penalty for underpaid tax cannot be mitigated. In those periods, therefore, the penalty is 100% of the tax due. After that, the penalty can be mitigated for co-operation and for making a voluntary disclosure, depending on the type of tax default involved. If a person not currently under investigation by Revenue makes a qualifying disclosure and co-operates with Revenue, for periods ending after 5 April 1991 the penalty can be mitigated to 10% of the tax now due.

For gifts and inheritances on or after 1 October 2003 statutory interest is due together with a penalty as provided in the Code of Practice for Revenue Auditors. The penalty will be 10% of the tax owing. This tax-geared penalty will cover both any potential surcharge arising and any penalty arising from the non-submission or the submission of an incorrect return. ■

FINANCE ACT

2004



The 2004 Finance Act was enacted on the 25 March 2004. The following pages highlight some of the changes introduced in the Act.

Income Tax

Section 6 clarifies that, for the purposes of *Section 189 TCA 1997*, payments made following the assessment by the Personal Injuries Assessment Board of claims for damages, will be treated in the same way as payments made following the initiation of Court proceedings. *Section 189* provides an exemption from income tax for the income of permanently incapacitated individuals arising from the investment of compensation payments made by the Courts, or under out-of-court settlements, in respect of personal injury claims. The section applies where the income in question forms the sole or main income of the individual.

Section 7 provides that from 4 February 2004, compensation awards paid following a formal hearing by a "relevant authority" under employment law in respect of infringement of employees' rights and entitlements under that law are exempt from income tax. The exemption does not apply, however, to payments which are in respect of earnings, changes in functions or procedures of an employment or the termination of an employment. A "relevant authority" under *Section 7* includes a Rights Commissioner, the Director of Equality Investigations, the Employment Appeals Tribunal,

the Labour Court, the Circuit Court and the High Court.

The section provides that payments under "out of court" settlements, in place of a formal hearing by a relevant authority, are also exempt from tax subject to certain conditions and restrictions. The main restriction is that the value of tax-free "out-of-court" settlements may not exceed those which may be awarded using the normal adjudication machinery in employment cases. In practice this will mean that such settlements cannot exceed the equivalent of two years' pay.

Benefit in Kind

Section 8 provides, with effect from 1 January 2004, for the exemption from income tax of certain benefits-in-kind provided by employers for employees. These are:

- ◆ Mobile telephones, computer equipment and home high-speed internet connections where those benefits are provided for business use and private use is incidental;
- ◆ Subscriptions to professional bodies where membership is relevant to the business of the employer;
- ◆ The private use of company vans which are essentially for the purposes of the employee's work, where there is an employer requirement to bring the van home, where other private use is prohibited and the employee spends most of his or her working time away from the employer's workplace to which he or she is attached (all these conditions must be satisfied).

The section also extends the existing BIK tax exemption for employer-provided travel passes to include LUAS services which are due to commence from June 2004. Currently the exemption just covers CIE (or any of its subsidiaries) and those operators who have a licence under the *Road Transport Act 1932*.

The Act also clarifies that the exemption will apply where a pass/ticket covers more than one operator, for example, an integrated ticket covering LUAS and Dublin Bus.

Section 9 provides for some changes in the arrangements relating to the application, with effect from 1 January 2004, of PAYE to benefits-in-kind from employment. The main changes are as follows:

- ◆ The exclusion from PAYE of shares given to employees, is confined to shares in the employer company or a company controlling the employer company (this provision applies from 4 February 2004);
- ◆ Where an employer pays the BIK tax charge in respect of a benefit provided to an employee (because the employee has insufficient income from which the tax could be deducted) the tax paid is credited to the employee;
- ◆ Employers may make arrangements with the Revenue Commissioners to account directly to the Revenue Commissioners, rather than through the normal PAYE system, for the tax payable in respect of benefits provided to employees which are minor and irregular. Where the employer so accounts for the tax, the benefits will not form part of the total income of the employees and they will not be entitled to credit for or repayment of the tax accounted for.

Section 10 reduces, for the year of assessment 2004 and subsequent years of assessment, the level of the specified interest rate used for determining the benefit-in-kind charge, under *Section 122 TCA 1997*, on certain preferential mortgage loans made to employees by their employers. The new rate will be 3.5 per cent (reduced from 4.5 per cent).



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The section also provides that, in addition to existing employees, former employees are also within the scope of *Section 122 TCA 1997*.

Farming

Section 13 inserts a new *Section 667A* into *Chapter 2, Part 23 TCA 1997* which is concerned with the scheme of enhanced stock relief for qualifying farmers. This new section replaces the existing *Section 667* and provides for an updated list of educational qualifications and certain changes in relation to the standards of those qualifications which must be attained in order to qualify for the exemption. *Section 667A* also contains transitional arrangements which enable the educational qualifications held before the passing of the Finance Act 2004, for the purposes of *Section 667*, to be treated as educational qualifications held for the purposes of the new section, as well as providing for individuals who are restricted in their learning capacity for various reasons.

The relief is given at the rate of 100% of the increase in stock values for the year in which the individual begins farming and for three successive years.

Income Tax, Corporation Tax, and Capital Gains Tax

Section 17 amends four provisions of the *TCA 1997* which, subject to certain conditions, exempt certain income from income tax. The four provisions are:

- (a) *Section 189*, which exempts from income tax the income derived from the investment of certain compensation payments received by individuals who are permanently and totally incapacitated by reason of mental or physical infirmity from maintaining themselves;
- (b) *Section 189A*, which exempts from income tax the income derived from investment of public subscriptions made to a

trust established exclusively for the benefit of one or more individuals who are permanently and totally incapacitated by reason of mental or physical infirmity from being able to maintain themselves;

- (c) *Section 191*, which extends the exemption afforded by *Section 189* so that it applies to income derived from the investment of payments made to Hepatitis C and HIV victims (whether by the Hepatitis C and HIV Compensation Tribunal or arising from a civil action for damages).

(In each of the foregoing provisions there is a requirement that the income being exempted be the sole or main income of the individual concerned.)

- (d) *Section 192*, which exempts from income tax both compensation payments made to thalidomide children and income derived from the investment of such payments.

Each of these sections is being amended so that a tax exemption now applies to both the income and gains derived from the investment of the sums referred to. Where it was a requirement for the income tax exemption that the income concerned be the sole or main income of the individual, it will now be a requirement that the aggregate of the income and gains to be exempted must be in excess of 50% of the aggregate of the individual's total income and gains for the year concerned. The exemption of such income and gains does not remove the obligation to include the amounts exempted in a tax return. The section applies from the tax year 2004 on.

Relevant Contracts Tax

Section 20 amends the law governing Relevant Contracts Tax (RCT), the tax which principal contractors are obliged to deduct from payments

made to certain subcontractors in the construction, meat processing and forestry industries. The section includes an enabling provision to allow the Revenue Commissioners, by way of regulations, to set up and maintain a register of principal contractors and to require all new principal contractors to formally register with them. This provision will have effect as and from the date of passing of the Finance Act 2004. Details of the registration requirements for new principal contractors will be set out in regulations to be made after that date.

The section also confirms that the Revenue Commissioners may renew a certificate of authorisation (C2) to a subcontractor without the need for that person to make a further application to them, subject to them being satisfied in relation to standard compliance requirements. This measure will apply as on and from 1 January 2004. The section also provides for a small technical amendment.

Farm Pollution Control

Section 21 amends *Section 659 TCA 1997* by extending the special scheme of capital allowances for expenditure incurred on the construction of facilities to control farm pollution for a further three years, up to 31 December 2006.

Loans applied in acquiring interest in companies

Section 22 gives legislative effect to the announcement made by the Minister for Finance in his press release of 19 March 2003 to close off a loophole relating to relief available to individuals in respect of interest paid on money borrowed for the purposes of acquiring an equity stake in, or lending to, a company. The section inserts a new *Section 250A TCA 1997* which restricts the availability of interest relief on loans, under *Section 248* of that Act.

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Firstly, the new section will operate where money borrowed by an individual and invested in, or loaned to, a company is used after 1 January 2003 by the company involved, in whole or in part, directly or indirectly, to acquire a specified building (essentially an industrial or commercial building with a remaining tax life) from another company, to replace money used to so acquire, or to pay off a loan used to so acquire. Secondly, the section covers situations where the individual uses borrowed money to pay off another loan or part of a loan where money under that earlier loan was used after 1 January 2003 by the company involved for any of these purposes. Thirdly, the section applies to other situations where an individual acquires share capital in a certain type of rental company on or after 20 February 2004 and the company acquires or had acquired a specified building, on or after 1 January 2003 from another company, without the use of the money borrowed by the individual.

Where the section applies, relief for a year of assessment, under *Section 248 TCA 1997*, in relation to interest paid by an individual on a loan or part of a loan may not exceed the individual's return from the company in that year in relation to the "specified" amount of the loan involved. An individual's return from a company for a year of assessment is the amount, if any, of the distributions or, as applicable, of the interest received by the individual from the company in that year in relation to the specified amount. Generally, the restriction of relief in the section applies to interest payments made by individuals on or after 19 March 2003 except in situations where a loan is used to purchase, on or after 20 February 2004, share capital in the type of rental company referred to above, in which case it applies to interest payments made on or after that date.

Credit for Foreign Tax

Section 31 amends *Sch 24 TCA 1997* in a number of respects as it relates to unilateral credit relief. That Schedule is concerned with the calculation of double taxation relief.

The provisions are as follows:

- Paragraph (a) amends unilateral credit relief, which eliminates double taxation in the case of dividends received from certain foreign subsidiaries by a company that is subject to tax in the State. The shareholding threshold to qualify for relief is reduced from 25 per cent of the subsidiary to 5 per cent. In addition, credit may now be allowed for local income taxes where these are paid in addition to state taxes on income but are not covered by the relevant tax treaty.
- Paragraph (b) makes changes to a provision that gives credit against Irish tax on dividends received by an Irish company from its foreign subsidiaries for foreign tax paid by lower tiers of subsidiaries.
 - Subparagraph (i) clarifies that tax which may be credited includes foreign tax paid by such subsidiaries on their branch profits.
 - Subparagraph (ii) provides for a reduction in the shareholding threshold from 25 per cent to 5 per cent. The new requirement will be that a subsidiary must be owned to the extent of at least 5 per cent by the company immediately above it, and also to the extent of at least 5 per cent indirectly by the Irish parent company.
- Paragraph (c) provides a mechanism for ensuring full relief for double taxation in the case of certain dividends. Where a company receives a foreign dividend it can set foreign tax on the dividend against Irish tax on

the dividend. The new provision will deal with the situation where the foreign tax exceeds the Irish tax and will allow any excess to be offset against Irish tax on other foreign dividends received in the accounting period concerned, and any balance unused to be carried forward and offset in subsequent accounting periods.

The section is subject to clearance by the European Commission from a State aid perspective and will come into effect following the making of a commencement order by the Minister for Finance.

Corporation Tax

Research & Development Credit

Section 33 inserts two new sections into the *TCA 1997* that provide for a 20% tax credit as a new incentive for companies that carry out Research and Development (R&D). The first section, *Section 766* that replaces the existing *Section 766*, contains an incentive in relation to R&D expenditure other than expenditure on buildings. The second section, *Section 766A*, contains rules for the treatment of expenditure on buildings.

The new incentive is subject to clearance by the European Commission from a State aid perspective, and will come into operation by way of a commencement order to be made by the Minister for Finance following such clearance.

The new *Section 766* provides an incentive for incremental expenditure on R&D. A credit of 20% of the incremental spend can be offset against a company's corporation tax liability for the current year. Any unused credit can be carried forward indefinitely against the corporation tax liability for subsequent accounting periods of the company until it is used up.

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The scheme is an incremental one whereby expenditure over a defined base will qualify for the credit. For the first three years of the scheme (i.e. 2004 - 2006) the base will be R&D expenditure incurred in 2003. Thereafter, there will be a rolling one year base i.e., for 2007 the base will be expenditure incurred in 2004 and for 2008 the base will roll on to expenditure incurred in 2005 and so on. The base will be calculated and apportioned on a group basis and a group can elect how to share the credit among group members. An amount equal to 20% of the incremental spend apportioned to a company is then available to reduce the corporation tax of that company.

Expenditure on R&D is defined as expenditure incurred on R&D activities carried on by the company in the European Economic Area (EEA) in a relevant period. The expenditure must qualify for tax relief in the State and in the case of an Irish resident company must not qualify for tax relief outside of the State. The tax credit will not be available for royalty payments that are exempt royalty income in the hands of the recipient.

The legislation contains a core definition of R&D activities. The Minister for Enterprise, Trade and Employment, in consultation with the Minister for Finance, will make regulations for the purposes of providing detailed guidance on what activities constitute R&D activities for the purposes of the tax credit.

Where a company that incurs expenditure on carrying out R&D

activities also pays a sum to a university or institute of higher academic education in the EEA for that university or institute to carry out R&D for the company, the sum so paid, up to an amount that does not exceed 5 percent of the expenditure incurred on R&D activities carried out by the company, will qualify for credit.

The new *Section 766A* provides that where a company incurs relevant expenditure on the construction or refurbishment of a building or structure which is to be used for the carrying on by it of R&D, the company will be entitled to a tax credit of 20% of the cost of construction or refurbishment but this will be allowed over a period of four years as a credit against corporation tax. Relevant expenditure on a building or structure is expenditure on the construction of a building or structure which qualifies for capital allowances in the State but does not qualify for the relief in any other territory.

Parent and Subsidiary Companies

Section 34 implements *EU Council Directive 2003/123/EC* which amends an earlier *Directive 90/435/EEC* on the common system of taxation applicable in the case of parent companies and their subsidiaries of different Member States (known as the "Parent/Subsidiaries Directive"). The Parent/Subsidiaries Directive which was concerned with eliminating double taxation on dividends across borders within the EU from subsidiaries to their parents, was implemented by *Section 831 TCA 1997*. This section makes a number of changes to *Section 831* to give effect to the new Directive as follows:

- ◆ The shareholding threshold for a company to be considered as a parent company is reduced from 25 per cent to 5 per cent;

- ◆ Irish branches of companies of other Member States will be entitled to the same reliefs as Irish resident companies where they received dividends from their subsidiaries;
- ◆ References to Irish unlimited companies are deleted from *Section 831*. Unlimited companies were not covered by the earlier Parent/Subsidiaries Directive but are now covered following its amendment by the new Directive. Consequently, a specific reference to them in *Section 831* is no longer necessary.
- ◆ Tax paid by lower tiers of subsidiaries may be taken into account for the purpose of giving credit relief to an Irish company that receives dividends from its subsidiaries in EU Member States subject to a shareholding of 5 per cent at each tier.
- ◆ Relief from double taxation under the Directive is specifically provided for in the unusual scenario where a subsidiary is regarded as a company in its home Member State but is considered to be transparent for tax purposes in the Member State of its parent company.
- ◆ Finally, provisions relating to allowing a credit against Irish tax on dividends received by a parent company for withholding tax applied to those dividends pursuant to derogations from the 1990 Parent/Subsidiaries Directive are modified. References to Germany, Portugal and Greece are removed as the Directive now prohibits withholding tax on relevant dividends in those Member States.

Short term leases of Plant and Machinery

Section 35 provides an alternative taxing mechanism for lessors of short-life assets. Under existing rules, income of the lessor is

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calculated by treating gross lease payments as income and allowing capital allowances on the asset. Where the lease payments are received over, say, three years but capital allowances are given over eight years a timing mismatch occurs.

The section allows lessors of such assets to account for them for tax purposes in accordance with accounting rules. This will result in the "interest element" of lease payments being taxed but no capital allowances being available. It will not change the amount of tax paid but will involve a more even spread of the tax over the lease period.

Capital Gains Tax

Section 42 inserts two new sections and a Schedule into the Taxes Consolidation Act 1997. The new provisions provide for exemption from capital gains tax for certain disposals by an investor company of shares held by it in an investee company. Both gains and losses on such disposals will be ignored for tax purposes.

The main exemption which is in the new *Section 626B* applies where:

- at the time of the disposal the investee company is resident for tax purposes in the EU or in a country with which Ireland has a tax treaty;
- the investor company has held for a period of at least 12 months ending in the previous 24 months -
 - at least 10 per cent of the investee company and that holding had a value of €15 million, or
 - at least 5 per cent of the investee company and that holding had a value of €50 million;

and

- at the time of the disposal either
 - the investee company must carry on a trade, or

- the business of the investor company, its 10 per cent investee companies, the investee company and the investee's 10 per cent investee companies taken as a whole consists wholly or mainly of trading.

The exemption does not apply -

- where the disposal is already treated under the Taxes Consolidation Act 1997 as being for a consideration such that no gain or no loss arises, or it is otherwise exempt under the Act,
- to disposals of shares which are part of a life assurance company's life business fund, or
- to disposals of shares deriving the greater part of their value from land in the State or from minerals, or rights or interests in relation to mining or minerals or the searching for minerals.

The new *Section 626C* provides for a secondary exemption. This applies to options to acquire shares and to certain convertible securities related to shares in similar circumstances to those in which a gain is exempt under *Section 626B*.

In determining whether the exemption applies, the investor company will be treated as holding all shares that its fellow "51 per cent" group companies hold.

A new *Schedule 25A* inserted into the Taxes Consolidation Act 1997 supplements *Section 626B* and deals with the interaction between the new sections and certain existing reliefs.

- Paragraph 1 provides that in order to determine whether the company disposing of shares has held them for the required holding period, the period of ownership of shares by a company can be extended where the shares were acquired in a

transaction that is treated as giving rise to neither a gain nor a loss. This could arise where assets are transferred within a group of companies. No gain or loss is treated as arising but the new owner takes over the assets for capital gains tax purposes at their original base cost. In these circumstances, where the assets consist of shares the new owner is allowed to extend the period of ownership by the time for which the shares were held by the previous owner;

- Paragraph 2 provides that if a company is deemed under the Act to dispose of and immediately reacquire shares which it holds (thus crystallising a gain), the holding of the shares in the period prior to the deemed disposal is not taken into account for the purposes of the holding period requirement;
- Paragraph 3 deals with repurchase agreements where a company transfers shares to another company subject to an agreement that the original owner will buy them back. Shares transferred under such a repurchase agreement are regarded as remaining with the original holder for the purposes of determining whether the shareholding requirement for the purposes of the exemption has been met;
- Paragraph 4 contains a similar provision in relation to stock lending arrangements;
- Paragraph 5 deals with a situation where in the case of a reconstruction a company which held shares in one company exchanges them for shares in a second company



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in circumstances that there is no charge to capital gains tax but the cost of the old shares carries through as the cost of the new shares. In these circumstances the period of ownership of the new shares can include the period of ownership of the old shares for the purposes of the holding period requirement;

- Paragraph 6 provides that a company may not claim relief for a loss in value of shares which have negligible value if a gain on a disposal of the shares would be exempt under the new *Section 626B*;
- Paragraph 7 deals with a situation where a company that is a member of a group had acquired an asset on a tax neutral basis. If that company ceases to be a member of the group there is a deemed disposal and reacquisition of the asset at the time of its acquisition from the other member of the group, thus crystallising a gain. In effect, paragraph 7 allows the exemption under *Section 626B* to apply if the conditions for exemption are satisfied at the time the company ceases to be a member of the group.
- Finally, paragraph 8 deals with the situation where shares are appropriated by a company as trading stock. It ensures that where the gain on the shares is exempt as a consequence of *Section 626B*, the company is treated as acquiring the shares at market value for the purposes of computing the profits of the trade to which they are appropriated.

The section is subject to clearance by the European Commission from a State aid perspective and will come

into effect following the making of a commencement order by the Minister for Finance.

Excise

Section 46 provides that, where any country acceding to the EU has been allowed, for a transitional period, to apply a rate of duty to cigarettes or other tobacco products which is lower than the minimum stipulated in EU law, the Minister may make an order to impose quantitative restrictions on personal importations of such products by travellers from those countries.

Section 52 amends *Section 6* of the *Roads Act 1920* (as amended by *Section 131 Finance Act 1992*) by deleting the requirement to present, at the time of first licensing of a vehicle, a vehicle registration certificate or other evidence as the Ministers for Finance or Environment, Heritage and Local Government require, as proof that a vehicle has been registered by the Revenue Commissioners. This amendment arises because of the impending introduction of a combined registration/licensing certificate whereafter an electronic transfer of registration data from Revenue to the licensing authority will be evidence that a vehicle has been registered.

The section will have effect from a date to be specified by a Commencement Order.

Section 53 provides for the

1. Removal of the authority of the Revenue Commissioners to prescribe the form and contents of vehicle registration certificates. The registration certificate will be replaced by a combined registration/licensing certificate which is prescribed by EC Directive and will be issued by the Department of the Environment, Heritage and Local Government.

This amendment will have effect from a date to be specified by Commencement Order.

2. Deletion of references to the vehicle registration tax repayment scheme for demonstration vehicles which are no longer required. The scheme was repealed by *Section 104 Finance Act 2003* (No. 3 of 2003).

Value-Added Tax

Section 62 makes several amendments to *Section 15B VAT Act 1972* which deals with goods in transit and provides for the application of transitional VAT measures between each of the accession countries and Ireland from 1 May 2004.

Paragraphs (a) and (b) provide that VAT at the point of entry applies after 1 May 2004 to goods from the new accession countries which are placed under a temporary importation arrangement and not removed before 1 May 2004.

Paragraph (c) is a technical amendment.

Paragraph (d) inserts a new *subsection (5A)* into *Section 15B VAT Act 1972* to provide that VAT at the point of entry does not apply to means of transport whose first use was before 1 May 1996, or where the tax due on importation does not exceed €130 and are entering the State from the accession countries on or after 1 May 2004.

Paragraph (e) defines “new Member State” and “date of accession”.

Section 63 amends *Section 17* of the VAT Act which deals with invoices. It provides that where a supplier in the State supplies goods or services to a customer in another Member State in a situation where the customer is liable for the VAT under the Sixth Directive, then that supplier must issue a VAT invoice.



FINANCE ACT

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Stamp Duties

Section 70 inserts a new *Section 81A* and *Schedule 2A* into the *Stamp Duties Consolidation Act 1999* to exempt transfers of land to young trained farmers from stamp duty. This new section replaces the existing *Section 81* and provides for an updated list of educational qualifications and certain changes in relation to the standards of those qualifications which must be attained in order to qualify for the exemption. *Section 81A* also contains transitional arrangements which enable the educational qualifications held before the passing of the Finance Act 2004, for the purposes of *Section 81*, to be treated as educational qualifications held for the purposes of the new section, as well as providing for individuals who are restricted in their learning capacity for various reasons. *Section 81A* applies to instruments executed on or after the date of passing of the Finance Act 2004 and on or before 31 December 2005.

Section 74 replaces the current *Section 101 Stamp Duties Consolidation Act 1999* which provided for a stamp duty exemption for certain international trademarks. The new section provides for an exemption from stamp duty on the sale, transfer or other disposition of intellectual property as defined. Intellectual property includes any patent, trademark, copyright, registered design, design right, invention, domain name, supplementary protection certificate or plant breeders' rights. The new section is subject to a Commencement Order to be made by the Minister for Finance following clearance with the European Commission from a State aid perspective.

Capital Acquisitions Tax

Section 78 amends *Section 93(4) Capital Acquisitions Tax Consolidation Act 2003*, which currently provides that only shares in or securities of a "holding company" within the

meaning of *Section 155 Companies Act 1963*, whose business consists wholly or mainly of holding shares in one or more trading companies, can qualify for business relief. This amendment extends the relief to shares or securities whose value is wholly or mainly attributable, directly or indirectly, to trading activities.

Section 79 amends *Section 106 Capital Acquisitions Tax Consolidation Act 2003*, which enables the Government to make arrangements for double taxation relief in respect of gift tax or inheritance tax, or taxes of a similar character, imposed in another country. This amendment provides that the force of law be given to any arrangements entered into by the Government to exchange information with another country for the prevention and detection of evasion of gift tax or inheritance tax, or taxes of a similar character, imposed in that other country.

Section 83 amends *Section 644A* and *Section 648 TCA 1997* to take account of the repeal of the Local Government (Planning and Development) Act, 1963 by the Planning and Development Act 2000. This amendment provides that any previous references to the Local Government (Planning and Development) Act, 1963 now refer, where an update is necessary, to either -

- (a) the Planning and Development Act 2000, or
- (b) the Local Government (Planning and Development) Acts 1963 to 1999 or the Planning and Development Act 2000 (if it is necessary to ensure continuity of activity commenced under an Act which has now been repealed e.g. planning permission granted which has not ceased to exist).

The provisions in this section are deemed to have come into effect on either 21 January 2002 or 11 March 2002, being the dates on which the relevant sections of the Planning and

Development Act 2000 came into operation.

Miscellaneous

Information in respect of certain tax expenditures

Section 86 makes provision for additional information to be given to the Revenue Commissioners in relation to the Exchequer cost of and the numbers claiming certain tax reliefs.

A new *Section 897A* is inserted into the TCA 1997. The new section obliges employers to provide additional information with the end of year "P35" returns in respect of the overall amount of employee tax deductible contributions to pension products deducted from the wages and salaries of employees. The total number of employees in respect of whom the employer is making such tax deductible contributions will be required as well as information in respect of tax-deductible contributions made by employers to pension products. The information will be required for the tax year 2005 and subsequent years. The first returns will be due in February 2006.

Section 86 also amends the penalty and surcharge provisions to provide for the application of penalties and a surcharge where a taxpayer who is claiming certain specified reliefs fails to give the additional information which will now be required to be included on the annual tax return forms.

The provisions imposing a penalty for non-compliance with the requirement to supply this additional information are such that the penalty, under *Section 1052 TCA 1997*, will only apply in a case where, after the filing of the tax return, the taxpayer becomes aware or it is brought to the taxpayer's attention that the additional information has not been included on the return and the taxpayer fails to provide the required information without undue delay.



FINANCE ACT

2004

Similarly, the surcharge for the failure to supply the additional information, under *Section 1054 TCA 1997*, will only arise where, after the filing of the tax return, the taxpayer becomes aware, or it is brought to the taxpayer's attention, that the additional information has not been included on the return and the taxpayer fails to provide the required information without undue delay. Where a surcharge applies in these circumstances, it will be the 5 per cent surcharge. This surcharge is subject to the normal maximum of €12,695.

Section 86 also amends *Section 1084(2)(a) TCA 1997* to make it clear

that, where the surcharge is to apply, it must be included in an assessment so that the taxpayer can appeal against the surcharge to the Appeal Commissioners if the taxpayer is aggrieved with it.

Revenue Powers

Section 87 inserts a new section into *Chapter 4 (Revenue powers) of Part 38 TCA 1997*. This new section, *Section 908B*, empowers the Revenue Commissioners to make an application to the High Court to seek an order requiring a financial institution to supply documents and information held by a non-resident entity over which it has control.

Section 88 amends *Section 908A*, which section allows the Revenue Commissioners to seek an order of the District Court authorising the inspection of, and the taking of extracts from, records of a financial institution for the purposes of investigating a revenue offence. While an amendment made to *Section 908A* in Finance Act 2000 also permitted the Revenue Commissioners to inspect and take copies of any documentation associated with these records, this provision was inadvertently removed when a further amendment was made to the section in Finance Act 2002. This provision is now being restored. ■

TAX REGISTRATION FORMS

Revenue recently reviewed the registration forms for PAYE, Income Tax, Corporation Tax, VAT, and Employer's PAYE/PRSI. The position following the review is as follows:

- Individuals commencing in a PAYE employment for the first time should continue to register as an employee using the **Form 12A**

- Individuals registering for Income Tax (non-PAYE), VAT and Employer's PAYE/PRSI should now complete the **Form TR1**, irrespective of turnover. New versions of the form reflect this position. The form STR is no longer in use and has been withdrawn.
- Companies registering for Corporation Tax, VAT and Employer's PAYE/PRSI should continue to use the **Form TR2**
- A need was identified for a separate registration form for persons already registered for Income Tax Corporation Tax, and who now wish to register as an employer. This form, known as **Form PREM Reg**, is now available.

All of these forms are available on the Revenue website, www.revenue.ie, or can be obtained from Revenue's *Forms and Leaflets Service* at LoCall 1890 30 67 06, or from any Revenue office. Stock of old forms should be destroyed. ■

FED

Foreign Earnings Deduction

Section 823 TCA, 1997

Section 31 Finance Act 2001 introduced 31 December 2003 as a cut-off date for this relief. This means that any day after 31 December 2003 cannot be included as a qualifying day for the purposes of the relief. ■



HEALTH EXPENSES

Income Tax

Kidney Patients

In the case of kidney patients, tax relief may be claimed on the following under the heading of health expenses for 2003.

Hospital Dialysis Patients

Where the patient attends hospital for treatment, relief under the heading of health expenses may be allowed in respect of expenditure incurred travelling (unlimited journeys) to and from hospital at the following rate -

2001	2002	2003
25p per mile (€0.35)	€0.35 per mile	€0.35 per mile

Home Dialysis Patients

Where the patient uses a dialysis machine at home, relief under the heading of health expenses may be allowed in respect of the following expenditure -

	2001	2002	2003
Electricity	(£635) €810	€1,115	€1,270
Laundry	(£895) €1,140	€1,595	€1,675
Telephone	(£60) €80	€110	€250
Travel to and from hospital	(£0.25) €0.35 per mile	€0.35 per mile	€0.35 per mile

Chronic Ambulatory Peritoneal Dialysis [CAPD]

Where the patient has treatment at home without the use of a dialysis machine, relief under the heading of health expenses may be allowed in respect of the following expenditure -

	2001	2002	2003
Electricity	(£500) €635	€880	€1,010
Telephone	(£60) €80	€110	€250
Travel to and from hospital	(£0.25) €0.35 per mile	€0.35 per mile	€0.35 per mile

Note - The 'cap' of 25 trips per year which previously existed for home dialysis patients and CAPD above no longer applies for 2001 onwards.

Child Oncology Patients & Children with Permanent Disabilities

In the case of child oncology patients and children with permanent disabilities, tax relief may be claimed on the following under the heading of health expenses for 2003.

A. Telephone

Where the child is treated at home, a flat rate of €250 to include telephone rental and calls may be claimed where the expenses are incurred for purposes directly connected with the treatment of the child.

B. Overnight Accommodation

Payments made by the parent/guardian to a hospital, hotel or B&B in respect of overnight accommodation in or near the hospital where the child is a patient where such overnight stay is necessary for the treatment of the child.

C. Travel

The cost incurred in travelling (unlimited journeys) to and from **any** hospital in respect of:

- The patient and accompanying parents/guardians; and
- Parents/guardians of the patient

where such trips are shown to be essential to the treatment of the child.

If a private car is used, €0.35 per mile may be allowed for the year 2003.

D. Hygiene products and special clothing

The cost incurred in respect of these items subject to a maximum of €500 per year. ■

RCT

Construction Industry and Relevant Contracts Tax (RCT)

Applications for C2 or Payments Cards

From Monday 5 April 2004, applications for C2 or payments cards from traders in Counties Dublin, Wicklow, Meath and Kildare should be directed to their local Revenue District. Up to then, these were dealt with in our Tallaght office.

There is no change in practice for applicants based elsewhere in the State. ■

EXCHANGE RATES



Average Market Mid-Closing Exchange Rates v. Euro As Supplied by The Central Bank

	2002	2003
Us Dollar	0.946	1.1312
Sterling	0.629	0.6919
Danish Krone	7.43	7.4307
Japanese Yen	118.10	130.97
Swiss Franc	1.467	1.5212
Swedish Krona	9.16	9.1242
Norwegian Krone	7.51	8.0033
Canadian Dollar	1.484	1.5817
Australian Dollar	1.738	1.7379

Lloyds Conversion Rate

For accounts closed in the calendar year 2003 the conversion rate of sterling to euro should be calculated by reference to the sterling mid-closing rate supplied by the Central Bank.

2003 Stg £1 = Euro 1.4188 ■

VAT AND PROPERTY

Economic Value Test

The economic Value Test applies where a person, who has a taxable interest in a property, makes a taxable supply in relation to that property. This note sets out Revenue's approach regarding the application of the economic value test to the disposal or creation of leasehold interests for a period of at least 99 years. It also clarifies the position in relation to professional fees in connection with assignments and surrenders.

Freehold Interest

Revenue is prepared to treat the disposal or creation of certain long leases for a premium plus a peppercorn rent in the same way as a disposal of a freehold interest. For this purpose, an interest which is for a period of at least 99 years may be regarded as a freehold for the purposes of *Section 4(3A) VAT Act 1972* and therefore not subject to the Economic Value Test.

There is no change in the treatment of leasehold interests for the purposes of *Section 4A and 4(8) VAT Act 1972* and these transactions will continue to benefit from the reverse charge rules as outlined in the legislation.

Professional Fees

Revenue accepts that in the case of an assignment or surrender of a lease the inclusion of professional fees incurred by the person making the assignment or surrender could result in the transaction failing the economic value test. Accordingly, in the case of an assignment or a surrender of a lease, professional fees incurred in the acquisition of the interest being assigned/surrendered may be excluded from the Economic Value of the lease. ■

VAT AND PROPERTY

Multiplier

There has been a decrease in the rate of the multiplier used when valuing an interest in immovable goods. The new rate is **21.27** and is effective from 1 February 2004.

Date of Issue	Title of Stock	Redemption Date	Purchase Price	Rate of Interest	Redemption Yield	Multiplier of Annual Rent <u>100</u> Redemption Yield
20 Jan 2004	4.5% Treasury Bond 2020	18 Apr 2020	€97.72	4.5%	4.702%	21.27



INTEREST PAYMENTS

Exemption from Withholding Tax

Interest Paid to US companies and US Limited Liability Companies Exemption from Withholding Tax

Subsections (3)(ccc) and (3)(h) of Section 246 TCA 1997 provide that withholding tax is not to be deducted from certain interest payments where the recipient of the interest is, by virtue of the law of a relevant territory, resident for the purposes of tax in a relevant territory. A relevant territory means a Member State of the European Communities other than the Republic of Ireland or a territory with which Ireland has a Double Taxation Treaty.

US Companies

It has come to Revenue's attention that the requirement to be resident for the purposes of tax in a relevant territory may give rise to difficulties for US companies as the concept of residence for tax purposes is not recognised under US tax law and it is not possible for the payer of the interest to get such a confirmation. It is not the intention of the legislation to exclude US companies from the exemption from withholding tax provided for in either Section

246(3)(ccc) or 246(3)(h) TCA 1997.

To clarify the position for US companies Revenue are prepared to accept that a company which is incorporated in the US and taxed in the US on its worldwide income will qualify for the exemption from withholding tax provided for in Section 246(3)(ccc) and 246(3)(h) TCA 1997.

US LLC's

An additional difficulty arises for US Limited Liability Companies (LLCs). An LLC has corporate form and personality but is categorised as a partnership under the Internal Revenue Code of the USA. As such, the LLC is not separately taxed but is treated as a transparent or 'look through' entity for US tax purposes and its income is taken to flow through to its members who are taxed according to US principles as though they received the money directly. Therefore on a strict interpretation of the legislation an exemption from withholding tax cannot be granted where the interest is paid to US residents through a US LLC.

In recognition of the difficulties arising from the use of US LLCs Revenue are prepared to 'look

through' the US LLC to the ultimate recipients of the interest subject to the following conditions:

1. Where the ultimate recipients of the interest themselves would qualify for exemption from withholding tax under Section 246(3)(ccc) or 246(3)(h) TCA 1997.
2. Where business is conducted through an LLC for market reasons and not for tax avoidance purposes.

Syndicated Debt Held by Irish Banks and the application of Section 246(3)(a) TCA 1997

Section 246(3)(a) TCA 1997 excludes from withholding tax interest paid in the State on an advance from a bank carrying on a bona fide banking business in the State. Exemption under this Section will apply to interest paid by an Irish corporate borrower to a bank carrying on a bona fide banking business in the State, where the bank did not provide the original advance but took an assignment of the original loan or part of the loan from a foreign institutional lender. ■

SHARE OPTIONS

Preliminary Tax

Relevant Tax on Share Options and interaction with Preliminary Tax obligations

Revenue have been asked to clarify the extent to which Relevant Tax on Share Options (RTSO) interacts with an individual's preliminary tax obligations. *Tax Briefing*, Issue 53, outlined in detail the new scheme of payment of income tax in respect of share options exercised on or after 30 June 2003.

In brief, the position is as follows -

- ◆ The RTSO due on the gain arising from the exercise of a share option in a tax year is

payable within 30 days of the date of such exercise; and

- ◆ Both the gain and the RTSO payable are separate and distinct from preliminary tax and, therefore, is not considered for the purposes of -
 - Determining the amount of preliminary tax payable for the relevant year of assessment
 - The calculation of the margin of error regarding preliminary tax paid in respect of a year of assessment in which the

share option is exercised, and

- Determining whether the 90%, 100% or 105% rule has been satisfied in relation to the payment of preliminary tax.

The RTSO paid may, however, be used to satisfy the individual's overall income tax liability for the tax year (i.e. it can be credited against the individual's final income tax liability including the liability relating to the gain on the exercise of the share option). ■



BUSINESS RELIEF AND CARAVAN PARKS

CAT

Amendment to current guideline for CAT Business Relief and Caravan Parks

Background

Revenue's existing published guideline¹ for dealing with the availability of CAT business relief in the case of Caravan Park operators requires that at least 50% of pitch sites consist of operators' own caravans. Otherwise such cases could fall within the restrictions contained in *Section 93(3) CAT Consolidation Act 2003*, in that the activity involves the making of an investment. Revenue recognises that its guideline in this area needs to be revised to take account of trends and norms in the Caravan Park sector that have taken place over the last number of years. The purpose of this note is to provide further clarification in this area and to set out additional circumstances in which a business consisting of the operation of a Caravan Park may qualify for relief.

It should be noted that this amendment (and the original guideline) applies where a Caravan Park operates as a tourist amenity and has no application where such a Park operates as a long-stay residential facility.

Nature of Caravan Park Operation

Revenue acknowledges that, in the context of Caravan Park operations, there are various types of operation ranging from one in which the operator is simply providing pitch sites together with some basic services, to one where the operator also provides pitch sites but these are in a Caravan Park which is fully serviced in that a variety of facilities are available which can include the following:

- ◆ Water, sewage, electricity, refuse collection

- ◆ Site upkeep, maintenance, lighting and security
- ◆ Reception/telephone/ information facilities
- ◆ Toilets/showers
- ◆ Television/games room
- ◆ Indoor/outdoor playground
- ◆ Tennis Courts/football pitches/pitch and putt
- ◆ Laundry
- ◆ Shop
- ◆ Café/restaurant
- ◆ Bar.

Factors relevant in determining whether CAT Business Relief applies to Caravan Parks

In considering whether a Caravan Park operation qualifies for CAT business relief, Revenue would regard a Caravan Park which lets pitch sites and provides access to the basic utilities and other small-scale services, as being predominantly a letting activity and consequently would not qualify for business relief on the grounds that it involves the "making of an investment". On the other hand, a Caravan Park which lets pitch sites but provides the type of services listed above would not be considered to be predominantly a letting activity but would be regarded as being much more active in nature. A number of factors are relevant in helping to reach this conclusion:

- ◆ A proportion of any payments made by customers is likely to be in respect of the services provided
- ◆ The scale of the services provided are such that employees are required to assist in the running of the Caravan Park
- ◆ Significant additional capital has been risked by the owners in providing the relevant services.

While these factors are individually not necessarily decisive in reaching a

conclusion on this matter, when they are all present in a particular Caravan Park operation they provide the necessary evidence that such an operation involves substantially more than a mere letting situation.

The following factors would also be taken into account and may militate against a Caravan Park operation qualifying for CAT Business Relief:

- ◆ Where the services provided in a Caravan Park operation have been "franchised" or "contracted out" by the operator such that the bulk of the risks and rewards associated with the service or activity are not the Caravan Park operator's
- ◆ Where the letting arrangements which are found in a particular Caravan Park are such that they are not typical² of the arrangements which normally pertain in a tourist amenity. In particular in this regard, where pitch sites or Caravan Park operator provided caravans are let on a long-term basis such that the letting arrangements are more akin to residential letting arrangements.

Further Enquiries

Where a Caravan Park operator wishes to obtain an opinion as to whether their particular operation would meet the terms of Revenue's guideline on this issue, they can apply to:

*Revenue Legislation Services,
Direct Taxes International &
Interpretation Division,
New Stamping Building,
Dublin Castle,
Dublin 2.*

setting out in full the facts and circumstances of their operation. ■

¹ Contained in Capital Taxes Freedom of Information Practices and Procedures Manual at Part II (page 15) - Appendix C - Returns Business Relief.

² An example of a typical letting arrangement found in caravan parks is where a pitch site licence covers the "season" - commonly March to November in a year or a shorter period



PERFORMANCE ISSUES DURING PAY & FILE ROS



Revenue On-Line Service Performance issues during Pay and File 2003

In 2003 there was a significant shift from paper filing of both Income Tax returns and payments to electronic filing through the Revenue On-Line Service (ROS). Over 110,000 returns and payments in excess of €750m were made through ROS. This represents 40% of all returns filed on time in 2003, a massive increase from the 9% achieved in 2002. This level of take up represents a significant vote of confidence in the system by tax agents and individual income tax filers. Thousands of returns and payments were filed successfully and without difficulty by the more experienced ROS agents in advance of the deadline.

However the ultimate take up was far greater than anticipated. The volume and mix of transactions received was therefore in excess of the performance and load tests carried out in advance of the peak period, and system difficulties resulted. Despite the remedial steps that were taken to eliminate these issues in the final weeks, the huge demand in the final days, particularly by new users, caused the service to slow down and gave rise to complaints from various representative bodies and customers.

Customer Usage and Load Testing

A number of key factors relating to the ROS Income Tax customer base were not anticipated and this had a negative impact on the performance

of the application by compounding performance issues within the system. The main issues were:

1. The take-up of the system was underestimated. Business targets within Revenue anticipated a filing rate between 25 – 30%, but the actual filing rate was 40%. It was also filing time for a number of other returns in the same week.
2. There was a large number of new inexperienced users accessing the system very late in the day and the overhead generated for both the ROS Helpdesk and the application by their lack of experience was underestimated.
3. The way in which many customers used the system was not anticipated e.g. filing returns individually rather than in batches, printing each screen in the on-line payment process etc.
4. Accountants' usage of the service for features other than actual Form 11 filing in the final days was far greater than expected.

Steps being taken to improve technical performance

In accordance with its normal capacity planning, Revenue had already scheduled upgrades of the software and hardware used to support the ROS service. These will be in place by April 2004. Revenue is also in the process of moving significant elements of its communications network, including internet connectivity, to the higher capacity Government Virtual Private Network (VPN).

In addition to these planned activities, Revenue has undertaken an in-depth analysis of the overall application design and environment and has put in place a programme to rectify any issues found. These are summarised as follows:

- ◆ An enhanced load and performance testing regime
- ◆ Internal application changes to make processing more efficient
- ◆ Delivery of content in a more efficient manner, e.g., the size of the banners and pdf files have already been reduced significantly
- ◆ Improved monitoring facilities.

Steps being taken to assist customers

As mentioned above, it was clear from feedback from customers that not everybody was using the ROS site to optimum efficiency. This resulted in customers being logged on to the site for longer than may have been necessary. To address this, the following initiatives are underway:

1. Enhancements to the service for Pay and File users include the addition of an off-line service for payments that can then be sent as an batch on-line
2. Advanced ROS training is being devised with the intention that customers are aware of the most efficient method of carrying out transactions online, and
3. Additional help and helpful hints for customers will be published on the site.

These measures will be implemented over the coming months and ROS would welcome feedback from practitioners on items 2 and 3. Any ideas or suggestions can be sent to rosmanager@revenue.ie.

Separate to ROS performance, but directly related to Pay and File, was a delay in crediting customer accounts with payments which resulted in some notices of assessment issuing without taking account of payments already authorised. This was a computer job scheduling issue, which has been rectified.



PERFORMANCE ISSUES DURING PAY & FILE

ROS

Other Contributing Factors

A number of other issues arose which were not as a direct result of ROS but were perceived by many as being ROS problems. The most notable of these problems and the intended solutions are:

◆ **Problems with firewalls in the customers own technical environment.**

Configuration changes by the customers were required to resolve these issues which in some instances required site visits from the ROS team. It is intended to publish details of the basic firewall requirements access to ROS.

◆ **Poor performance because of inadequate internet connections.**

This applied particularly to some smaller tax agents seeking to file returns for a number of clients via a standard domestic telephone line. In future ROS will publish connectivity requirements for ROS customers. Customers should link their requirements to their anticipated usage patterns.

◆ **A disproportionate number of complaints from the West of Ireland relating to connectivity issues and slow system performance at times when other users had no difficulties.**

This may indicate a potential problem with Internet Service Providers (ISPs). Resolution of this is outside of Revenue's control and customers should contact their ISP when they are experiencing general internet connectivity problems.

Steps to Success

- ◆ Register early
- ◆ Seek assistance/training from the ROS liaison officer in your Revenue District now, do not wait until September
- ◆ Make sure that you have the appropriate technology in place to support your requirements e.g., firewalls and internet connections
- ◆ Use the off-line services as far as possible to reduce internet costs and connectivity issues
- ◆ Set up the payment authorisation and instructions well in advance.

The money will not be taken out of the account before the 18 November ROS deadline unless it is specifically instructed to do so.

- ◆ Only leave the exceptional items to the last minute, file the returns as they are completed. There is nothing to gain by leaving it to the deadline.

Conclusion

Revenue acknowledges the difficulties encountered by some customers using ROS in the peak Pay and File period in 2003. A significant number of initiatives were already scheduled to improve the service in 2004. Further enhancements are also being introduced for better results and ease of use. Customers should be in no doubt as to Revenue's determination to implement all the necessary enhancements to ensure that customers will have the utmost confidence in using ROS as the best method with which to meet their Pay and File obligations in 2004 and beyond. ■

PAY & FILE

ROS

Pay & File - Extension of filing date in 2004 Revenue Online Service (ROS)

Revenue announced an extension to the filing date for self assessment income tax customers who **both** pay and file their return through ROS.

Customers who submit their payment **and** file their return through ROS for:

- ◆ Preliminary tax for 2004
- ◆ Income tax balance due for 2003, and
- ◆ Capital gains tax on gain arising in initial period 2004 (01/01/2004 - 30/09/2004)

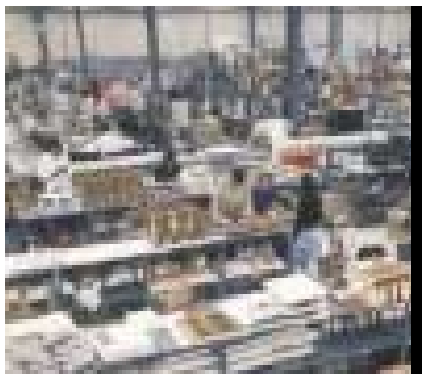
the due date will be extended until Thursday 18 November 2004.

To qualify for the extension, customers must both pay and file through ROS. Where only one of these actions is completed through ROS, the extension will not apply.

Customers who pay or file by means other than ROS are required to submit both payments and returns on or before 31 October 2004. ■

MANUFACTURING RELIEF

CT



Manufacturing Relief - where company commenced trading on or after 23 July 1998

Introduction

Section 74 Finance Act 1999, which amended Section 442 TCA 1997, introduced a phased withdrawal of Manufacturing Relief.

In general, manufacturing companies that commenced trading on or after 23 July 1998 were only entitled to Manufacturing Relief on trading profits earned up to 31 December 2002. Manufacturing companies that commenced trading prior to 23 July 1998 and manufacturing companies that entered into a grant agreement with an industrial development agency (as defined) before 31 July 1998 but did not commence trading until after that date, continue to

qualify for Manufacturing Relief until 31 December 2010.

In addition the following companies continue to qualify for Manufacturing Relief, but only until 31 December 2005:

- Manufacturing companies that are engaged in deemed manufacturing activities carried on in the Shannon Airport area approved on or before 31 May 1998, (Section 445 TCA 1997), and
- Manufacturing companies that are engaged in deemed manufacturing activities carried on in the Custom House Docks Area approved on or before 31 July 1998, (Section 446 TCA 1997).

The purpose of this article is to clarify how to deal with this relief when the accounting period spans any of the above dates and how to return income that qualifies for manufacturing relief on the Form CT1.

Apportionment of trading profits

Where a company's accounting period spans any of the above dates the company's assessable profit should be apportioned on a time basis to give an amount that is liable

at 10% (due Manufacturing Relief) and an amount liable at the standard trading rate, currently 12.5%.

Example

A manufacturing company that commenced trading on 1 August 1999, prepares a twelve month account with an end date of 31 July 2003. These accounts show a taxable profit of €120,000

Rate of CT applicable:

Period
1/8/2002 - 31/12/2002 - 120,000 x
5/12 = 50,000 @ 10%

Period
1/1/2003 - 31/7/2003 - 120,000 x
7/12 = 70,000 @ 12.5%.

Form CT1

When filing the 2003 Corporation Tax return, Form CT1 2003, only manufacturing profits that are entitled to Manufacturing Relief should be entered in the *Manufacturing Trade Profits* section of Panel 1 (Trading Profits). A company's trading profits that are not entitled to Manufacturing Relief, should be entered in the *Non-manufacturing Trade Profits* section of Panel 1.

The 2004 Form CT1 has been changed to reflect the restriction of entitlement to Manufacturing Relief. ■

STAMP DUTY

Stamp Duty (Particulars to be Delivered) (Amendment) Regulations 2003

These Regulations, which affect instruments executed on or after 5 December 2003, amend the *Stamp Duty (Particulars to be Delivered) Regulations 1995 (S.I. No.144 of 1995)*, and provide that particulars to be delivered are to be presented at any one of three Revenue offices which has a stamping service for impressing the 'Particulars Delivered' stamp:

- (i) *The Stamp Duty Office, Dublin Stamping District, Stamping Building, Dublin Castle, Dublin 2.*
- (ii) *The Stamp Duty Office, Cork North West District, Government Offices, Sullivan's Quay, Cork.*
- (iii) *The Stamp Duty Office, Galway County District, Custom House, Flood Street, Galway.*

or at any other office of the Revenue Commissioners as directed by the Revenue Commissioners or by any officer acting on their behalf.

In addition, minor changes have been made to the Particulars Delivered Form ST 21 and all references to "Revenue Social Insurance (RSI) number" in the 1995 Regulations have been replaced by "Personal Public Service (PPS) number". ■



REVENUE RESTRUCTURING

CAT

On Monday 29 March 2004 Capital Acquisitions Tax (Gift/Inheritance Tax and Probate Tax) moved out from the Stamping Building in Dublin Castle. As part of the overall restructuring of Revenue and to provide a better service CAT will be administered by teams located in the new Revenue regions. The address of the disponent will determine which team will deal with the case; this includes all Inland Revenue Affidavits, Returns, payments, Certificates of Discharge, correspondence etc.

The following table shows the new CAT offices and which cases they will deal with.

Region	Address	Phone	Fax	Email	Area of Responsibility
National Service	CAT Taxpayer Information Unit, Stamping Building, Dublin Castle, Dublin 2	LoCall 1890 20 11 04	01 679 0049	captax@revenue.ie	LoCall phone service for general CAT queries
Large Cases Division	CAT, Setanta Centre, Nassau Street, Dublin 2	01 647 0710	01 647 0951	bfleming@revenue.ie	Certain high wealth individuals from throughout Ireland
Dublin Region	CAT, Stamping Building, Dublin Castle, Dublin 2	01 647 5000	01 679 4115	catdr@revenue.ie	Dublin
East & South East Region	CAT, St. John's House, High Road, Tallaght, Dublin 24	01 414 9791 to 01 414 9797	01 414 9732	catser@revenue.ie	Tipperary, Kilkenny, Carlow, Laois, Meath, Waterford, Wexford, Kildare, Wicklow.
South West Region	CAT, Government Offices, Sullivan's Quay, Cork	021 432 5000	021 432 5488	swregoffice@revenue.ie	Cork, Kerry
	CAT, River House, Charlotte's Quay, Limerick	061 212 700	061 212 796	limerickdistrict@revenue.ie	Limerick, Clare
Border Midlands West Region	CAT, Hibernian House, Eyre Square, Galway	091 536 000	091 563 987	galwayroscommon@revenue.ie	Galway City, Roscommon
	CAT, Custom House, Flood Street, Galway	091 536 300	091 563 987	galwaycounty@revenue.ie	Galway County
	CAT, Davitt House, Castlebar, Co. Mayo	094 303 7000	094 902 4221	mayo@revenue.ie	Mayo
	CAT, Government Offices, Cranmore Road, Sligo	071 914 8600	071 914 3987	sligo@revenue.ie	Sligo, Leitrim, Longford
	CAT, Government Offices, High Road, Letterkenny, Co. Donegal	074 916 9400	074 912 7775	donegal@revenue.ie	Donegal
	CAT, Government Offices, Pearse Street, Athlone, Co. Westmeath	0906 421 800	0906 492 699	westmeathoffaly@revenue.ie	Westmeath, Offaly
	CAT, Government Offices, Millennium Centre, Dundalk, Co. Louth	042 935 3700	042 935 3882	louth@revenue.ie	Louth
	CAT, Government Offices, Millennium Centre, Dundalk, Co. Louth	042 935 3700	042 935 3386	cavanmonaghan@revenue.ie	Cavan, Monaghan

Audit - CAT Audit, 85 - 93 Lower Mount Street, Dublin 2 will deal with all CAT audit cases countrywide. Phone 01 647 4055, 01 647 4032, fax 01 647 4677, email dublincaudacs@revenue.ie

Discretionary Trust Tax - The Large Cases Division will deal with its cases, and the East & South East Region office will deal with all other cases.

Estate Duty and Non-Residents - the Dublin Region will deal with all cases.

High Level Interpretation Maurice O'Donoghue, Direct Taxes International and Interpretation Division, Dublin Castle, phone 01 647 5000, will deal with all high level issues of CAT legislative interpretation. ■



VEHICLE REGISTRATION CERTIFICATES



Introduction of a new Vehicle Registration Certificate

A new Vehicle Registration Certificate (VRC) replaces both the Registration Certificate issued heretofore by the Revenue Commissioners and the Licensing Certificate currently issued by the Department of the Environment, Heritage and Local Government.

The agreed introduction date for the new VRC is 5 April 2004.

The new VRC has been designed in accordance with European Council Directive 1999/37/EC which requires EU Member States to introduce a harmonised vehicle

registration certificate. The new registration certificate will be used throughout the EU for the identification of the vehicle or for its re-registration in another Member State.

The VRC will show details of the vehicle such as make, model, body type, colour etc. It will also display the Vehicle Registration Tax and Motor Taxation classification categories. Each vehicle detail shown will correspond to a code in the code description section of the VRC.

Further Information

Any queries regarding the new Vehicle Registration Certificate should be directed to local Vehicle Registration Offices.

Alternatively, the Department of the Environment, Heritage and Local Government, Shannon, Co. Clare may be contacted at LoCall 1890 411412. Information is also available from their website at

www.environ.ie

REVENUE eBRIEF

Informing you of important Revenue news and developments as they take place. This e-mail bulletin is issued periodically to registered subscribers. If you would like to receive Revenue e-Brief, forward your e-mail address to eBrief@revenue.ie

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REVENUE NEWS

Tax Clearance Certificates

A new procedure for the processing of Tax Clearance certificates came into operation on the 8 March 2004. Applications for most categories of Tax Clearance certificates should now be sent directly to your local Revenue District.

Non-residents and Applicants under the Standards in Public Office Act (2001) (which sets out the Tax Clearance requirements for members of the Dail and Seanad, senior public officials and candidates for appointment to the judiciary) should apply to the Collector-General, Sarsfield House, Limerick.

Persons whose Revenue affairs are dealt with in Large Cases Division

should apply to that Division for the appropriate certificate. Applicants should note that their tax affairs must be fully up-to-date before a Tax Clearance Certificate will be issued. For more information on tax clearance or to apply on-line for Tax Clearance see the revenue website at www.revenue.ie.

Updated Leaflets

Leaflet IT1 - Tax Credits, Reliefs & Tax Rates

Leaflet IT15 - The Seed Capital Scheme: Tax Refunds for New Enterprises



Update

Leaflet IT21 - Lump Sum Payments on Redundancy/Retirement

Leaflet IT51 - Employees' Motoring Expenses

Leaflet IT55 - The Business Expansion Scheme: Relief for Investment in Corporate Trades

Customer Service Standards

A Guide to Customs Audit

Copies of these leaflets are available from Revenue Forms & Leaflets Service at 1890 306 706, any Revenue office or on the Revenue website at www.revenue.ie

