

Revenue Commissioners

Tax Briefing No 62

December 2005

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Key Dates

January 2006

14 - PAYE/PRSI

P30 monthly return and payment for December 2005

14 - DWT

Return and payment of DWT for December 2005

14 - PSWT

F30 monthly return and payment for December 2005

14 - RCT

RCT 30 monthly return and payment for December 2005

19 - VAT

VAT 3 return and payment for period Nov/Dec 2005

VAT 3 Annual return for the year ending December 2005

1-21 - Corporation Tax

2nd Instalment PT for APs ending between 1-31 July 2005

PT for APs ending between 1-28 Feb 2006

Returns for APs ending between 1-30 April 2005

Pay Balance due on APs ending between 1-30 April 2005

1-31- Corporation Tax

Returns of Third Party Information for APs ending between 1-30 April 2005

31- Capital Gains Tax

Payment due on gains arising between 1 Oct to 31 Dec 2005

February 2006

14 - PAYE/PRSI

P30 monthly return and payment for January 2006

14 - DWT

Return and payment of DWT for January 2006

14 - PSWT

F30 monthly return and payment for January 2006

14 - RCT

RCT 30 monthly return and payment for January 2006

15 - PSWT

F35 annual return for year ended 31 December 2005

15 - RCT

RCT 35 return for year ended 31 December 2005

15 - PAYE/PRSI

Issue P60 2005, to each employee

Due date submission of Form P35 for year ended 31 Dec 2005

1-21 - Corporation Tax

2nd Instalment PT for APs ending between 1-31 Aug 2005

PT for APs ending between 1-31 March 2006

Returns for APs ending between 1-31 May 2005

Pay Balance due on APs ending between 1-31 May 2005

1-28 - Corporation Tax

Returns of Third Party Information for APs ending between 1-31 May 2005

March 2006

14 - PAYE/PRSI

P30 monthly return and payment for February 2006

14 - DWT

Return and payment of DWT for February 2006

14 - PSWT

F30 monthly return and payment for February 2006

14 - RCT

RCT 30 monthly return and payment for February 2006

19 - VAT

VAT 3 return and payment for period Jan/February 2006

1-21 - Corporation Tax

2nd Instalment PT for APs ending between 1-30 Sep 2005

PT for APs ending between 1-30 April 2006

Returns for APs ending between 1-30 June 2005

Pay Balance due on APs ending between 1-30 June 2005

1-31 - Corporation Tax

Returns of Third Party Information for APs ending between 1-30 June 2005

31 - Income Tax

Deadline for claiming Separate Assessment for 2006

Deadline for nominating Assessable Spouse for 2006

Budget Summary 2006

INCOME TAX

In his Budget Statement on 7 December 2005, the Minister for Finance announced a number of changes to the personal tax system.

Tax Credits

The table below outlines increases for 2006.

Tax Credit	2005 €	2006 €
Single Person	1,580	1,630
Married Person	3,160	3,260
Widowed Person (without dependent children)	1,980	2,130
One-Parent Family Credit	1,580	1,630
PAYE Credit	1,270	1,490
Incapacitated Child Credit Max	1,000	1,500
Blind Tax Credit		
Single Person	1,000	1,500
One Spouse Blind	1,000	1,500
Both Spouses Blind	2,000	3,000
Widowed Parent Bereaved in 2005	-	3,100
2004	2,800	2,600
2003	2,300	2,100
2002	1,800	1,600
2001	1,300	1,100
2000/2001	800	-
Age Tax Credit		
Single/Widowed	205	250
Married	410	500
Dependent Relative	60	80

Changes to other Reliefs are as follows:

Tax Credit	2005 € max	2006 € max
Employing a Carer	30,000	50,000

Changes to Standard Rated Reliefs are as follows:

Relief	2005 € Max	2006 € Max
Rent Tax Relief		
Single - Under 55	1,500	1,650
Married/Widowed - Under 55	3,000	3,300
Single - 55 & over	3,000	3,300
Married/Widowed - 55 & over	6,000	6,600
Trade Union Subscriptions	200	300

Tax Rates and Tax Bands

There are no changes to the tax rates of 20% and 42%.

The standard rate tax band has been widened. The table below sets out the tax rates and bands.

Personal Circumstances	2005 €	2006 €
Single/Widowed without dependent children	29,400 @ 20% Balance @ 42%	32,000 @ 20% Balance @ 42%
Single/Widowed qualifying for One-Parent Family Tax Credit	33,400 @ 20% Balance @ 42%	36,000 @ 20% Balance @ 42%
Married couple (one spouse with income)	38,400 @ 20% Balance @ 42%	41,000 @ 20% Balance @ 42%
Married couple (both spouses with income)	38,400 @ 20% [with increase of 20,400 max] Balance @ 42%	41,000 @ 20% [with increase of 23,000 max] Balance @ 42%

Exemption Limits

The exemption limits for persons aged 65 years and over have been increased as indicated in the table below:

Personal Circumstances	2005 €	2006 €
Single/Widowed 65 years of age & over	16,500	17,000
Married Couple 65 years of age & over	33,000	34,000

The limits for Single/Widowed persons aged under 65 and Married couples aged under 65 remain unchanged at €5,210 and €10,420 respectively.

Marginal Relief will continue to apply where income does not greatly exceed the relevant exemption limit.

The above exemption limits are increased by €575 for each of the first two dependent children and by €330 for the third and subsequent children.

Childminding Relief

A new childminding relief is being introduced. Where an individual minds up to three children in the minder's own home, no tax will be payable on the childminding earnings received provided the amount is less than €10,000 per annum. If the childminding income exceeds this amount, the total amount will be taxable as normal, under self-assessment. An individual will be obliged to return their childminding income in their annual tax return. Full details of the scheme will be set out in the Finance Bill.

Remittance Basis of Taxation

With effect from 1 January 2006, the remittance basis of taxation will be discontinued in respect of income attributable to the performance of the duties of a foreign employment exercised in this State.

PENSIONS

The annual earnings limit of €254,000 will be adjusted annually in line with an earnings index from the tax year 2007. A number of changes to the amount of a pension lump sum that may be taken tax-free have also been announced.

FARMING TAXATION

Farm Pollution Control

The entitlement to claim relief on capital expenditure at the rate of 33.33% per annum over 3 years continues. Alternatively a person may claim the lesser of €50,000 (increased from €31,750) or 50% of qualifying expenditure with effect from 1 January 2006.

Leased Land Exemption

The exemption for income derived from certain leases of farmland is being increased from 1 January 2006 from €7,500 to €12,000 per annum for leases of 5-7 years and from €10,000 to €15,000 per annum for leases of 7 or more years.

VAT

The VAT registration thresholds for small businesses are being increased from €25,500 to €27,500 in the case of services and from €51,000 to €55,000 in the case of goods - effective from 1 May 2006.

STAMP DUTY

Companies Capital Duty

The Finance Bill 2006 will provide for the abolition of the 0.5% companies capital duty on the issuing of share capital for transactions effected on or after 7 December 2005.

Young Trained Farmer Relief

The Finance Act 2003 provided for full exemption from stamp duty on the transfer of land to a young trained farmer for a 3 year period until 31 December 2005. This exemption will be extended for a further 3 year period to 31 December 2008.

The exemption is also to be expanded to apply to the transfer of the EU Single Farm Payment Entitlement to a young trained farmer where the land associated with that Entitlement is also being transferred to the young trained farmer.

CAPITAL GAINS TAX

The Minister announced the following changes:

Retirement Relief

The EU Single Farm Payment Entitlement will qualify as an asset for the purpose of Retirement Relief provided the farmer in question fulfils the ownership and usage requirements in relation to the land which will be disposed of at the same time as that Entitlement.

Anti-Avoidance Measure

The deferral of CGT on the disposal of an asset to a spouse, a separated spouse or a former spouse will not apply to disposals on or after 7 December 2005 where the recipient would not be liable to Irish CGT if he/she were to dispose of that asset in the year in which he/she acquired it.

CAPITAL ACQUISITIONS TAX

Measures in relation to the treatment of the EU Single Farm Payment Entitlement for Agricultural Relief purposes will be outlined in the Finance Bill 2006.

PRSI & HEALTH CONTRIBUTIONS

From 1 January 2006 the contribution ceiling for employees' PRSI is increased from €44,180 to €46,600.

Class A (Normal rate at which contributions are made)

Income (€)	Employer	Employee
Up to 46,600	10.75%	6% (includes 2% Health Contribution)
Over 46,600	10.75%	2% (Health Contribution)

Employees earning €300 p.w. or less, will be exempt from PRSI and those earning €440 p.w. or less, will be exempt from the Health Contribution of 2%.

For employees earning in excess of €300 p.w. the first €127 p.w. will continue to be free of PRSI. The weekly rate of €26 for employees on a modified PRSI rate also remains unchanged.

Class S (Self-Employed)

Income (€)	Rate
All Income	5% (includes 2% Health Contribution)

Self-Employed persons are exempt from the Health Contribution of 2% where the annual income is €22,880 or less. Minimum annual PRSI contribution remains at €253.

CORPORATION TAX**Restriction of certain interest relief**

The Minister announced his intention to introduce measures to restrict the use of the interest relief provisions of Section 247 TCA 1997 in the context of transactions between related companies - the measures will affect transactions effected on or after 7 December 2005.

This section provides for interest relief on monies borrowed by companies who acquire ordinary share capital of trading or rental companies (or holding companies of such companies). The relief is also available where companies on-lend monies in certain circumstances to the types of companies referred to above, or where the monies are used to pay off certain other loans.

Leasing - treatment of losses in the leasing of long-life assets

The Finance Bill 2006 will contain measures to alleviate certain restrictions on the offset by companies of losses arising from capital allowances on the leasing of long-life plant or machinery. The measures will include extending the scope of income against which these losses can be offset, allowing losses on the lease of long-life plant and machinery to be offset against income from similar leasing activities and measures relating to the tax treatment of leases that are denominated in a foreign currency.

CAPITAL ALLOWANCES & TAX INCENTIVE SCHEMES**Capital Allowances (and Expenses) for Business Cars**

The car value threshold is increased from €22,000 to €23,000.

Property-based tax incentive schemes

The following schemes will not be continued:

Urban Renewal, Rural Renewal, Town Renewal and the special reliefs for hotels, holiday cottages, student accommodation, multi-storey car parks, third level educational buildings, sports injury clinics and the general rental refurbishment scheme. The period during which qualifying construction expenditure can be incurred is being extended to end July 2008 subject to conditions. This extension is only available for those projects that have already satisfied the terms of the particular scheme.

The tax reliefs for investment in childcare facilities, private nursing homes and private hospitals are to be continued. Private psychiatric hospitals can now qualify for tax relief.

The Park-and-Ride (excluding the residential and commercial elements) and Living-Over-The-Shop schemes are being continued but in a more focused way.

The detailed provisions will be contained in the 2006 Finance Bill, subject to the appropriate approvals being obtained from the European Commission.

RESTRICTION OF RELIEFS

Restriction on the use of Tax Reliefs by High Income Taxpayers

A new measure is being introduced with effect from 1 January 2007 and will limit the use of tax breaks by those with high incomes. It is based on restricting the amount of specified reliefs which a person can use to reduce their tax bill in any one year to 50% of the person's income.

Tax relief to Individuals for Interest on Loans taken out to acquire shares in, or to lend to, Property Rental Income Companies is being abolished for all new loans taken out after 7 December 2005.

Exemption of Stallion and Greyhound Stud Fees

The exemption from tax of stallion and greyhound stud fees will end as of 31 July 2008. In the meantime new taxation arrangements will be introduced for these industries.

VEHICLE REGISTRATION TAX

The Minister announced the introduction of a VRT relief of 50% for new flexible fuel vehicles - vehicles capable of operating on high-grade biofuels - introduced for a two year period, with effect from 1 January 2006.

EXCISES

The Minister announced the following changes:

Mineral Oil Tax

A reduction in mineral oil tax for non-auto kerosene and Liquid Petroleum Gas (LPG) - effective from midnight 7 December 2005.

Reductions as follows (per 1,000 litres):

Kerosene (non-auto) - from €31.74 to €16.00

LPG (non-auto) - from €20.86 to €10.00

Betting Duty

A reduction in Betting Duty from 2% to 1% - with effect from 1 July 2006, with the duty to be borne by the industry.

Excise Relief for Biofuels

A 5 year scheme of targeted excise relief will commence in 2006.

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Tax Relief on Pension Contributions to EU based Pension Plans

Introduction

Section 21 FA 2005, provides for tax relief for contributions to EU based pension plans in certain circumstances. Claims may be made for:

- Migrant Member Relief, or
- For contributions made by an Irish employee to an **Overseas Pension Scheme**.

Migrant Member Relief

Relief is available for contributions paid on or after 1 January 2005 by a **relevant migrant member** who comes to the State and who wishes to continue to contribute to a pre-existing "qualifying overseas pension plan" concluded with a pension provider in another EU Member State.

The expression "overseas pension plan" includes both occupational pension schemes and personal pension plans (products similar to PRSAs and RACs), but excludes any State social security scheme (i.e. a system of mandatory protection put in place to provide a minimum level of retirement income or other benefits).

To qualify for the relief, certain conditions and information requirements must be met.

Migrant Member - Conditions

The migrant member must meet certain conditions to be a "relevant migrant member" and to qualify for relief for contributions made to a qualifying overseas pension plan. The individual must:

- Be a resident of the State
- Have been a member of the plan on taking up residence of the State
- Have been a resident of another EU Member State at the time he or she first became a member of the plan and must have been entitled to tax relief on contributions to the plan under the law of that Member State
- Have been resident outside of the State for a continuous period of 3 years immediately before becoming a resident of the State
- Be a national of a EU Member State or, not being such a national, must have been resident in a EU Member State (other than the State) immediately before becoming a resident of the State

The normal rules (183 day rule and the 280 day look back rule) for determining if an individual is resident in the State should be applied when considering if an individual is resident in the State for the purposes of migrant member relief.

The term "resident" in the context of another EU Member State means:

- In the case of a EU Member State with whom Ireland has a Double Taxation Treaty, that the individual is regarded as being resident of that State under the relevant treaty
- In any other case, that the individual is by virtue of the law of that State a resident of that State for the purposes of tax.

Overseas Pension Plan - Conditions

The overseas pension plan must be a "qualifying overseas pension plan":

- The plan must be established in, or entered into under the law of, a EU Member State
- The contributions to the plan must qualify for tax relief under the law of the relevant EU Member State, and
- The plan must be established in good faith for the sole purpose of providing retirement benefits similar to those tax relieved in the State. [Retirement benefits are pensions payable to the plan member on retirement or payments made to the member's dependents following the death of the member].

Overseas Pension Plan - Information

The relevant migrant member must irrevocably instruct the administrator of the overseas pension plan to provide the Revenue Commissioners with any information, in relation to payments under the plan that they may reasonably require.

In addition, on an annual basis, he or she must obtain from the administrator a "certificate of contributions" setting out contributions made by the migrant member to the plan, and where relevant, contributions to the plan, made by the migrant member's employer in the State.

Relief for Contributions

Where the conditions set out above in relation to the overseas plan and the migrant member are met, relief may be granted in respect of contributions paid under the overseas plan on foot of a completed form Overseas Pension 1 - available from the Revenue website or from any Revenue Office.

The claim form must be completed and signed by both the individual claiming the relief and the administrator of the overseas pension plan.

Relief is subject to the same age based relief limits as apply to relief for individual contributions to Irish approved pension plans (occupational, PRSA, RAC). The combined remuneration/earnings threshold of €254,000 also applies.

An employer is authorised to operate the "net pay arrangement" in respect of allowable contributions to a qualifying overseas pension plan where such contributions are deducted from the employee's emoluments.

Contributions by Irish Employees to an Overseas Pension Scheme.

Section 21 FA 2005 allows for the approval, on or after 1 January 2005, by the Revenue Commissioners of occupational pension schemes provided to Irish employers/employees by pension providers based in other EU Member States (i.e. "overseas pension scheme") which are structured other than on an irrevocable trust basis, so long as the standard approval conditions are met.

All queries relating to the approval of these schemes should be addressed to:

Financial Services (Pensions) Business Unit, Large Cases Division,
4th Floor, Grattan House,
Lower Mount Street,
Dublin 2

Claims for relief for contributions paid to an Overseas Pension Scheme will be dealt with on the same basis as claims for relief for contributions to an Irish approved occupational pension scheme.

An employer is authorised to operate the "net pay arrangement" in respect of allowable contributions to a qualifying overseas pension plan where such contributions are deducted from the employee's emoluments.

Enquiries on this article should be addressed to taxbrief@revenue.ie.

P35 End of Year Return 2005

Employers are reminded that the deadline for receipt of P35 Returns is 15 February, 2006

In meeting this deadline the Revenue On-Line Service (ROS) provides employers with the simplest, quickest and most efficient method of filing P35 Returns and making payments.

The benefits from using ROS include:

- Instant access to your own or your clients Revenue account including data regarding returns outstanding, payments made and due.
- Confidential and Secure Channel for the electronic filing of Returns and payment of liabilities due.
- Instant acknowledgement of Returns and payments filed.
- A 'rollover' feature in the ROS offline facility, which enables all relevant data to be carried forward from one year to the next.
- A faster and more efficient service.
- Prompt repayment of any refund due claimed on the P35 Return.
- Savings in time and money.
- Simple user-friendly forms. No paper forms required.
- Instant and accurate calculation of liability.
- Online and offline filing facilities.
- Facility to print P60's for employees and copies of the P35 Declaration and employee details.

In order to register for ROS all you need to do is select the ROS link from the Revenue homepage at www.revenue.ie. On the ROS homepage click on "**step-by-step instructions**" under the heading "**How to become a ROS customer**" and follow the simple three step process.

Practitioners using the Revenue On-Line Service should ensure that all their clients are registered under their Tax Adviser Identification Number (TAIN) on Revenue's system for PAYE/PRSI purposes. Practitioners can use ROS to check their client list and the taxheads for which each client is set up.

Further information is available on the homepage and includes Frequently Asked Questions and demonstrations on the main facilities provided. If you have any additional queries you can contact the Employer Help-line.

Employer Help-line

The Employer Help-line is available every day from 9.30am to 5.00pm and calls are charged at local rates. The Help-line will remain open until 8.00pm Monday - Friday during weeks commencing 30 January and 6 February 2006 to assist employers and practitioners in completing the P35 return. The phone number is 1890 25 45 65

Changes to the 2005 P35 Return

Section 86 FA 2004 provides that certain information, relating to pension contributions, must be returned by employers. This information will be required to be returned in the 2005 P35 return. The details required will refer to three main pension products and these are listed below.

Retirement Benefits Scheme

1. Number of employees who contributed to retirement benefits schemes by way of deduction from payroll during the year.

2. The total amount contributed by employees to retirement benefit schemes by way of deduction from payroll which qualify for tax relief.

3. Number of employees for whom the employer made contributions to retirement benefit schemes.

4. The total amount contributed by the employer to retirement benefits schemes on behalf of employees during the year.

PRSA Products

5. Number of employees who contributed to PRSA products by way of deduction from payroll during the year.

6. The total amount contributed by employees to PRSA products by way of deduction from payroll during the year which qualify for tax relief.

7. Number of employees for whom the employer made contributions to PRSA products during the year.

8. The total amount contributed by the employer on behalf of employees to PRSA products during the year.

Retirement Annuity Contracts (RAC)

9. Number of employees who contributed to retirement annuity contracts by way of deduction from payroll during the year.

10. The total amount contributed by employees to retirement annuity contracts by way of deductions from payroll during the year which qualify for tax relief.

Details in relation to pension products should be entered on the new P35LF form.

The P35 Declaration for 2004 included an additional box at line G for insertion of the total taxable benefits (notional pay) for all employees. This box has now been removed from the Declaration and data in relation to taxable benefits should also be entered on the P35LF form.

Diskette filers should not complete the P35LF form as information in relation to taxable benefits and pension products will be included on the diskette.

Accurate Completion

Practitioners and employers should make every effort to ensure that the P35 is fully and accurately completed and that all the information required on the P35 has been provided. An incomplete return does not fulfil an employer's legal obligation to make a return. Furthermore, if employee data is omitted it can cause unnecessary hardship for individuals in obtaining their social welfare entitlements. Practitioners and employers who fail to provide proper and complete P35 returns may increase compliance costs for themselves and also risk a penalty.

Revenue is using the most up to date technology to capture and process data, and the accurate and timely processing of returns will be greatly improved by practitioners and employers adhering to the following:

- **Ensuring that the declaration/payslip is only used for the employer to whom it is issued.** This is because each form is pre-coded with details that are unique to that employer.
- **Returning the original forms.** The technology used by Revenue to process returns is designed to operate with original forms. The forms should be completed clearly and legibly in accordance with the instructions provided. Photocopies should not be used. Additional stationery is available from the Employers P35 Unit by calling the Help-line number - 1890 25 45 65.
- **Ensuring that each employee's PPS No. is included.** The employee PPS No. is crucial in ensuring that the social insurance records of employees are updated. If, in exceptional cases, the employee's PPS No. is not available, the employee's name, address, and date of birth must be included on the return. In the absence of this information employees may face great difficulties in claiming social insurance benefits.
- **Fully completing each form.**

Employers with Computer Payrolls

Employers who use a computerised payroll package can also file the P35 Return through ROS if their software package is compatible with ROS. A full list of compatible packages is available on the ROS homepage. The software vendor should be contacted if there is any doubt as to whether a payroll package is compatible with ROS.

Employers filing the P35 on diskette should note that the phasing out of the diskette filing option is now well advanced and is likely to be completed by December 2006. ROS will then provide the only electronic option and employers are being encouraged to make the transition to ROS as soon as they are in a position to do so. Revenue will provide full support to any employers using ROS.

Employers with Manual Payrolls

P35 Returns for employers with manual payrolls can also be returned electronically via ROS with no paper forms required.

Employers who intend to make the return on paper should by now have received their P35 forms for completion for the tax year ended 31 December 2005.

The postal address for the completed forms is

Office of the Revenue Commissioners
Collector-General's Division,
PO Box 354,
Limerick.

For your convenience a pre-addressed envelope was included in the P35 pack that issued to employers in recent weeks.

Employers with no Employees

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

Overpayments

To ensure prompt repayment/offset of any refund due, the amount of the refund should be claimed at line E on the P35 declaration/payslip.

Penalties

Section 987 TCA 1997, as amended, provides for the imposition of a penalty of €630 on employers who fail to return their P35 by the 15 February deadline and this penalty increases by €630 each month that the return remains outstanding subject to a maximum of €2,535. Failure to comply may also lead to a tax audit and the names of employers penalised by the Courts are published.

Enquiries on this article should be addressed to taxbrief@revenue.ie

Capital Gains Tax Withholding Tax - Non-Resident Vendors

A non-resident vendor can obtain a Capital Gains Tax Clearance Certificate where the capital gains tax payable on the disposal (and any earlier disposals by him or her on the same asset) has been paid in full (Section 980(8)TCA 1997).

If the vendor does not have sufficient funds to pay the liability in advance of the disposal Revenue will accept a written undertaking from the solicitor acting for the vendor to discharge the liability (and any earlier unpaid tax on his/her disposal of the same asset) from the sale proceeds of the transaction concerned. This undertaking should be on the solicitors headed notepaper, signed and contain the name & address of the vendor, the PPS number if available, the amount for which the undertaking is given and the date by which the payment will be made. It should be submitted with the application.

A payment in satisfaction of an undertaking should be submitted, without request, to the **Revenue office which issued the certificate** and should be accompanied by a copy of the undertaking and the vendor's PPS number which will be available from the certificate.

This practice is subject to review.

Enquiries on this article should be addressed to miccroke@revenue.ie

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Definition of a "Chargeable Person"

Amended definition of "chargeable person" - Section 14 Finance Act 2005

Introduction

Section 14 FA 2005 amended the definition of a "chargeable person" for Self-Assessment purposes. The legislation now permits Revenue the discretion to look at an individual's **gross** non-PAYE income when deciding on assessment status.

For the year of assessment 2005 and following years, an individual with PAYE income who also has substantial gross income from a non-PAYE source(s) (but where this income has been reduced to NIL or to a negligible amount because of deductions, losses, allowances and other reliefs) is regarded as a "chargeable person" and is required to make a return under the Self-Assessment system.

Individuals with non-PAYE income

Individuals with PAYE income who also have income from a non-PAYE source(s) can be divided into the following categories:

Non-PAYE income in excess of €50,000 gross

An individual who is in receipt of income chargeable to tax under the PAYE system but who is also in receipt of substantial gross income from other sources, such as trading, professional or rental income, which is covered or largely covered by losses, capital allowances and other reliefs will now be regarded as a "chargeable person" within the Self-Assessment system.

For the 2005 tax year and subsequent years of assessment, substantial gross income is defined as **gross non-PAYE income of €50,000 or more**, e.g. Gross Income from a Trade or Profession, Gross Rental Income, Other Schedule D Income, Dividends and Distributions of Foreign Income.

The €50,000 limit applies to gross income from **all** sources and not from each separate source. An individual may have non-PAYE income from a number of sources and all sources should be added together when determining this €50,000 threshold.

An individual becoming a "chargeable person" under Section 14 FA 2005 continues to be a "chargeable person" for future years, as long as the source(s) of the non-PAYE income continues to exist, irrespective of the amount of the annual gross income.

Individuals with gross non-PAYE income of €50,000 or more (even if the non-PAYE income is reduced to NIL for tax purposes) are required to prepare and deliver, on or before 31 October each year, a Form 11 tax return for the previous year ended 31 December. Where a return is submitted after 31 October the individual will be subject to the late filing surcharge on the same basis as all other "chargeable persons".

In these cases, the non-PAYE income can not be coded against tax credits.

Non-PAYE income less than €50,000 gross

An individual who is in receipt of income chargeable to tax under the PAYE system but who is also in receipt of income from other non-PAYE sources will not be regarded as a "chargeable person" if the total gross income from all non-PAYE sources is less than €50,000 and the net assessable income is less than €3,174 and the income is coded against PAYE tax credits.

There is no change to the current practice in relation to individuals who fall within this category, provided they have assessable non-PAYE income of less than €3,174. These individuals can continue to have the liability on such income effectively assessed within PAYE by means of coding in the income against their tax credits.

Assessable non-PAYE income of €3,174 or more

An individual with assessable non-PAYE income of €3,174 or more for any year is regarded as a "chargeable person" for Self-Assessment and must file a Form 11 for that year.

Proprietary Directors

A proprietary director is a director of a company who is the beneficial owner of, or is able either directly or indirectly to control more than 15% of the ordinary share capital of the company. All proprietary directors are "chargeable persons"; where Joint Assessment applies, the spouse of such Directors are also brought within the Self-Assessment provisions

Exceptions

Excluded from the definition of "non-PAYE income" for the purpose of this section are:

- Social Welfare Payments and Pensions
- Legally enforceable maintenance payments received

Where the above sources of income can be accommodated by coding against the individual's tax credits the individual will not be deemed to be a "chargeable person" for Income Tax Self-Assessment.

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Encashment Tax - Notice to Bankers and Brokers

Please note this article is no longer valid and should not be relied upon

Responsibility for the administration of Encashment Tax [Sections 17, 32-35, 60-63 and Schedule 2, TCA 1997 refer] will move from Direct Taxes Interpretation and International Division to the Collector-General's Division, effective from 1 January 2006. Enquiries concerning Encashment Tax after that date should be referred to:

*Mr. Michael O'Donoghue,
Higher Executive Officer,
Collector-General's Division,
Minor Taxes Unit,
Sarsfield House,
Francis Street,
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*Telephone: 061-488185
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As payment of this tax is confined to a small number of chargeable persons (approx 40 last year), mainly large bankers and financial brokers, this internal re-organisation within Revenue will have no impact on the vast majority of taxpayers, who will continue to make returns relating to their foreign dividends in the normal way. Claims for refunds of encashment tax suffered by non-residents and charities will continue to be handled by:

*Collector-General's Division,
Government Offices,
St Conlon's Road,
Nenagh,
Co Tipperary.*

*This content is more than 5 years old.
Where still relevant it has been incorporated
into a Tax and Duty Manual
or other website text.*

Tax Returns for Directors 2005

Directors have been chargeable persons for the purposes of Self-Assessment since 1992/93. Revenue's Statement of Practice, SP - IT/1/93, excluded non-proprietary directors (who were otherwise not a chargeable person and whose income had been subject to PAYE) from these self-assessment provisions. All proprietary directors remained chargeable persons and were required to submit a return of income by the return filing date. A proprietary director is a director of a company who is the beneficial owner of, or is able either directly or indirectly to control more than 15% of the ordinary share capital of the company. There is no change to this position as outlined in this Statement of Practice.

The purpose of this note is to advise practitioners that for the tax year 2005 and following years the Form 12 Directors will no longer be produced and all proprietary directors will be issued with a Form 11.

Directors, both proprietary and non-proprietary, who have previously been issued a Form 11 will continue to receive a Form 11.

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Third Party Returns - Form 46G

Section 889 TCA 1997 requires that traders, professionals and other persons carrying on a business must make a return of all payment(s) for services rendered in connection with the trade, profession, business, etc. Statement of Practice SP - IT/1/92, paragraph 4.2(d) listed a number of exceptions to the list of payments that must be returned; included in the list were:

"Payments for services, etc. made to any person in the period covered by the return ... which do not total more than £3,000 [€3,810] in aggregate, subject to the proviso in paragraph 1.2 of this Statement of Practice. ... The figure of £3,000 [€3,810] will be subject to review in the light of experience."

The purpose of this note is to advise practitioners that this administrative reporting limit is being increased from €3,810 to €6,000. This new limit will take effect for third party returns **due** in the year 2006. Some forms 46G (Company) due in 2006 will show the old limit of €3,810 but you should note that the new limit will apply to these cases as well.

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VAT Treatment of Canteens

Following the decision of the European Court of Justice in *Hotel Scandic Gasaback AB v Rittsskatterverket* (Case C-412/03), Revenue has reviewed the VAT treatment of staff canteens. The revised VAT treatment of canteens is set out hereunder.



Where the turnover from a staff canteen or the cost to the employer of providing canteen services exceeds the VAT registration threshold in force (currently €25,500), VAT must be accounted for on the supply of canteen services as follows:

(a). Canteens that are operated by the employer on a profit-making basis.

The employer continues to be accountable for VAT on the actual canteen receipts.

(b). Canteens that are operated by the employer where no charge is made on the staff.

The employer continues to be accountable for VAT on the cost of supplying the service. (Cost includes the food, equipment, canteen staff wages and canteen overheads).

(c). Canteens that are operated by the employer where a charge is made on the staff that is less than the cost of providing the service.

The employer is accountable for VAT on the actual canteen receipts. The employer is no longer accountable for VAT on any additional costs incurred in providing the canteen service.

(d). Canteens that are operated by a commercial caterer as principal where the caterer receives payment from the staff and from the employer who also provides some facilities.

The caterer continues to be accountable for VAT on the receipts from the staff and the employer. In addition, the employer is accountable for VAT on any additional costs incurred in providing the canteen service, including the payment made to the caterer.

(e). Canteens that are operated by a commercial caterer as agent of the employer where the employer receives payment from the staff and makes a payment to the caterer as well as providing premises, equipment, etc.

The employer continues to be accountable for VAT on the actual canteen receipts. However, the employer is no longer accountable for VAT on any additional costs incurred in providing the canteen service.

Entitlement to input credit

Where an employer is liable to account for VAT in respect of the provision of staff canteen services, the employer is entitled to claim input credit in respect of VAT suffered on the provision of such services.

Claims for repayment for prior years

Some taxpayers may be entitled to repayment of VAT paid in prior years on the basis of Revenue's former treatment of staff canteens. It should be noted that any claim to repayments of VAT arising out of the revised VAT treatment of staff canteens is restricted to claims received for periods within the statutory time limits set out in section 20(4) of the Value-Added Tax Act 1972 (currently 4 years).

Interest may be payable by Revenue on repayment claims in accordance with section 21A of the Value-Added Tax Act 1972 (as amended).

All claims must be submitted to the taxpayer's local Revenue District, and should be supported by an explanation of the circumstances in which the claim has arisen, evidence that the tax was paid together and comprehensive computations of the make up of each claim.

Adjustments to repayment claims to take account of income tax/corporation tax liabilities

Taxpayers may have claimed a deduction for income tax or corporation tax purposes in respect of VAT suffered on the provision of canteen services that is now the subject of a VAT repayment claim. Accordingly, adjustments may be required to the income tax/corporation tax liability for the relevant years/accounting periods arising from any repayment of VAT made to the taxpayer. Rather than re-opening prior years of assessment/accounting periods to give effect to these adjustments, for ease of administration the VAT repayment plus interest to be made for the years/periods in question are to be reduced by the amount of the additional income tax/corporation tax that falls due.

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Partnership Returns - Form 1(Firms) - 2005

There have been a number of changes to the partnership return of income - Form 1(Firms) for 2005. The purpose of this note is to highlight the important changes.

Extracts From Accounts

The form will contain *Extracts From Accounts* pages. This brings the return in line with the Form 11 and Form CT1. The information sought from the accounts is the same information that is sought from sole trader accounts in the Form 11. For 2005 and following years, accounts should not accompany the partnership return; instead the *Extracts From Accounts* pages must be completed where the turnover of the partnership is less than €20m.

It is important to remember that the information sought in the *Extracts From Accounts* is a selection of items from a customer's set of accounts / statements / income and expenditure record, etc. It is not a replacement for the accounts. The financial statements and adjusted profit computations must be prepared as before in accordance with the ordinary rules and conventions of commercial accounting and tax law. As these pages are only a selection of items from the accounts, the figures returned may not necessarily 'balance'; there may be adjustments, etc., included in the accounts which are not sought in the *Extracts From Accounts* pages.

Attachments

There will be a requirement for some attachments to accompany the return, specifically accounts where the turnover is in excess of €20 million, and in larger partnerships, where the space provided in the Form 1(Firms) is insufficient; in this latter instance the additional information should be provided in a like manner and format to the way it is asked for in the return.

Data Capture

The design and layout of the form has changed to facilitate the capture of the information returned. It is important that the form is correctly completed to facilitate the accurate capture of the data. When making date and monetary entries only one digit should be entered in each box.

Property Incentives page

There is no Property Incentives page in the partnership returns; instead each partner is required to account for his or her share of the investment separately on their own return. However, the claim for relief should still be made in the trading or rental panel in the partnership return as heretofore.

Exempt Income

A new panel, requesting information on partnership exempt income, has been included in this form.

Unallocated Partnership Profits

A new panel has been added to the return requesting details of partnership profits to which no partner is entitled. In accordance with Section 1008 TCA 1997, the precedent acting partner will be assessed to income tax at the standard rate on these unallocated partnership profits.

Expression of Doubt

A tick box is provided on page 1 of the form to record the expression of a genuine doubt about the tax treatment of any item in the return. A letter setting out the point(s) at issue should accompany the return.

Individual partners affected by the tax treatment in question should also indicate an Expression of Doubt on their own tax return.

Enquiries on this article should be addressed to bnrdking@revenue.ie.

Income Tax Returns - 2005

Introduction

The Pay and File income tax return for 2005 is now available on the Revenue website and from Revenue Offices. We will commence sending practitioners returns for their clients in bulk in early 2006. As in previous years, we will not send a personalised paper return to those whom we know are ROS users.

The ROS Form 11 will be available in January 2006.

There are again two self-assessment returns this year; the Form 11 and the shorter Form 11E.

Form 11

The 2005 Form 11 is broadly similar to last year's return except that it contains new sections on:

- EU deposit interest (Section 20 FA 2005)
- Overseas Pension Plans: Migrant Member Relief (Section 21 FA 2005)
- Claims for relief in respect of Significant Building and Gardens

In addition, the Foreign Income panel has been revised; this has increased the number of categories of Foreign Income which are captured, which should reduce processing errors.

Form 11E

The Form 11E, which is an extract of the larger Form 11, has been reduced in size this year. In removing certain sections from this return the form is not suitable for individuals who:

- Have a turnover of €1,000,000 or greater
- Have three or more trades
- Are claiming tax relief in respect of a Property Based Incentive Scheme in 2005
- Have information to declare in respect of Share Options
- Opened a Foreign Bank Account, were issued with a Foreign Life Policy, or acquired an interest in an Offshore Fund, in 2005

Those individuals **must** complete a Form 11 or file online via ROS.

In addition there are a number of sections omitted from the Form 11E; these are listed in panel M of the form. If you have anything to declare in relation to those items you can enter the required information in the space provided in this panel. However, depending on the space required, it may be more appropriate to complete the larger Form 11.

Helpsheet

There will be a separate Helpsheet available this year for both the Form 11 and the Form 11E. Practitioners are reminded that, before completing the return, they should read the Helpsheet that accompanies the Form. If you haven't received a copy of the Helpsheet you can obtain a copy from the Revenue website, www.revenue.ie.

Guide to Completing Returns

The "Guide to Completing 2005 Pay and File Returns" will be available in early 2006.

Revenue On-Line Service (ROS)

Pay & File 2005

By midnight on Thursday 17 November this year a total of 205,887 Income Tax 2004 Returns were filed on ROS. This figure represents 65% of timely filed Returns this year, a marked increase on the 53% filing rate achieved last year. Online payment of tax also increased this year with over €1.4 billion in payments included in these returns.

Some practitioners experienced difficulties in filing online this year, particularly on the afternoon of 17 November when the system was unavailable intermittently. This was due to the fact that one of the 120 data gateways which takes information into ROS via the internet, was contaminated. We are still investigating the exact cause of the contamination, but the particular gateway has been shut down in the meantime. We would like to apologise for any inconvenience caused and to confirm that surcharges will not be applied where the submission of returns was temporarily delayed. Despite these difficulties over 25,000 returns (including over €500 million in payments) were filed online on the last day. We would like to thank practitioners for their patience and continued support of the service.

The ROS Helpdesk 1890 20 11 06 remained open until midnight on the final filing day again this year, assisting customers and practitioners with last minute filing. Our nationwide network of ROS Liaison Officers also reported a very busy week leading up to the ROS extended deadline.

Client Lists

This year some practitioners experienced difficulties filing returns for new clients. We strongly encourage practitioners to check their client lists online regularly and to send changes or additions to their local tax office in timely fashion to avoid problems.

ROS Offline

Users of the ROS Offline are encouraged to check the Downloads tab in the ROS Offline facility to check for new forms or new versions of forms to ensure that they are using the latest version of the forms. Open ROS Offline, select Downloads, then select Refresh and look through the list of available forms. New forms will be shown with Download buttons and new versions of forms will be shown with Upgrade buttons.

When the 2005 Income Tax Return Form 11 becomes available in January 2006 it will be available for Download as outlined above.

New P2C Viewer

To assist customers involved in payroll Revenue provides an easy to use Tax Credit Certificate (P2C) Viewer. A new version of the P2C Viewer is now available, accommodating the additional fields (Previous Employer Total Pay, Previous Employer Total Tax, Exemption Case, Standard Rate of Tax and Higher Rate of Tax) which will be shown on Tax Credit Certificates from January 2006. This new version is available by emailing roshelp@revenue.ie

ROS for Employees

Early in 2006 we will commence the roll out of ROS for PAYE employees, enabling these customers to conduct business with Revenue online. To use ROS PAYE Services employees will first register with the Government's Public Service Broker, Reach, and will use a combination of this registration and a PIN code supplied on their Tax Credit Certificate to access ROS Services.

Initially, ROS will provide facilities for these customers to view and amend their personal details online, to view, claim and amend 34 different tax credits and to apply for annual reviews/ refunds (in respect of these credits) commencing with the year 2005. ROS will roll out additional credits online during 2006 and will in time provide facilities for filing of a complete tax return by employees. More comprehensive information in relation to ROS for Employees will be provided in future editions of **Tax Briefing**.

Enquiries on this article should be addressed to Conor Hegarty c/o rosmanager@revenue.ie.