

State Aid Transparency Requirements: Publication of information regarding State Aid granted to individual taxpayers

This document was last reviewed April 2017

This manual concerns the publication of taxpayer names on a central website.

1. State aid transparency requirements

The purpose of this tax manual is to notify taxpayers and tax practitioners of a new State aid initiative which will require Member States to publish details regarding certain State aid granted to individual beneficiaries from 1 July 2016. These new transparency requirements form a key part of a State aid modernisation programme initiated by the European Commission in 2012 to reform State aid control. Further information regarding this programme is available on the website of the European Commission¹.

Under the new transparency requirements, when a Member State grants aid to a beneficiary and it is above a specified threshold, it will publish information regarding the aid granted on a central website. This information will include the identity of the beneficiary, the amount of aid granted and the date on which it was granted. For aid in the form of a tax relief, the information will be published within 12 months from the date on which the relevant tax return for the relevant tax year is due. Guidance on key definitions regarding these transparency requirements is set out in the next section.

A number of Irish tax relief schemes constitute State aid and tax relief granted under six of these schemes will be subject to the new transparency requirements. These schemes are listed below, along with the threshold for publication.

- **Capital Gains Tax entrepreneur relief** (Section 597A of the Taxes Consolidation Act 1997)² *Threshold: €500,000*
- **Employment investment incentive scheme (incorporating seed capital scheme)** (Sections 488 to 507 of the Taxes Consolidation Act 1997)

¹ http://ec.europa.eu/competition/state_aid/modernisation/index_en.html.

² Entrepreneur relief granted under section 597A of the TCA should be distinguished from the revised entrepreneur relief which was introduced by the Finance Act 2015 and is provided for by section 597AA of the TCA. The revised entrepreneur relief does not constitute a State aid and is not subject to these new transparency requirements.

Threshold: €500,000

- **Relief for investment in films** (Section 481 of the Taxes Consolidation Act 1997) *Threshold: €500,000*
- **Capital Gains Tax relief for farm restructuring** (Section 604B of the Taxes Consolidation Act 1997) *Threshold: €60,000*
- **Stock relief for young trained farmers** (Section 667B of the Taxes Consolidation Act 1997) *Threshold: €60,000*
- **Stamp Duty relief for transfers of land to young trained farmers** (Section 81AA of the Stamp Duties Consolidation Act 1999) *Threshold: €60,000*

For further information regarding the general operation of these schemes, please refer to the relevant legislation, tax manuals and Revenue's Notes for Guidance.

In addition to the tax relief schemes listed above, please note that the transparency requirements may apply to additional tax relief schemes commenced in the future that constitute State aid.

2. Key definitions

Set out below are explanations for key definitions regarding the operation of these transparency requirements as they apply to Irish tax relief schemes. These explanations are based on guidance provided by the European Commission.

The **amount of aid granted** is determined by reference to the "gross grant equivalent" of the aid. In the context of tax relief schemes, the gross grant equivalent is the difference between the tax payable by a taxpayer claiming the tax relief and the tax that would have been payable had he/she not been granted the relief.

Aid granted from 1 July 2016 under the same tax relief scheme is **cumulated** for the purposes of determining whether an individual beneficiary has exceeded the **threshold** specified for that scheme. For instance, stock relief for young trained farmers is granted in the tax year in which the beneficiary first becomes a qualifying farmer and for each of the next three successive years, provided that there is a stock increase in the relevant accounting period. Although the relief is paid out over a maximum of four years, for State aid purposes the amounts paid are cumulated to determine whether the beneficiary of the stock relief has breached the threshold of €60,000 specified for the scheme.

The **date of granting of the aid** is determined in one of two ways:

- Where there is a granting act: This applies where the taxpayer is required to

submit an application for tax relief to Revenue. Here, the date on which Revenue notifies the taxpayer that his/her application has been approved constitutes the date of granting of the aid. The date of granting is determined in this way in respect of the employment investment incentive scheme (incorporating the seed capital scheme) and relief for investment in films.

- Where there is no granting act: This applies where there is no formal application process and the taxpayer claims the relief in a tax return. Here, the date of granting of the aid is the date on which the relevant tax declaration for the relevant tax year is due. The date of granting is determined in this way in respect of capital gains tax entrepreneur relief, capital gains tax relief for farm restructuring, stock relief for young trained farmers and stamp duty relief for transfers of land to young trained farmers.

Publication will be based on the date on which the relevant tax return for the relevant tax year is due. However, aid that has been granted before 1 July 2016 does not fall under the transparency obligation even if the tax return in which the relief is claimed is due after that date. The 12-months deadline for publishing the information starts from the due date of the tax return that pushes the beneficiary over the threshold.

3. Statutory basis for publication

Section 851A(2) of the Taxes Consolidation Act 1997 provides that all taxpayer information held by Revenue is confidential and may only be disclosed in accordance with the specific provisions of the section or as otherwise provided for by any other statutory provision. The information regarding aid granted under the six tax relief schemes referred to above will be published in accordance with the following provisions:

- Article 9 and Annex III of Commission Regulation (EU) No 651/2014³, which applies to Capital Gains Tax entrepreneur relief and the employment investment incentive scheme (incorporating the seed capital scheme);
- Section 851A (8A) of the Taxes Consolidation Act 1997, which was introduced by the Finance Act 2014⁴ and amended by the Finance Act 2015⁵, and applies to relief for investment in films; and

³ Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty

⁴ s.90 of the Finance Act 2014

- Article 9 and Annex III of Commission Regulation (EU) No 702/2014⁶, which applies to Capital Gains Tax relief for farm restructuring, stock relief for young trained farmers and Stamp Duty relief for transfers of land to young trained farmers.

4. Further information

This Tax Manual is intended to give a brief overview of the operation of these new transparency requirements. For further details regarding the specific information that will be published in respect of aid granted under these tax relief schemes, please refer to the legislation referred to in the previous section.

If you have any queries regarding the contents of this Tax Manual, please contact Tony Barrett of the EU Branch of the International Tax Division.

⁵ s. 17 (2) of the Finance Act 2015

⁶ Commission Regulation (EU) No 702/2014 of 25 June 2014 declaring certain categories of aid in the agricultural and forestry sectors and in rural areas compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union