

Revenue Commissioners

Tax Briefing No 06

2010

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Tax Exemption for New Start-Up Companies

1. Introduction

The purpose of this article is to highlight the availability of relief from corporation tax for new start up companies under the provisions of section 486C of the Taxes Consolidation Act 1997. The article sets out details of the scheme of relief, including the maximum and marginal tax-exempt amounts allowable, the time limits for the relief and the provisions relating to the de minimis grant aid requirements.

2. Availability of relief

The purpose of section 486C is to encourage new business activity in the traded sector of the Irish economy.

Section 486C provides relief from corporation tax in their first 3 years of operation for new companies:

- that are incorporated on or after 14 October 2008,
- which commence a qualifying trade in 2009, and
- whose corporation tax liabilities do not exceed specified levels.

Section 45 Finance Act 2010 extends the relief to such companies commencing to trade in 2010.

A qualifying trade does **not** include

- a trade which was previously carried on by another person or formed part of another person's trade,
- a trade of dealing in or developing land or exploration and extraction of natural resources, or
- a trade consisting of "service company" activities as defined in section 441 of the TCA 1997. Service companies include close companies whose businesses consist of the carrying on of a profession or the provision of professional services, or of exercising an office or employment. Service companies also include businesses that provide services to professionals.

Where a company claiming relief takes over the activities of another trade, those activities will be treated as a separate trade (which will not be a qualifying trade, having been previously carried on by another person). Relief will continue to be available with regard to corporation tax attributable to the qualifying trade within 3 years of commencement, subject to the limits set out in paragraph 3.

Relief under this section will cease where part of the qualifying trade is transferred to a connected person.

Finally, note also that to be a 'qualifying trade' the company must also come within the scope of the EU de minimis aid Regulation. (See paragraphs 4 and 5 below.)

3. Minimum and Maximum amounts of relief

Full relief is available to a new company in any of its first 3 years of operation where its total corporation tax liability for a 12-month accounting period does not exceed €40,000. A qualifying new company with a corporation tax liability up to this amount will have its corporation tax liability reduced to nil. The maximum relief over 3 years is €120,000 (€100,000 for companies engaged in the transport sector). There is a sliding scale of marginal relief where the corporation tax liability for a 12-month accounting period exceeds €40,000 but is less than €60,000. In that instance the corporation tax payable by the company for the accounting period is reduced to an amount determined by the following formula:

$$3 \times (T-M) \times (A+B)/T$$

where:


- T is the total corporation tax payable by the company for the accounting period,
- M is the lower relevant maximum amount (i.e. €40,000),
- A is the corporation tax payable by the company for the accounting period so far as is referable to income from the qualifying trade for the accounting period, and
- B is the corporation tax payable by the company for the accounting period so far as is referable to chargeable gains on the disposal of qualifying assets of the qualifying trade.

For example: if a company's tax liability is €41,000 (all attributable to income from a qualifying trade), it will get relief of €38,000 and will pay €3,000, calculated as follows:

$$3 \times (\text{€}41,000 - \text{€}40,000) \times \text{€}41,000/\text{€}41,000 = \text{€}3,000$$

There is no relief for a company with a corporation tax liability of €60,000 or greater in any 12 month accounting period. The €40,000 and €60,000 limits are proportionately reduced for accounting periods of less than 12 months.

4. EU de minimis aid Regulation

For the relief to apply it must comply with EU de minimis aid  [Regulation \(EC\) No. 1998/2006](#) (PDF, 66KB) [1]. This regulation establishes a de minimis ceiling for aid below which assistance to a single recipient is deemed to have a negligible impact on trade and competition within the EU. The aid, therefore, does not require notification as State aid under the notification procedure provided for in Article 108(3) of the Treaty on the Functioning of the European Union.

The overall ceiling on the de minimis aid allowed for any undertaking is, in general €200,000, (€100,000 for the road transport sector), over a 3-year period. The relevant 3-year period is mobile in nature so that for each new grant of de minimis aid, the total amount of de minimis aid granted during 3 consecutive years (i.e., the current year and the two preceding years, normally accounting periods) needs to be determined.

In applying for de minimis aid a company should be aware of these limits and take account of relief under section 486C in addition to any other de minimis aid received during the 3-year period to ensure the ceiling is not breached.

5. Exclusions from Relief

The EU regulation also sets out the exceptions to what can be considered de minimis aid and, hence, areas to which section 486C relief cannot apply. Exclusions from the scope of de minimis aid include undertakings active in

- the fishery and aquaculture sectors,
- the primary production of agricultural products, or
- the coal sector.

Most of these areas have separate EU regimes relating to the provision of aid.

6. Disclosure of Information

The Revenue Commissioners may, for the purposes of ensuring compliance with the de minimis aid rules, disclose information on the tax relief claimed by companies under the provisions of section 486C, to government Departments and Agencies paying other de minimis aid and, if requested, to the EU Commission.

7. Claims for relief

A claim for relief must be made on the CT1 Form. The claim must specify the amount of the relief being claimed for an accounting period. The relief must be within the limits set out in section 486C.

Claims for 2010 can be made on the line provided at Panel 9 on the CT1 form.

Claims for 2009 should be included at Panel 9 on that return under 'Other reliefs', specifying that it is section 486C relief that is being claimed.

8. Further information

This article has set out broadly the details relating to section 486C relief. Generally, it will be the facts of the case that will determine entitlement to the relief. Further information or requests for clarification should be addressed in the first instance to a company's local tax office. More complex technical queries can be addressed through the Revenue Technical Service.

Guidelines on Revenue's Service to Practitioners and Business Taxpayers are available at www.revenue.ie under the Tax Practitioners' tab.

Footnote

[1] OJ No. L379 of 28.12.2006, p.5