

## High-Income Individuals' Restriction Tax Year 2010 onwards

### Part 15-02A-05

This document should be read in conjunction with Part 15 Chapter 2A of the Taxes Consolidation Act 1997

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## 1 Introduction

With effect from 1 January 2007, measures to limit the use of certain tax reliefs and exemptions (known as “specified reliefs”) by high-income individuals were implemented, underpinned by legislation in Finance Act 2006 and 2007.

Changes introduced by Finance Act 2010, with effect from 1 January 2010, ensured that individuals who are fully subject to the restriction, pay an effective rate of income tax of approximately 30 per cent.

This manual provides guidance on the application of the restriction for the tax year 2010 and subsequent years.

## 2 How does the restriction work?

The high-income individuals’ restriction (HIIR) works by limiting the total amount of specified reliefs that can be used by a high-income individual to a maximum amount each year. The maximum amount is set by reference to a specific figure or to a maximum percentage of income for the year.

Relief that is disallowed for a tax year is added-back to the individual’s taxable income for the year to give a **recalculated taxable income** figure. The recalculated taxable income amount is then taxed in accordance with normal income tax rates and the individual is entitled to normal tax credits against the tax due. [Paragraph 5](#) explains how the restriction is calculated. [Paragraph 6](#) explains how the restriction applies to jointly assessed married couples/civil partners. [Paragraph 9](#) outlines how the restriction works in situations involving exempt income.

## 3 To whom does the restriction apply?

For the tax year 2010 and subsequent years, the restriction applies to an individual where all the following three criteria apply:

- the adjusted income of an individual for the tax year is equal to or greater than an “income threshold amount”, which is usually €125,000, but less if the individual had combined ring-fenced income and adjusted income in the tax year of less than €400,000;
- the aggregate of specified reliefs used by the individual for the tax year is equal to or greater than a “relief threshold amount”, which is set at **€80,000**; and
- the aggregate of specified reliefs used by an individual for the tax year is greater than **20 per cent** of the individual’s adjusted income.

[Appendix 1](#) explains how “adjusted income” and the “income threshold amount” are calculated.

[Appendix 2](#) explains the term “ring-fenced income”.

In addition to the HIIR, there is a USC property relief surcharge which may apply to individuals affected by the HIIR. This is dealt with in Tax and Duty Manual [Part 18D-00-01](#). The USC property relief surcharge applies to reliefs used **before** the application of the HIIR.

## 4 What specified reliefs are covered by the restriction?

Reliefs covered by the restriction are known as “specified reliefs” and include:

- The various sectoral and area-based property tax incentives – for example, accelerated capital allowances for nursing homes/private hospitals<sup>1</sup>, industrial/commercial buildings in urban, rural and town renewal areas and reliefs in relation to the cost of construction / refurbishment / conversion of rented residential accommodation located in such areas;
- Certain exemptions relating to, for example, artists’ income<sup>2</sup>;
- Certain investment incentive reliefs<sup>3</sup>;

A full list of the reliefs and exemptions covered by the restriction is set out in Schedule 25B Taxes Consolidation Act 1997(TCA) and shown in [Appendix 3](#).

Normal business-related expenses, deductions for capital allowances on plant and machinery (other than those claimed by passive traders on plant and machinery that they lease to manufacturing trades since 15 October 2013), business-related trading losses, and losses from a rental activity that do not arise from the use of specified reliefs are not generally affected by the restriction. Personal tax credits are also not affected.

## 5 How is the restriction calculated?

The restriction is calculated by using the formula  $T + (S - Y)$  to determine the amount of recalculated taxable income. The amount calculated using the formula is then taxed in accordance with normal income tax rates and the individual is entitled to normal tax credits against the tax due.

<sup>1</sup> Accelerated capital allowances for nursing homes and private hospitals are no longer available

<sup>2</sup> An upper limit of €50,000 was applied to the artists’ exemption with effect from the tax year 2015. Previously an upper limit of €40,000 applied from 01 January 2011.

<sup>3</sup> Reliefs such as Employment and Investment Incentive (EII) relief, where the investment was made on or before 15 October 2013 (but not seed capital scheme relief),

The elements of the formula are as follows:

- T** = the individual's taxable income (before the restriction),
- S** = the aggregate amount of specified reliefs used in the year, and
- Y** = the greater of €80,000 (the relief threshold amount) and 20 per cent of the individual's adjusted income for the year.

Examples are set out in [Appendix 4](#).

## 6 How is the restriction applied to jointly assessed couples?

Under joint assessment, the income of the non-assessable spouse or civil partner is charged and assessed to tax as income of the assessable spouse or civil partner - section 1017/section 1031C TCA refers. The income of both spouses or civil partners is joined at the total income stage, which means deductions from total income are usually allowable against the income of both spouses or civil partners.

When determining whether the restriction applies to a jointly assessed couple, each spouse or civil partner must be looked at separately. Items which are deductions from total income (those listed in Part 1 of the Table to section 458 TCA) and which would ordinarily be available as a deduction from the joint total income of a couple should be first offset against the total income of the spouse or civil partner who is first entitled to the deduction and then any excess offset against the other spouse or civil partner. The restriction will apply to each individual spouse or civil partner only where the three criteria listed in [Paragraph 3](#) apply to that spouse or civil partner.

Following determination of the recalculated taxable income of a spouse or civil partner to whom the restriction applies, that amount is then added to the taxable income of the other spouse or civil partner (or the recalculated taxable income of the other spouse or civil partner where the restriction applies to the other spouse or civil partner). The combined amount is then taxed in accordance with normal income tax rates and the couple is entitled to normal tax credits against the tax due.

In joint assessment cases, section 15 TCA provides for an increase in the amount of income chargeable to income tax at the standard rate where each spouse or civil partner is in receipt of income. This increase is set at the lower "specified income" of the spouses or civil partners, subject to a maximum amount of €33,000 for the year of assessment 2024 and subsequent years of assessment. Specified income is defined in section 15 TCA by reference to total income.

Where the HIIR applies, the entitlement under section 15 TCA to an additional amount chargeable at the standard rate may be calculated by reference to the recalculated taxable income of the spouse or civil partner in question where this is more beneficial than calculation by reference to total income.

Examples are set out in [Appendix 5](#).

## 7 Treatment of excess specified relief arising because of the restriction

The total amount of specified reliefs that are not allowed in a year because of the restriction is known as “**excess relief**”.

Section 485F TCA provides that the amount of the excess relief can be carried forward to the following year (or years) and used as a deduction from the individual’s total income in arriving at his or her taxable income for that year(s). However, any other relief to which the individual is entitled to, including other specified reliefs for the particular year, is given in priority to the excess relief carried forward.

Reliefs carried forward as excess relief lose their individual character in that they are pooled together in a single amount. The pooled amount is then treated as a separate tax relief in its own right. As it is deducted from total income in the year in which it is used, it reduces the amount of taxable income in that year before the calculation of any restriction that might apply. However, it is treated as a specified relief in the year in which it is used in deciding whether the restriction applies in that year.

### 7.1 Excess relief carried forward in joint assessment cases

Excess relief carried forward is a deduction from total income and is listed in the table to section 458 TCA. This means that, as with other deductions from total income, relief can be claimed by either or both spouses or civil partners in joint assessment cases.

Where a spouse or civil partner claims an amount of excess relief carried forward as deductible from her or his total income, that amount is deductible from the total income of both spouses or civil partners. Any unused relief from the spouse or civil partner who was subject to the HIR will be transferred to her or his spouse or civil partner.

## 8 Interaction between HIR and claw back of rented residential (previously “section 23 type”) relief in death cases

Tax and Duty Manual [Part 04-08-08](#) deals with offsets of Case V losses and excess capital allowances between spouses or civil partners. It sets out Revenue’s practice on the imposition of a claw back of rented residential “section 23 type” relief on the death of a spouse or civil partner and in other limited circumstances.

Rented residential relief under various property incentive schemes is a “specified relief” for the purposes of the HIR. The amount of such relief used by an individual in a tax year must be taken into account when calculating any restriction that is to apply for the year. This rule equally applies where an individual dies in a tax year in which he or she is subject to the restriction.

Tax and Duty Manual [Part 10-11-01](#) states that where a rented residential “section 23 type” property passes to a surviving spouse or civil partner and a claw back of the rented residential relief applies to the deceased spouse or civil partner, Revenue will allow a set-off of the rented residential relief deduction due to the surviving spouse or civil partner against the amount assessable on the deceased in the year of death for the property involved. The maximum set-off allowed is equivalent to the amount of the rent deemed to have been received by the deceased as a result of the claw back.

Therefore, where a surviving spouse or civil partner elects to set some of the relief, to which they are entitled to, against rental income on which a deceased spouse or civil partner is assessable because of a clawback of relief, the amount of relief so set off must be taken into account in calculating the amount of “specified reliefs” for the purpose of the HIR used by the deceased spouse or civil partner. It will not be used to calculate the amount of specified reliefs used by the surviving spouse or civil partner.

Revenue allows a “further option” in cases of potential clawback of relief for a deceased spouse or civil partner, whereby a surviving spouse or civil partner can make an election that no claw back of rented residential relief will be applied in the case of the deceased spouse or civil partner. In addition, any unused balance of rented residential relief will transfer to the surviving spouse or civil partner, where such relief has not been used in full by the deceased spouse or civil partner in relation to rental income received up to date of death.

Where an election is made in accordance with this “further option”, the rented residential relief, if any, used by the deceased spouse or civil partner in the year of death will be taken into account when calculating specified reliefs used by the deceased spouse or civil partner in that year. Likewise, rented residential relief, if any, used by the surviving spouse or civil partner in the year her or his spouse or civil partner dies, and in later years, should be taken into account in calculating specified reliefs used by the surviving spouse or civil partner in each year.

Where a restriction of reliefs applies to a deceased spouse or civil partner in the year of her or his death, any excess relief which arises because of the application of the restriction, including any such excess relief which arises because of the restriction of rented residential relief, does not transfer to the surviving spouse or civil partner.

See Tax and Duty Manual [Part 10-11-01](#) for additional information.

## 9 Exempt income and the HIIR

Prior to 2007, certain income, such as artists' income and patent royalties, was not chargeable to tax because of various exempting provisions. However, following the introduction of the HIIR, the amount of the exemption used each year (subject to the limitation on the artists' exemption introduced from the tax year 2011 and amended in 2015) must be taken into account in deciding whether the restriction applies.

Therefore, an individual whose only income is exempt income is subject to the restriction for the year 2010 and subsequent years where the amount of the exempt income is €125,000 or more. While the relief threshold amount is €80,000, the restriction does not apply unless adjusted income is €125,000 or more.

Where an individual has income other than exempt income and his or her adjusted income is €125,000 or more, the restriction will generally apply where the aggregate of the exempt income and any other specified reliefs used is €80,000 or more. However, where the aggregate of the exempt income and any other specified reliefs used does not exceed 20 per cent of the individual's adjusted income for the year, the restriction will not apply.

Examples are set out in [Appendix 6](#).

Relief carried forward as excess relief (see [paragraph 7](#)) may arise because of the application of the restriction in an exempt income situation e.g. where artists' exemption is claimed. In such a situation, it will only be possible to use the excess relief if the individual has non-exempt income which is taxable in the year to which the excess relief is carried forward. Where the taxpayer only has exempt income in the year, no relief is possible, and the excess relief can only be carried forward. It should be noted that excess relief cannot be set against recalculated taxable income.

## 10 Double tax relief

For any tax return submitted after the passing of Finance (No. 2) Act 2013 (18 December 2013), the Irish effective tax rate for individuals affected by the HIIR should be calculated using the formula:

$$\frac{\text{Irish tax}}{\text{Adjusted income}} \quad \begin{array}{l} \text{(after application of the HIIR)} \\ \text{(as determined for the HIIR)} \end{array}$$

An example of how this formula is applied is set out in [Appendix 7](#).

## 11 Pay Related Social Insurance and Universal Social Charge

The focus of the restriction is on the recalculation of taxable income and does not affect the calculation of PRSI and USC. In the year that a restriction applies, these

calculations are based on the original income assessable. Where excess relief is carried forward for deduction from total income in that year, the excess relief is not deductible in calculating PRSI or USC for that year.

## 12 Tax returns requirement

Where an individual is subject to the restriction, he or she is required to submit a self-assessment Income Tax Return (Form 11) by the return filing date for the relevant tax year. Additionally, a Form RR1 setting out details of the calculation of the restriction must be submitted with the Form 11.

Details required on the Form RR1 include the aggregate of specified reliefs used by the individual for the particular year, the amount of the individual's taxable income before the application of the restriction and the amount of the individual's recalculated taxable income after the application of the restriction.

In the case of a married couple or civil partners where joint assessment applies, a single Form RR1 should be completed giving details of the application of the restriction to each spouse or civil partner (as applicable).

## Appendix 1 – Key terms

### Adjusted Income

Adjusted income is calculated by adding the total amount of the specified reliefs actually used by an individual for a tax year to his or her taxable income for that year and then deducting any ring-fenced income of the individual for the year. The formula  $(T + S) - R$  is used where:

**T** = the individual's taxable income (before the restriction)

**S** = the aggregate amount of specified reliefs used in the year, and

**R** = the amount of the individual's ring-fenced income for the year

### Example 1

Mr. A has taxable income of €100,000 (**T**) in 2020, having been reduced by €200,000 of specified reliefs (**S**). He has no ring-fenced income (**R**) so his adjusted income  $(T + S) - R$  is €300,000.

### Example 2

Ms. B has taxable income of €90,000 (**T**) in 2020, having been reduced by €100,000 of section 23-type relief (**S**). She has ring-fenced income (bank deposit interest) of €70,000 (**R**), which is included in her taxable income figure of €90,000. Her adjusted income  $(T + S) - R$  is €120,000.

### Income Threshold Amount

In deciding whether the restriction is applicable, the income threshold amount is, in general, **€125,000** but is less if the individual had ring-fenced income (e.g. deposit interest) and adjusted income for the tax year is less than €400,000. In that scenario, the income threshold amount is calculated by using the formula:

$$€125,000 \times \frac{A}{B}$$

where:

**A** = the individual's adjusted income for the year, and

**B** = the sum of **T + S** (same meaning as in adjusted income above)

### Example 3

Using the figures relating to Ms. B in **Example 2** above, her income threshold amount for 2023 is as follows:

$$€125,000 \times \frac{€120,000}{€190,000} = €78,947.$$

The restriction applies to Ms. B for the year 2023 as her adjusted income (€120,000) is greater than her income threshold amount of €78,947, specified reliefs used (€100,000) is greater than €80,000 (the relief threshold amount) and specified reliefs used (€100,000) is greater than 20% of adjusted income ( $€120,000 \times 20\% = €24,000$ ).

A more recent version of this manual is available.

## Appendix 2 – Ring-fenced income

Ring-fenced income is income that is normally liable to tax at a specific rate, which is lower than the higher rate of income tax, regardless of the amount received or the marginal rate of tax at which the individual is liable. Ring-fenced income is defined in section 485C TCA and as of 1 January 2020 includes the following:

- Irish deposit interest (as referred to in section 261(c)(i)(II) TCA from which Deposit Interest Retention Tax (DIRT) is deducted;
- Irish deposit interest received gross (as referred to in section 261B TCA) by virtue of a declaration made by an individual that he or she was either over 65 or was permanently incapacitated; and
- Deposit interest received gross (as referred to in section 267M TCA) which arises in an EU Member State other than Ireland and which is liable to tax at a rate equal to the DIRT rate.

## Appendix 3 – List of specified reliefs

### List of specified reliefs for the purposes of section 485C TCA as listed in Schedule 25B TCA

| Ref | Section                              | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|-----|--------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1   | 140                                  | Dividends and distributions out of exempt income from stallion fees, stud greyhound services fees and occupation of certain woodlands                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 3   | 142                                  | Dividends and distributions out of exempted income from certain mining operations                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 4   | 143                                  | Dividends and distributions out of relieved income from certain mining operations                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 5   | 195                                  | Exemption of certain earnings of writers, composers and artists                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 12  | 253                                  | Relief for interest paid on loans used to acquire an interest in a partnership                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 13  | 272                                  | Writing-down allowances in respect of capital expenditure on:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|     |                                      | <ul style="list-style-type: none"> <li>▪ Hotels written-off at 15% rate (S268(1)(d))</li> <li>▪ Nursing homes (Sec. 268(1)(g)) including residential units attached to nursing homes (Sec. 268(1)(g) by virtue of S268(3B))</li> <li>▪ Convalescent homes (S268(1)(i))</li> <li>▪ Private hospitals (S268(1)(j))</li> <li>▪ Sports injury clinics (S268(1)(k))</li> <li>▪ Mental health centres (S268(1)(l))</li> <li>▪ Specialist palliative care units (S268(1)(m))</li> <li>▪ Aviation services facilities (section 268(1)(n))</li> <li>▪ Holiday camps written-off at 15% rate and holiday cottages (S268(3))</li> </ul> |
| 14  | 273                                  | Acceleration of writing-down allowances in respect of certain expenditure on certain industrial buildings or structures                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 15  | 274                                  | Balancing allowances in respect of capital expenditure on the buildings listed at Ref. No. 13 above.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 15A | 304(4)                               | Income tax: allowances and charges in taxing a trade, etc.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 15B | 305(1)                               | Income tax: manner of granting, and effect of, allowances made by means of discharge or repayment of tax                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 15C | 284<br>(subject to section 485C(1B)) | Wear & tear allowances on plant and machinery claimed by a passive trader when leasing the plant and machinery to a manufacturing trade <b>[since 15 October 2013]</b> .                                                                                                                                                                                                                                                                                                                                                                                                                                                     |

| Ref | Section                              | Description                                                                                                                                                     |
|-----|--------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 15D | 288<br>(subject to section 485C(1B)) | Balancing allowances on plant and machinery claimed by a passive trader when leasing the plant and machinery to a manufacturing trade.                          |
| 16  | 323                                  | Customs House Docks Area: capital allowances in relation to the construction of certain commercial premises                                                     |
| 17  | 324                                  | Customs House Docks Area: double rent allowance in respect of rent paid for certain business premises                                                           |
| 18  | 331                                  | Temple Bar Area: accelerated capital allowances in relation to construction or refurbishment of certain industrial buildings or structures                      |
| 19  | 332                                  | Temple Bar Area: capital allowances in relation to construction or refurbishment of certain commercial premises                                                 |
| 20  | 333                                  | Temple Bar Area: double rent allowance in respect of rent paid for certain business premises                                                                    |
| 21  | 341                                  | Urban Renewal Scheme and Designated Streets Scheme: accelerated capital allowances for construction/refurbishment of certain industrial buildings or structures |
| 22  | 342                                  | Urban Renewal Scheme and Designated Streets Scheme: capital allowances in relation to construction/refurbishment of certain commercial premises                 |
| 23  | 343                                  | Enterprise Areas: capital allowances in relation to construction/refurbishment of certain buildings or structures                                               |
| 24  | 344                                  | Multi-storey car parks: capital allowances in relation to construction or refurbishment                                                                         |
| 25  | 345                                  | Urban Renewal Scheme, Enterprise Areas and Multi-storey car parks: double rent allowance in respect of rent paid for certain business premises                  |
| 26  | 352                                  | Qualifying Resort Areas: accelerated capital allowances in relation to construction or refurbishment of certain industrial buildings or structures              |
| 27  | 353                                  | Qualifying Resort Areas: capital allowances in relation to construction or refurbishment of certain commercial premises                                         |
| 28  | 354                                  | Qualifying Resort Areas: double rent allowance in respect of rent paid for certain business premises                                                            |
| 29  | 372C                                 | Qualifying Areas: accelerated capital allowances in relation to construction or refurbishment of certain industrial buildings or structures                     |
| 30  | 372D                                 | Qualifying Areas and Living-Over-the-Shop Scheme: capital allowances in relation to construction or refurbishment of certain commercial premises                |
| 31  | 372M                                 | Qualifying Rural Areas: accelerated capital allowances in relation to construction or refurbishment of certain industrial buildings or structures               |

| Ref | Section   | Description                                                                                                                                                                                                                  |
|-----|-----------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 32  | 372N      | Qualifying Rural Areas: capital allowances in relation to construction or refurbishment of certain commercial premises                                                                                                       |
| 33  | 372V      | Park-and-Ride Facilities: capital allowances in relation to construction or refurbishment                                                                                                                                    |
| 34  | 372W      | Park-and-Ride Scheme: capital allowances in relation to construction or refurbishment of certain commercial premises                                                                                                         |
| 35  | 372AC     | Town Renewal Areas: accelerated capital allowances in relation to construction or refurbishment of certain industrial buildings or structures                                                                                |
| 36  | 372AD     | Town Renewal Areas: capital allowances in relation to construction or refurbishment of certain commercial premises                                                                                                           |
| 36A | 372AX     | Mid-Shannon Corridor Tourism Infrastructure Investment Scheme: accelerated capital allowances in relation to construction/refurbishment of certain registered holiday camps                                                  |
| 36B | 372AY     | Mid-Shannon Corridor Tourism Infrastructure Investment Scheme: capital allowances in relation to construction or refurbishment of certain tourism infrastructure facilities                                                  |
| 37  | 372AP     | Relief for Lessors of rented residential property – various schemes                                                                                                                                                          |
| 38  | 372AU (1) | Relief for Lessors of rented residential property: Saver for relief due, and for clawback of relief given, under old schemes                                                                                                 |
| 38A | 372AAC    | Living City Initiative: capital allowances in relation to the conversion or refurbishment of certain commercial premises                                                                                                     |
| 38B | 372AAB    | Owner Occupier Relief: allowances to owner-occupiers in respect of qualifying expenditure incurred on the conversion and refurbishment of Georgian houses                                                                    |
| 38C | 372AAD    | Rented Residential Relief: capital allowances to lessors in respect of eligible expenditure incurred on the conversion and refurbishment of relevant houses                                                                  |
| 39  | 381       | Right to repayment of tax by reference to losses in so far as it is referable to any double rent relief                                                                                                                      |
| 40  | 381       | Right to repayment of tax by reference to losses as extended by S392 (option to treat capital allowances as creating or augmenting a loss) in so far as it is referable to any capital allowances that are specified reliefs |
| 41  | 382       | Right to carry forward losses to future years in so far as it is referable to any other specified relief                                                                                                                     |
| 42  | 383       | Relief under Case IV for losses in so far as it is referable to any other specified relief                                                                                                                                   |
| 43  | 384       | Relief under Case V for losses in so far as it is referable to any other specified relief                                                                                                                                    |
| 44  | 385       | Terminal loss in so far as it is referable to any other specified relief                                                                                                                                                     |
| 46  | 482       | Relief for expenditure on significant buildings and gardens                                                                                                                                                                  |

| Ref | Section             | Description                                                                                                                                                                                                                                                                                                 |
|-----|---------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 47  | 485F                | Carry-forward of excess relief                                                                                                                                                                                                                                                                              |
| 48A | 823A                | Deduction for income earned in certain foreign states for the tax years 2012 and subsequent years up to and including 2022                                                                                                                                                                                  |
| 49  | 843                 | Capital allowances for buildings used for third level education purposes                                                                                                                                                                                                                                    |
| 50  | 843A                | Capital allowances for buildings used for certain child-care purposes                                                                                                                                                                                                                                       |
| 50A | 843B                | Capital allowances for buildings used for the purposes of providing childcare services or a fitness centre to employees. [This provision was originally inserted by section 12 Finance Act 2017, subsequently repealed and replaced by section 19 Finance Act 2018 and came into effect on 1 January 2019.] |
| 51  | 847A                | Donations to certain sports bodies                                                                                                                                                                                                                                                                          |
| 53  | Para. 11 of Sch. 32 | Urban Renewal Scheme, 1986: capital allowances in relation to certain commercial premises in designated areas other than Customs House Docks Area                                                                                                                                                           |
| 54  | Para. 13 of Sch. 32 | Urban Renewal Scheme, 1986: double rent allowance in relation to certain premises in designated areas other than Customs House Docks Area                                                                                                                                                                   |

The following specified reliefs were deleted from Schedule 26B TCA in Finance Act 2020 as they are no longer available.

| Ref No | Specified Relief                                                                                                                                                                                                                                            |
|--------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2.     | Section 141 (exemption of distributions out of patent royalty income).                                                                                                                                                                                      |
| 6.     | Section 231 (exemption of profits or gains from stallion fees).                                                                                                                                                                                             |
| 7.     |                                                                                                                                                                                                                                                             |
| 8.     | Section 233 (exemption of profits from stud greyhound service fees).                                                                                                                                                                                        |
| 9.     | Section 234 (exemption of certain income from patent royalties).                                                                                                                                                                                            |
| 10.    | Section 248 (relief for interest paid on loans used to acquire an interest in a company).                                                                                                                                                                   |
| 11.    | Section 248 (relief for interest paid on loans used to acquire an interest in a company) as extended by section 250 (extension of relief under section 248 to certain individuals in relation to loans applied in acquiring interest in certain companies). |
| 45.    | Section 481 (relief for investment in films).                                                                                                                                                                                                               |
| 48     | Section 489(3) (BES relief)                                                                                                                                                                                                                                 |

## Appendix 4 – Worked examples

### Example 4

Mr. A has taxable income of €100,000 (**T**) in 2023 having been reduced by €200,000 of specified relief (**S**). He has no ring-fenced income, so his adjusted income is €300,000 (see **Example 1 in Appendix 1**).

The restriction applies for 2023 as Mr. A's adjusted income is greater than €125,000 and his use of specified reliefs is greater than €80,000. His recalculated taxable income for 2023, using the formula **T + (S – Y)**, is €220,000 as follows:

$$\text{T (€100,000) + S (€200,000) - Y (€80,000) - this is greater than 20 per cent of his adjusted income.}$$

Therefore, Mr. A's taxable income for 2023 is increased from €100,000 to €220,000. The additional amount taxable (that is, €120,000) is carried forward as "excess relief" to the year 2024 under section 485F TCA. It will be a specified relief only to the extent that it is used in 2024 (or subsequent years).

### Example 5

Ms. B has taxable income of €90,000 (**T**) in 2023 having been reduced by €100,000 of specified reliefs (**S**). She has ring-fenced income of €70,000, which is included in her taxable income figure of €90,000. Her adjusted income is €120,000 but her income threshold amount is only €78,947 (see **Examples 2 and 3 in Appendix 1**).

The restriction applies for 2023 as Ms. B's adjusted income is greater than her income threshold amount and her use of specified reliefs is greater than €80,000. Ms. B's specified reliefs are greater than 20 per cent of her adjusted income. Her recalculated taxable income for 2023, using the formula **T + (S – Y)**, is:

$$\text{T (€90,000) + S (€100,000) - Y (80,000) = €110,000}$$

Ms. B's taxable income for 2023 is increased from €90,000 to €110,000. The additional amount taxable (that is, €20,000) is carried forward as "excess relief" to the year 2024 under section 485F TCA. It will be a specified relief only to the extent that it is used in 2024 (or subsequent years).

## Appendix 5 – Worked example: joint assessment

### Example 6

A married couple, Mr and Mrs D, are taxed under joint assessment and in 2023 have the following income and deductions:

|                                          | Mr D - €       | Mrs D - €              |
|------------------------------------------|----------------|------------------------|
| Case I/II                                | 650,000        | 720,000                |
| Deposit Interest                         | 10,000         | 10,000                 |
| Capital allowances (plant & machinery)   | (15,000)       | (15,000)               |
| Capital allowances (town renewal scheme) | (430,000)      | n/a                    |
| Rental income                            | nil            | 100,000                |
| Other specified reliefs                  | (30,000)       | (40,000)               |
| Capital allowances (rented hotel)        | n/a            | (320,000) <sup>1</sup> |
|                                          |                |                        |
| <b>Taxable Income</b>                    | <b>185,000</b> | <b>675,000</b>         |
| <b>Joint Taxable Income</b>              | <b>860,000</b> |                        |

**Mr. D:** Mr. D's town renewal capital allowances are in respect of a commercial property used for his profession and are set against the income from that profession. His taxable income for 2023 is €185,000. His specified reliefs are €460,000 (i.e. town renewal capital allowances and other specified reliefs of €30,000, as above). His adjusted income using the formula **(T + S) – R** is €635,000 (see below).

The restriction applies to Mr. D for 2023. His adjusted income is greater than the income threshold amount of €125,000 and his use of specified reliefs (that is €460,000) is greater than the relief threshold amount of €80,000 and greater than 20% of his adjusted income (20% of €635,000 = €127,000). Calculation of the restriction, which results in recalculated taxable income of €518,000, is as follows:

| Adjusted Income           | €              | Recalculated Taxable Income                        | €              |
|---------------------------|----------------|----------------------------------------------------|----------------|
| T - Taxable Income        | 185,000        | T - Taxable Income                                 | 185,000        |
| S - Specified Reliefs     | 460,000        | S - Specified Reliefs                              | 460,000        |
| R - Ring fenced Income    | (10,000)       | Y – €80,000 or, if greater, 20% of Adjusted Income | (127,000)      |
| Adjusted Income           | 635,000        |                                                    |                |
| <b>20% of Adj. Income</b> | <b>127,000</b> | <b>Recalculated Taxable Income</b>                 | <b>518,000</b> |

<sup>1</sup> Only €100,000 of this amount can be used (allowable against rental income only – section 409B TCA)

Therefore, Mr. D's taxable income for 2023 is increased from €185,000 to €518,000. The additional amount taxable (€333,000) is carried forward as "excess relief" to the year 2024 under section 485F TCA. It will be a specified relief to the extent that it is used in 2024 (or subsequent years).

**Mrs. D:** Mrs. D's capital allowances of €320,000 in respect of the hotel are ring-fenced against the rental income of €100,000 with the balance of €220,000 carried forward to 2024 as excess capital allowances. Therefore, her taxable income for 2023 is €675,000. Her adjusted income using the formula **(T + S) – R** is €805,000 (see below).

Although Mrs. D has reliefs of €360,000 available in 2023 in relation to her investments, she can use only €140,000 of those reliefs because of other restrictions in the Tax Acts i.e. apart from the HIR.

The restriction does not apply to Mrs. D for 2023. While her adjusted income is greater than the income threshold amount of €125,000 and her use of specified reliefs (i.e. €140,000) is greater than the relief threshold amount of €80,000, her use of specified reliefs is less than 20 per cent of her adjusted income (20% of €805,000 = €161,000).

| <b>Adjusted Income</b>    | <b>€</b>        | <b>Recalculated Taxable Income</b>                 | <b>€</b>  |
|---------------------------|-----------------|----------------------------------------------------|-----------|
| T - Taxable Income        | 675,000         | T - Taxable Income                                 |           |
| S - Specified Reliefs     | 140,000         | S - Specified Reliefs                              |           |
| R - Ring fenced Income    | <u>(10,000)</u> | Y – €80,000 or, if greater, 20% of Adjusted Income |           |
| Adjusted Income           | 805,000         |                                                    |           |
| <b>20% of Adj. Income</b> | <b>161,000</b>  | <b>Recalculated Taxable Income</b>                 | no change |

Her taxable income for the year remains at €675,000.

### **Combined position for 2023**

The position for Mr. and Mrs. D for 2023 is that their combined taxable income following the application of the restriction is increased from €860,000 to €1,193,000, being a combination of recalculated taxable income of €518,000 for Mr. D and original taxable income of €675,000 for Mrs. D.

## Appendix 6 – Worked examples – carry forward of excess relief

### Example 7

In 2023 Ms E had total income of €300,000, including €120,000 of artist's income (€50,000 of this is exempt). She had €80,000 of specified reliefs carried forward from 2017 and had no ring-fenced income.

**Stand-alone basis 2023:** If the €50,000 exemption is the only relief used by Ms. E in the tax year 2023, then she is not subject to the restriction as the use of specified reliefs is less than the relief threshold amount of €80,000. In that situation her taxable income will be €250,000 (that is, income of €300,000 less €50,000 exemption). However, as she has excess relief carried forward from 2022, this relief must be taken into account in calculating the restriction.

The restriction applies for 2023. Adjusted income of €300,000 (see below) is greater than the income threshold amount of €125,000. The use of specified reliefs of €130,000 (artist's exemption of €50,000 and section 485F relief carried forward of €80,000) is greater than the relief threshold amount of €80,000 and greater than 20 per cent of the adjusted income. Calculation of the restriction, which results in recalculated taxable income of €220,000, is as follows:

| Adjusted Income           | €             | Recalculated Taxable Income                        | €              |
|---------------------------|---------------|----------------------------------------------------|----------------|
| T - Taxable Income        | 170,000       | T - Taxable Income                                 | 170,000        |
| S - Specified Reliefs     | 130,000       | S - Specified Reliefs                              | 130,000        |
| R - Ring fenced Income    | (nil)         | Y – €80,000 or, if greater, 20% of Adjusted Income | (80,000)       |
| Adjusted Income           | 300,000       |                                                    |                |
| <b>20% of Adj. Income</b> | <b>60,000</b> | <b>Recalculated Taxable Income</b>                 | <b>220,000</b> |

Therefore, Ms. E's taxable income for 2023 is increased from €170,000 to €220,000. The additional amount taxable (€50,000) is carried forward as "excess relief" to the year 2024 under section 485F TCA. It will be a specified relief only to the extent that it is used in 2024 (or subsequent years).

**Example 8**

Mr. F has artist's income of €240,000 in 2020, of which €50,000 is exempt. He also has other income of €325,000 of which €45,000 is ring-fenced income. He also has €75,000 of income from exempt distributions from the occupation of woodland in 2023 and has €5,000 excess relief forward from 2022 under section 485F.

Mr. F's taxable income for 2023 is €510,000, as follows:

| <b>Exempt Income</b>                      | <b>€</b> | <b>Calculation of Taxable Income</b>    | <b>€</b>       |
|-------------------------------------------|----------|-----------------------------------------|----------------|
| Artists Income                            | 50,000   | Artists Income                          | 190,000        |
| Distributions from occupation of woodland | 75,000   | Other Income                            | 325,000        |
|                                           | Less     |                                         |                |
|                                           |          | Section 485F relief (forward from 2017) | (5,000)        |
|                                           |          | <b>Taxable Income</b>                   | <b>510,000</b> |

The restriction applies for 2023.

The total specified reliefs used are €130,000 (€50,000 artists exemption + €75,000 distributions from woodland + €5,000 excess relief). Adjusted income is €595,000 (see below) and is greater than the Income Threshold Amount of €125,000. The use of specified reliefs (€130,000) is greater than the relief threshold amount of €80,000 and greater than 20 per cent of the adjusted income (i.e. €119,000).

Calculation of the restriction, which results in recalculated taxable income of €521,000 for 2020, is as follows:

| <b>Adjusted Income</b>    | <b>€</b>       | <b>Recalculated Taxable Income</b>                 | <b>€</b>       |
|---------------------------|----------------|----------------------------------------------------|----------------|
| T - Taxable Income        | 510,000        | T - Taxable Income                                 | 510,000        |
| S - Specified Reliefs     | 130,000        | S - Specified Reliefs                              | 130,000        |
| R - Ring fenced Income    | (45,000)       | Y – €80,000 or, if greater, 20% of Adjusted Income | (119,000)      |
| Adjusted Income           | 595,000        |                                                    |                |
| <b>20% of Adj. Income</b> | <b>119,000</b> | <b>Recalculated Taxable Income</b>                 | <b>521,000</b> |

Therefore, Mr. F's taxable income for 2023 is increased from €510,000 to €521,000. The additional amount taxable (€11,000) is carried forward as "excess relief" to the year 2024 under section 485F TCA. It will be a specified relief only to the extent that it is used in 2024 (or subsequent years).

## Appendix 7 – Worked example: double tax relief

### Example 9

The following example shows how double tax relief is calculated, in accordance with Finance (No. 2) Act 2013, for a jointly assessed couple where one spouse is subject to the HIR and the other is not.

The relevant information for each spouse for 2023 is:

Mrs H:

- Foreign investment income of €90,000 which suffered foreign tax of €30,000.
- Deposit interest subject to DIRT €5,000
- Trading profits €200,000
- Specified reliefs carried forward from prior years of €200,000

Mrs H's adjusted income is greater than her income threshold of €125,000, her specified reliefs are greater than €80,000 and her specified reliefs are in excess of 20 per cent of her adjusted income.

Mr H:

- Foreign investment income of €10,000 which suffered foreign tax of €2,000
- Employment income of €50,000

**Step 1 – calculate Irish Effective Rate using the new formula:**

**Calculate taxable / recalculated taxable income**

|                                                            | Mrs. H         | Mr. H         | Joint          |
|------------------------------------------------------------|----------------|---------------|----------------|
|                                                            | €              | €             | €              |
| Case III                                                   | 90,000         | 10,000        | 100,000        |
| Case IV                                                    | 5,000          |               | 5,000          |
| Case I                                                     | 200,000        |               | 200,000        |
| Schedule E                                                 |                | 50,000        | 50,000         |
| <b>Total income</b>                                        | <b>295,000</b> | <b>60,000</b> | <b>355,000</b> |
| S.485F carry forward                                       | (200,000)      |               | (200,000)      |
| <b>Taxable income</b>                                      | <b>95,000</b>  | <b>60,000</b> | <b>155,000</b> |
| <b>Recalculated taxable income</b> <small>Note 1.1</small> | <b>215,000</b> | <b>60,000</b> | <b>275,000</b> |

**Work out Income Tax Payable**

|                                            |               |
|--------------------------------------------|---------------|
| First €49,000 @ 20%                        | 9,800         |
| Additional lower rate band - €31,000 @ 20% | 6,200         |
| Deposit Interest (€5,000) @ 33%            | 1,650         |
| Balance (€190,000) @ 40%                   | 76,000        |
| <b>Total</b>                               | <b>93,650</b> |
| Less non-refundable tax credits            | (3,550)       |

|                           |               |
|---------------------------|---------------|
| DIRT                      | (1,650)       |
| <b>Income tax payable</b> | <b>88,450</b> |

### Work out Irish effective rate of tax

|                                                 | <b>Mrs. H</b> | <b>Mr. H</b> |
|-------------------------------------------------|---------------|--------------|
| Share of tax <sup>Note 1.2</sup>                | 69,152        | 19,298       |
| Irish effective rate of tax <sup>Note 1.3</sup> | 23.85%        | 32.16%       |

### Note 1.1 High Income Individuals' Restriction

| <b>Adjusted Income</b>    | <b>€</b>      | <b>Recalculated Taxable Income</b> | <b>€</b>       |
|---------------------------|---------------|------------------------------------|----------------|
| T - Taxable Income        | 95,000        | T - Taxable Income                 | 95,000         |
| S - Specified Reliefs     | 200,000       | S - Specified Reliefs              | 200,000        |
| R - Ring fenced Income    | (5,000)       | Y – €80,000 or, if greater, 20% of | (80,000)       |
| Adjusted Income           | 290,000       | Adjusted Income                    |                |
| <b>20% of Adj. Income</b> | <b>58,000</b> | <b>Recalculated Taxable Income</b> | <b>215,000</b> |

Mrs H's adjusted income is greater than her income threshold of €125,000, her specified reliefs are greater than €80,000 and her specified reliefs are in excess of 20 per cent of her adjusted income.

### Note 1.2

Share of tax is calculated as:  $\text{Total tax} \times \frac{\text{Share of Total income}}{\text{Total income}}$

### Note 1.3

Irish effective rate for Mrs H is calculated using the new formula of:

$$\frac{\text{Mrs H's Share of tax}}{\text{Adjusted Income}}$$

Irish effective rate of tax for Mr H, who is not subject to the HIIR, is calculated as:

$$\frac{\text{Mr H's Share of tax}}{\text{Mr H's Total Income}}$$

**Step 2 – re-gross foreign income using the new effective rate and calculate tax payable**

**Calculate taxable / recalculated taxable income**

|                                                            | <b>Mrs. H</b>  | <b>Mr. H</b>  | <b>Joint</b>   |
|------------------------------------------------------------|----------------|---------------|----------------|
|                                                            | €              | €             | €              |
| Case III <small>Note 2.1</small>                           | 78,792         | 10,000        | 88,792         |
| Case IV                                                    | 5,000          |               | 5,000          |
| Case I                                                     | 200,000        |               | 200,000        |
| Schedule E                                                 | -              | 50,000        | 50,000         |
| <b>Total income</b>                                        | <b>286,792</b> | <b>60,000</b> | <b>343,792</b> |
| S.485F carry forward                                       | (200,000)      |               | (200,000)      |
| <b>Taxable income</b>                                      | <b>83,792</b>  | <b>60,000</b> | <b>143,792</b> |
| <b>Recalculated taxable income</b> <small>Note 2.2</small> | <b>203,792</b> | <b>60,000</b> | <b>263,792</b> |

**Work out Income Tax Payable**

|                                                 |          |         |               |
|-------------------------------------------------|----------|---------|---------------|
| First €49,000 @ 20%                             |          |         | 9,800         |
| Additional lower rate band - €31,000 @ 20%      |          |         | 6,200         |
| Deposit Interest €5,000 @ 33%                   |          |         | 1,650         |
| Balance (€178,792) @ 40%                        |          |         | 71,517        |
| <b>Total</b>                                    |          |         | <b>89,167</b> |
| Less non-refundable tax credits                 |          |         | (3,550)       |
| Less DIRT                                       |          |         | (1,650)       |
| Less Foreign tax credit <small>Note 2.1</small> | (18,792) | (2,000) | (20,792)      |
| <b>Income tax payable</b>                       |          |         | <b>63,175</b> |

**Note 2.1 Double Tax Relief**

|                                    | <b>Mrs. H</b> | <b>Mr. H</b>  |
|------------------------------------|---------------|---------------|
| Gross foreign income               | 90,000        | 10,000        |
| Foreign Tax                        | 30,000        | 2,000         |
| Irish effective rate (From Step 1) | 23.85%        | 32.16%        |
| Foreign rate                       | 33.33%        | 20.00%        |
| <b>Lower rate</b>                  | <b>23.85%</b> | <b>20.00%</b> |
| Gross up                           | 78,792        | 10,000        |
| Credit                             | 18,792        | 2,000         |

**Note 2.2 High Income Individuals' Restriction**

| <b>Adjusted Income</b> | <b>€</b> | <b>Recalculated Taxable Income</b> | <b>€</b> |
|------------------------|----------|------------------------------------|----------|
| T - Taxable Income     | 83,792   | T - Taxable Income                 | 83,792   |

|                           |                |                                    |                 |
|---------------------------|----------------|------------------------------------|-----------------|
| S - Specified Reliefs     | 200,000        | S - Specified Reliefs              | 200,000         |
| R - Ring fenced Income    | <u>(5,000)</u> | Y – €80,000 or, if greater, 20% of | <u>(80,000)</u> |
| Adjusted Income           | 278,792        | Adjusted Income                    |                 |
| <b>20% of Adj. Income</b> | <b>55,758</b>  | <b>Recalculated Taxable Income</b> | <b>203,792</b>  |

A more recent version of this manual is available.