www.pwc.ie/taxfacts

Tax Facts
2018

The essential guide to Irish tax

pwc

Index

Index

Tax Facts 2018 - The essential guide to Irish tax

Introduction

This publication is a practical and easy-to follow guide to the Irish tax system. It provides a summary of Irish tax rates as well as an outline of the main areas of Irish taxation. A list of PwC contacts is provided within each tax area and at the back of this guide should you require more detailed advice or assistance tailored to your specific needs.

Joe Tynan
Tax and Legal Services Leader

Tax Facts 2018 – Editor's page

Welcome to the latest edition of Tax Facts which has been updated for amendments brought about by Finance Act 2017 which was signed into law on 25 December 2017.

From a personal tax perspective, the principal changes include a reduction in the Universal Social Charge (USC) rates and increases to the standard rate tax band and certain tax credits.

A new share option incentive scheme, the Key Employee Engagement Programme (KEEP), has been introduced. This scheme is aimed at ensuring that unquoted SMEs can attract and retain key employees, allowing those employees to avail of capital gains tax (CGT) treatment on share options granted by the SMEs.

The rate of stamp duty applicable to the transfer of non-residential property and to shares deriving their value from Irish non-residential property has increased to 6%, subject to certain limited transitional measures.

The Finance Act also provides for the introduction of a new tax on sugar-sweetened drinks which is expected to come into operation in April 2018.

From a corporate tax perspective, amendments were made to the intellectual property (IP) regime to provide for the reintroduction of the 80% income cap for IP capital allowances. The cap applies to IP purchased on or after 11 October 2017.

The scope of the Capital Gains Tax group relief provisions have been extended to include companies resident in countries with which Ireland has concluded a double tax agreement. This legislates for an administrative practice operated by Revenue with regard to companies resident in these countries and brings CGT groups into line with loss groups.

The Act also provides for the introduction of a new capital allowances regime to grant employers capital allowance relief on the capital cost of constructing and equipping qualifying fitness or childcare facilities provided for use by employees of the employer.

Coffey Report Recommendations

The Department of Finance commissioned an independent report on Ireland's corporate tax system in 2016. The report, known as the Coffey report, was released in September 2017. It is set against the backdrop of a number of EU directives and agreements reached with a view to coordinating implementation of the OECD's Base Erosion and Profit Shifting (BEPS) recommendations.

The report makes three key recommendations around modernising Ireland's transfer pricing regime, recalibrating its existing IP regime and introducing a competitive territorial regime.

One recommendation which was adopted with immediate effect in Finance Act 2017 is the reintroduction of the 80% cap for new spend on IP as outlined above.

The Department of Finance is currently engaged in proactive consultation with business on the other recommendations to determine what changes should be made.

For more information contact:

Fiona Carney
Senior Manager
t: +353 (0)1 792 6095
e: fiona.carney@ie.pwc.com

Fiona Carney

Fiona Carney
Senior Manager
Tax Solutions Centre

Business taxation

Corporation tax

Corporation tax is charged on the worldwide profits of companies that are tax resident in Ireland and certain profits of the Irish branches of non-resident companies. 'Profits' for this purpose consist of income (business or trading income comprising active income and investment income comprising passive income) as well as certain capital gains.

Corporation tax rates

Rate	
12.5%	Trading income (including qualifying foreign dividends paid out of trading profits but excluding income of excepted trades)[a]
25%	All other income, including income of excepted trades[a], non-trading income and non-qualifying foreign dividends
33%	Capital gains

[a] an excepted trade is a trade consisting of trading operations or activities which are excepted operations. Excepted operations include working scheduled minerals, mineral compounds or mineral substances, working minerals, petroleum activities, and dealing in or developing land (other than such part which consists of construction operations). Special tax provisions apply to certain petroleum exploration licences granted after 1 January 2007 which increase the maximum rate of tax payable on productive fields from 25% to 40%. A new Petroleum Production Tax has been introduced for certain licences granted on or after 18 June 2014 which increase the maximum rate of tax payable on profits from productive fields from 40% to 55%.

Trading Losses

A trading loss incurred in an accounting period may be offset against any of the following:

- trading income (including certain foreign dividends taxable at the 12.5% rate) arising in the same period
- trading income of the immediately preceding period
- trading income of subsequent periods (to the extent that the same trade is carried on).

To the extent not usable against trading income, a trading loss can be converted into a tax credit which may be used to reduce the corporation tax payable on passive income and chargeable gains of the same period and the immediately preceding period.

Group relief

Alternatively, group relief may be claimed whereby one group company is entitled to surrender its trading loss to another member of the same group. Both the claimant company and the surrendering company must be within the charge to Irish corporation tax.

To form a group for corporation tax purposes, both the claimant company and the surrendering company must be resident in an EU country or an EEA country with whom Ireland has a double taxation agreement. In addition, one company must be a 75% subsidiary of the other company, or both companies must be 75% subsidiaries of a third company.

The 75% group relationship can be traced through companies resident in a 'relevant territory' being an EU country or another country with whom Ireland has a double taxation agreement.

In determining whether one company is a 75% subsidiary of another company for the purpose of the group relief provisions, the other company must either be resident in a 'relevant territory' or quoted on a recognised stock exchange in a 'relevant territory' or on another stock exchange approved by the Minister for Finance.

Branch income

Irish branches of foreign companies are liable to corporation tax at the rates applicable to Irish resident companies. No tax is withheld on repatriation of branch profits to the head office.

Where the profits of an Irish resident company includes profits of a foreign branch, credit is available for foreign tax paid in respect of the branch to offset the Irish tax arising on those profits. Any excess foreign tax credits may be offset against Irish tax arising on other branch profits in the year concerned. Any unused credits may be carried forward indefinitely and credited against corporation tax on foreign branch profits in later accounting periods.

Capital Gains

Irish-resident companies are liable to corporation tax in respect of 'chargeable gains' arising on worldwide disposals of assets.

Business taxation

Chargeable gains are computed in accordance with the rules contained in the Capital Gains Tax Acts and the gain is taxable at the CGT rate of 33%. An adjustment is made to include the gain in the corporation tax computation at the standard corporation tax rate of 12.5%. The gain is accordingly included in the computation at 33/12.5 of the gain.

Non-resident companies are liable to CGT in respect of gains arising on disposals of ‘specified assets’. These include land and buildings situated in Ireland, mineral rights or interests in Ireland and that shares derive the greater part of their value from such assets. In addition, non-resident companies are liable to CGT in respect of gains on the disposal of certain assets used or held for the purposes of an Irish branch/trade.

Some special provisions apply to disposals of development land.

Where allowable losses for a period exceed the chargeable gains for the same period, excess losses are carried forward indefinitely for offset against future chargeable gains in the following periods.

A number of relieving provisions and exemptions apply in respect of corporate asset disposals, including in particular the following:

- A participation exemption is provided for Irish-resident companies disposing of qualifying shareholdings in other companies. The conditions for this are covered in more detail under Ireland as a Holding Company Location on page 9.
- Relief is provided (by way of deferral of the gain) for transfers of assets, other than trading stock, within a qualifying “group of companies”. A principal company and all its 75 per cent subsidiaries form a group. Where a principal company is itself a 75 per cent subsidiary in a group, that group comprises all that company’s 75 per cent subsidiaries. Companies that are resident in an EU Member State or in a country with which Ireland has a double tax agreement can be taken into account in establishing whether the requisite group relationship exists.

Company Residence

A company is generally regarded as Irish tax-resident if it is managed and controlled in Ireland. This is the case irrespective of its place of incorporation.

Furthermore, Finance Act 2014 introduced a measure to provide that an Irish incorporated company is to be regarded as Irish tax resident subject to one exception.

If, under the provisions of a double tax agreement, an Irish incorporated company is regarded as tax resident in another territory, the company will not be regarded as Irish tax resident.

Previously, there was also an exception where the company concerned or a related company carries on a trade in Ireland and either (i) the company is ultimately controlled by persons resident in the EU or another territory with whom Ireland has a double taxation agreement (‘treaty territory’) or (ii) the company or a related company is quoted on a recognised stock exchange. However, Finance Act (No 2) 2013 introduced a measure to ensure that this exception would not apply if it resulted in an Irish incorporated company being regarded as ‘stateless’ in terms of its tax residence by virtue of a mismatch between Ireland’s and another country’s residence rules. The measure provides that, where an Irish incorporated company is managed and controlled in an EU or treaty territory and would not be regarded as tax-resident in any territory because (i) it is not managed and controlled in Ireland, and (ii) it is not resident in that other territory because it is not incorporated in that territory, the company will be regarded as Irish tax-resident. This measure has effect from 23 October 2013 for companies incorporated in Ireland on or after this date and from 1 January 2015 for companies incorporated in Ireland before 23 October 2013.

Application of Finance Act 2014 provisions to Irish incorporated companies

The Finance Act 2014 provisions outlined above have effect from 1 January 2015 for companies incorporated in Ireland on or after 1 January 2015. For companies incorporated before that date, a transitional period applies, meaning that the provisions apply only from the earlier of either:

(a) 1 January 2021, or

(b) the date, after 1 January 2015, of a change in ownership of the company in circumstances

Business taxation

where there is also a major change in the nature or conduct of the business of the company within the period which begins one year before the date of the change of ownership (or on 1 January 2015, whichever is later) and ends five years after that date.

The previous corporate tax residence provisions outlined above therefore continue to apply to companies incorporated before 1 January 2015 until 31 December 2020 at latest.

In the period to 31 December 2020, all groups will need to carefully monitor the corporate tax residence position of Irish incorporated, non-resident companies which do not satisfy the sole exception contained within the Finance Act 2014 provisions. This includes, for example, considering the impact of any proposed M&A transactions involving both change in ownership and business changes/ integration measures.

R&D credit

Ireland's R&D tax credit is a very attractive relief and provides an overall effective corporation tax deduction of 37.5% on certain R&D expenditure. The types of expenditure which can be subject to this credit include both revenue and capital expenditure. R&D expenditure qualifies for a tax credit of 25% in addition to the normal deduction for R&D expenditure (12.5%).

Historically the credit was designed to incentivise incremental R&D expenditure, with 2003 fixed as the base year. Where a company did not have R&D expenditure in 2003 then the relief is calculated on the actual qualifying expenditure incurred in the accounting period under review. This volume based approach has been extended to all companies for accounting periods commencing after 1 January 2015.

The R&D credit can be used to generate a tax refund through a carryback against prior year profits. In addition, repayment for excess credits is available over the course of a three-year cycle. Repayments are limited to the greater of (a) the corporation tax payable by the company in the preceding ten years or (b) the payroll tax liability for the period in which the relevant R&D expenditure is incurred and the prior year (subject to an adjustment dependent upon previous claims).

In addition, companies have the ability to account for the credit “above the line” in the Profit & Loss account, thereby reducing the unit cost of R&D, which is a key measurement used when considering where to locate R&D projects. This is extremely helpful to Irish subsidiaries of multinational corporations in terms of being able to compete with lower cost jurisdictions.

Outsourcing limits

The incentive is directed towards in-house activities and as such there are outsourcing limits for sub-contracted R&D costs. This limit has been increased over the years to 15%. The increase is particularly aimed at smaller companies that do not have access to the required R&D expertise in-house. Further legislative enhancement in respect of externally provided workers and collaborations that are under the control and direction of the relevant R&D company would be welcome (please see Revenue Guidelines below for further commentary).

Revenue Guidelines

The most recently published Irish Revenue R&D tax credit guidelines include a number of positive comments. These updates include more detailed commentary on the type of software development activities undertaken that may potentially qualify for the credit and provide that costs incurred related to individual consultants may not be subject to the outsourcing limits once certain conditions have been satisfied. There is also confirmation regarding the treatment of base year expenditure in change of ownership situations. However companies should be aware that there is increased focus on the documentation required to support a valid claim and some new statements that will undoubtedly result in Revenue seeking to restrict certain costs that have typically been claimed by companies to date.

Business taxation

For more information on R&D tax credits contact:

Stephen Merriman
Partner
t: +353 (0)1 792 6505
e: stephen.merriman@ie.pwc.com

Planning tip!

Ensure you avail of the cash refund available on excess R&D tax credits. Claims must be made within 12 months of the end of the period in which the expenditure is incurred.

Intellectual property tax deduction

Companies acquiring Intellectual Property (IP) can avail of significant deductions on certain capital expenditure. Tax depreciation is available for capital expenditure incurred on the acquisition of qualifying IP assets. The deduction is equivalent to the amortisation or depreciation charge on the IP included in the accounts. Alternatively, a company can elect to claim tax deductions over 15 years, at a rate of 7% per annum and 2% in the final year.

The definition of IP assets includes the acquisition of, or the licence to use:

- patents and registered designs
- trademarks and brand names
- know-how
- domain names, copyrights, service marks and publishing titles
- authorisation to sell medicines, a product of any design, formula, process or invention (and any rights derived from research into same)
- customer lists acquired otherwise than 'directly or indirectly in connection with the transfer of a business as a going concern'
- goodwill, to the extent that it is directly attributable to qualifying assets

The range of qualifying intangible assets also includes applications for legal protection (for example, applications for the grant or registration of brands, trademarks, patents, copyrights etc).

Tax deductions are available for offset against income generated from exploiting IP assets or as a result of the sale of goods or services, where the use of IP assets contributes to the value of such goods or services.

For all accounting periods beginning before 1 January 2015, the aggregate deduction and related interest expense which could be claimed in a given year could not exceed 80% of the related IP profits of the company as computed before such deductions. Finance Act 2014 provided for an increase in this cap from 80% to 100% of those profits with effect for accounting periods beginning on or after 1 January 2015.

Finance Act 2017 has reintroduced the 80% cap in respect of IP acquired after 11 October 2017. Any excess deductions can be carried forward and offset against IP profits in succeeding years. The cap does not therefore restrict the total amount of deductions available, but may spread them over a longer period depending on the profit profile of the company.

No balancing charge will arise where an intangible asset on which allowances have been claimed is sold and the sale takes place more than five years after the beginning of the accounting period in which the asset was acquired. In the case of a transfer to a connected company, the capital allowances available to the acquirer are generally limited to the amount unclaimed by the transferor.

Knowledge Development Box

Finance Act 2015 introduced the Knowledge Development Box (KDB), a tax relief that results in an effective 6.25% corporation tax rate to certain profits arising from "qualifying assets", for accounting periods which commence on or after 1 January 2016.

Qualifying profits on which the relief can be claimed are intended to reflect the proportion

Business taxation

that the company's R&D costs bear to its overall expenditure on the qualifying asset. The profits on which relief is available are calculated using the following formula:

$$\frac{QE + UE}{OE} \times QA$$

Where:

QE is the qualifying expenditure on the qualifying asset

UE is the uplift expenditure

OE is the overall expenditure on the qualifying asset

QA is the profit of the specified trade relating to the qualifying asset

Qualifying assets

Qualifying assets are defined as intellectual property, other than marketing related intellectual property, which are the result of research and development activities. Intellectual property in this context is defined as:

- Computer Programs (within the meaning of the Copyright and Related Rights Act 2000)
- Qualifying Patents
- Supplementary Protection Certificates
- Plant Breeders Rights

Each qualifying asset is to be treated separately for the purposes of the KDB calculations. However, if a number of qualifying assets are so interlinked that it would be impossible to provide a reasonable allocation of income and expenses, then provision is made for using a "family of assets" and treating the combined assets as one qualifying asset.

Profits of a specified trade

Specified trading activities for the purposes of claiming KDB consist of:

- Managing, developing, maintaining, protecting, enhancing or exploiting of intellectual property,
- Researching, planning, processing, experimenting, testing, devising, developing or other similar activity leading to an invention or creation of intellectual property, or
- The sale of goods or the supply of services that derive part of their value from activities described above.

Qualifying expenditure

The definition of 'Qualifying expenditure on qualifying assets' is broadly aligned to the definition of 'expenditure on research and development' for the purposes of the R&D tax credit. In this regard, where a company develops, improves or creates a qualifying asset through qualifying R&D activities and the company makes R&D tax credit claims in relation to this, the expenditure underpinning these claims should be broadly aligned to the 'qualifying expenditure on qualifying assets' for the purposes of this relief.

Please note that payments made to a third party to carry on R&D activities on behalf of the company are also regarded as qualifying expenditure for the purposes of calculating the relief whereas such payments are restricted for the purposes of the R&D tax credit. Payments made through group companies to third parties in respect of R&D activities are also treated as qualifying expenditure provided no mark-up is taken by the other group company.

Up-lift expenditure

Costs outsourced to affiliates or costs incurred on the acquisition of the IP are not regarded as qualifying expenditure. However, such costs are allowed as "uplift expenditure" up to a combined maximum of 30% of the total qualifying expenditure.

Overall expenditure

The overall expenditure is the aggregate of the acquisition costs and the group outsourcing costs related to that qualifying asset plus the qualifying expenditure incurred in relation the qualifying asset.

Other points of note

A KDB election must be made in the company's tax return for the accounting period in which the qualifying expenditure is incurred and must be made within 24 months from the end of that accounting period.

Where a company incurs a loss on the activities that qualify for the KDB relief, the loss should be available on a value basis

Business taxation

against other profits of the company in the relevant year or by way of carry forward to future tax years subject to certain restrictions.

There are detailed provisions in relation to how the relevant income and expenditure should be calculated for the purposes of the various definitions detailed above.

Companies must track and trace all expenditure and income relating to the qualifying asset on which a KDB claim is made and should prepare documentation which demonstrates how such expenditure and income are linked to the qualifying asset.

Irish Revenue published KDB guidelines in August 2016 setting out their interpretation of the KDB legislation.

Planning tip!

Tax relief is available for companies on the acquisition of qualifying IP assets, including acquisitions from related parties.

Tax depreciation

Book (or accounting) depreciation is not generally deductible for tax purposes (except in the case of IP assets as above). Instead, tax depreciation (known as capital allowances) is permitted on a straight-line basis in respect of expenditure incurred on assets which have been put into use by the company. The following rates are applicable:

Asset type	Tax depreciation rate per annum
Plant and machinery	12.5%
Industrial buildings used for manufacturing or qualifying activities	4%
Motor vehicles (subject to qualifying cost restrictions below)	12.5%
IP assets	Book depreciation or 7%

The allowances are calculated on the cost after deduction of grants, except for plant and machinery used in the course of the manufacture of processed food for human consumption. In this case, the allowances are calculated on the gross cost. Allowances on passenger motor vehicles are restricted to a capital cost of €24,000 and this capital cost may be restricted further (to 50% or zero) depending on the level of carbon emissions of the vehicle.

There is a scheme of accelerated allowances that provides for 100% capital allowances in the year of purchase in respect of expenditure incurred on certain qualifying equipment of an energy saving nature acquired for trading purposes. This scheme currently runs until 31 December 2020. In order to qualify under this scheme, the equipment must meet certain energy efficient criteria and must fall within the following classes of technology:

- information and communications technology
- heating and electricity provision
- electric and alternative fuel vehicles
- process and heating, ventilation, and air conditioning (HVAC) control systems
- lighting
- motors and drives
- building energy management systems
- refrigeration and cooling systems
- electro-mechanical systems
- catering and hospitality equipment

A list of the items that qualify under the scheme can be found at www.seai.ie.

Finance Act 2017 introduces a new capital allowances regime to grant employers capital allowance relief on the capital cost of constructing and equipping qualifying fitness or childcare facilities provided for use by employees of the employer. Capital allowances on the qualifying construction cost will be granted over seven years. Qualifying childcare or fitness equipment will be granted accelerated capital allowances of 100% in year one. The commencement of the new regime is subject to Ministerial Order.

Leasing

Ireland operates an eight-year tax depreciation life on most assets. A beneficial tax treatment applies to finance leases and operating leases of certain short life assets (i.e. those with a life of less than eight years). For such assets, Ireland allows lessors to follow the accounting treatment of the transaction, which provides a faster write-off

Business taxation

of the capital cost of an asset rather than relying on tax depreciation over eight years. This effectively allows the lessors to write-off their capital investment for tax purposes in line with the economic recovery on the asset.

Ireland as a holding company location

Shareholdings

Irish tax legislation provides for an exemption from capital gains tax for Irish resident companies ("investor companies") on disposals made from qualifying shareholdings in other companies ("investee companies"). The exemption is subject to a number of conditions which include that:

- the investee company must be tax resident in Ireland, another EU Member State or a country with which Ireland has a double tax agreement (a "treaty country")
- the investor company must have held not less than a 5% interest in the investee company for a specified period of time, and
- the business of (1) the investee company itself or (2) the investor company and any company in which the investor company holds a 5% interest must consist wholly or mainly of the carrying on of a trade or trades.

Dividends

Foreign dividends paid out of trading profits are subject to corporation tax in Ireland at the 12.5% rate where the paying company is tax resident in a "relevant territory", is quoted company or is a 75% subsidiary of a quoted company. "Relevant territory" includes an EU Member State, a treaty country or a country that has ratified the Convention on Mutual Administrative Assistance in Tax Matters. The trading profits can be from the paying company's own trading profits or from dividends received by the paying company out of the trading profits of other companies resident in an EU Member State or "treaty country".

A number of special provisions apply to "portfolio investors". Where the Irish company holds not more than 5% of the share capital and voting rights of the payor company, the dividend is deemed to have been paid out of trading profits and is hence subject to tax at the 12.5% rate. Where that dividend income forms part of the trading income of the portfolio investor, it is treated as exempt for corporation tax purposes.

All other foreign dividends are subject to corporation tax at the 25% rate.

Credit for foreign tax paid is available against the Irish tax due on the dividend income. A system of onshore pooling of excess foreign tax credits applies to dividends from 5% or greater corporate shareholdings, and excess credits in the dividend pool can be carried forward indefinitely. An additional credit for foreign tax is available where the existing credit on a dividend from a resident of the EU or an EEA treaty territory is less than the amount that would be computed by reference to the nominal rate of tax in the country from which the dividend was paid. The credit may instead be based on this nominal rate of tax in that EU/EEA treaty territory.

It may be the case that the profits out of which the dividend is paid are not themselves subject to tax but are attributable to profits of another company which have been subject to tax (e.g. where a dividend is paid to an intermediate holding company from a company which was subject to tax on the underlying profits and the intermediate holding company is not subject to tax on the dividend under a participation exemption regime). In such circumstances, the additional credit is instead based on the nominal rate of tax in the jurisdiction where the profits were subject to tax.

Thin capitalisation / CFC rules

Irish tax legislation currently has no thin capitalisation or controlled foreign corporation (CFC) rules.

The Anti-Tax Avoidance Directive (ATAD) was formally adopted by the EU in July 2016 with a view to coordinating implementation by EU Member States of the OECD BEPS recommendations. The Directive provides for interest limitation rules and CFC rules among other measures. The ATAD must be transposed into Irish law by 1 January 2019. This is subject to a number of exceptions, including for the interest limitation rules which must be implemented by Ireland by 1 January 2024.

Business taxation

Contact us:

Ronan MacNioclais
Partner
t: +353 (0)1 792 6006
e: ronan.macnioclais@ie.pwc.com

Closely held companies

Broadly speaking, a close company is a company which is under the control of five or fewer 'participators' (which include shareholders and loan creditors) or under the control of 'participators' who are directors (however many directors there are). There are a number of exclusions from this general rule. These include exclusions for non-resident companies, specified industrial and provident societies / building societies, companies controlled by the State / by another EU Member State or by the Government of a treaty territory, certain companies with quoted shares and companies which are controlled by a non-close company.

A surcharge of 20% is payable on the total undistributed investment and rental income of a close company. Closely held "service" companies are also liable to a surcharge of 15% on one-half of their undistributed trading income.

Other specific provisions applying to closely held companies include:

- certain payments made on behalf of 'participators' in the company or their associates may be deemed to be distributions of the company
- interest paid to certain directors or their associates (e.g. on foot of a loan advanced) may be deemed to be a distribution where the interest exceeds specified limits
- a company making loans to 'participators' or their associates may be required, subject to certain exclusions, to pay income tax to Irish Revenue on the 'grossed up' amount of the loan

Start-up companies

New or start-up companies, which commence trading between 2009 and 2018 may be eligible for start-up companies' relief. This relief is available for three years from the commencement of the trade. The relief takes the form of a reduction in the corporation tax liability relating to the new trade (including chargeable gains on assets used in the trade) and is capped at the amount of the employer's social insurance contributions made on behalf of the company's employees in the period. The corporation tax liability relating to the new trade can reduce to nil where that liability does not exceed €40,000 (adjusted pro-rata where the tax period is less than 12 months). Where the company's corporation tax liability is between €40,000 and €60,000, marginal relief is available.

Any unused relief arising in the first three years of trading can be carried forward for use in subsequent years again restricted by reference to the total employers' social insurance contributions.

Corporate – Tax administration

Taxable period

The tax accounting period normally coincides with a company's financial accounting period, except where the latter period exceeds 12 months.

Tax return

A company must submit its corporation tax return within nine months of the end of the accounting period to which the return relates (but no later than 21st day of the month) in order to avoid the imposition of (i) a surcharge of up to 10% of the tax due (subject to a maximum surcharge of €63,485), (ii) a restriction of up to 50% of certain claims for relief including relief for trading losses arising in the same period (subject to a maximum restriction of €158,715).

Irish Revenue introduced mandatory filing of financial statements in iXBRL format in 2012 on a phased basis. The provisions currently apply to companies which are dealt with by the Revenue Large Cases Division, S110 companies and all other taxpayers who do not meet specific iXBRL exemption criteria. It is intended that all remaining corporation

Business taxation

taxpayers will be included in the final phase which will commence at a date to be announced by Irish Revenue.

Payment of tax

Corporation tax payment dates are different for 'large' and 'small' companies.

A 'small' company is a company whose corporation tax liability in the preceding year was less than €200,000 (the 'relevant limit'). This limit is adjusted pro-rata where the preceding corporation tax period was less than one year in length.

All other companies are 'large' companies.

Large companies

The first instalment of preliminary tax is due six months from the start of the tax accounting period (but no later than the 21st day of that month). To avoid the imposition of interest charges for late payment of tax, the payment made must equal at least (i) 45% of the final corporation tax liability for the period, or (ii) 50% of the corporation tax liability for its immediately preceding period (adjusted pro-rata where the lengths of the respective periods differ).

The second instalment of preliminary tax is due 31 days before the end of the tax accounting period (but no later than the 21st day of that month). This payment must bring the total paid up to 90% of the final corporation tax liability for the period.

The balance of tax is due when the corporation tax return for the period is filed (that is, within nine months of the end of the tax accounting period, but no later than the 21st day of the month in which that period of nine months ends).

Small companies

Small companies are required to pay preliminary corporation tax in one instalment only. This is due 31 days before the end of the tax accounting period (but no later than the 21st day of the month).

To avoid the imposition of interest charges for late payment of tax, the payment must equal at least (i) 90% of the final corporation tax liability for the period or (ii) 100% of the corporation tax liability for its immediately preceding period (again adjusted pro-rata where the lengths of the respective periods differ). The balance of tax is due when the corporation tax return is filed.

A special provision exists for start-up companies. In the accounting period in which a company comes within the charge to Irish corporation tax, if its corporation tax liability for that period is less than the 'relevant limit' set out above, its preliminary corporation tax for the period is taken as Nil.

Capital Gains

The payment dates for corporation tax on chargeable gains arising from disposals of assets other than development land are as set out above.

The payment dates for CGT in respect of gains arising to companies from disposals of development land are the same as the CGT payment dates for individuals as set out on page 62.

Electronic Filing

Where returns and payments are made electronically via the Irish Revenue's Online system (ROS), the above filing and payment deadlines are extended to the 23rd day of the relevant month. In general, companies have been required to pay and file electronically since 2011.

Statute of limitations

A system of self-assessment and Revenue audits is in operation in Ireland. Irish Revenue may make enquiries or undertake an audit of a company's tax return within a period of four years from the end of the accounting period in which the return is submitted.

Business taxation

Contact us:

John O'Leary
Partner
Financial Services &
International Structuring
t: +353 (0)1 792 8659
e: john.oleary@ie.pwc.com

Paraic Burke
Partner
Domestic &
International Structuring
t: +353 (0)1 792 8655
e: paraic.burke@ie.pwc.com

Jean Delaney
Partner
Inward Investment &
International Structuring
t: +353 (0)1 792 6280
e: jean.delaney@ie.pwc.com

Transfer Pricing

Overview

Ireland's transfer pricing legislation effectively endorses the OECD Transfer Pricing Guidelines and the arm's length principle. The transfer pricing rules apply to arrangements entered into between associated persons, involving the supply or acquisition of goods, services, money or intangible assets. The rules apply only to trading transactions that are taxed under Case I or II of Schedule D of the Taxes Acts (in the main transactions taxable at 12.5%).

The rules confer a power on the Irish Revenue to re-compute the taxable profit or loss of a taxpayer where income has been understated or where expenditure has been overstated as a result of non-arm's length transfer pricing practices.

Ireland's transfer pricing rules came into effect for accounting periods commencing on or after 1 January 2011 in relation to arrangements entered into on or after 1 July 2010.

Other highlights of the transfer pricing legislation are as follows:

- the regime applies to domestic and international related party arrangements
- specific guidance issued by the Irish Revenue states that in order "for a company to be in a position to make a correct and complete tax return", appropriate transfer pricing documentation should exist at the time the tax return is filed
- there is an exemption for small and medium enterprises (SMEs)

Transfer Pricing Compliance Review

There is a dedicated transfer pricing audit team within the Large Cases Division of Irish Revenue to monitor compliance with Irish transfer pricing rules and initiate transfer pricing audits. Specific transfer pricing audit enquiries and investigations are initiated by the Large Cases Division.

Irish Revenue also continues to monitor compliance with the transfer pricing rules through its Transfer Pricing Compliance Review (TPCR) programme. Under this programme, companies selected will be notified to undergo a self-review of their compliance with the Irish transfer pricing rules.

Companies selected will be requested to provide a transfer pricing report, for a specific accounting period, to Irish Revenue within three months. In order to minimise compliance costs, Irish Revenue has explicitly stated that existing studies elsewhere in the multinational group which cover the related party dealings of the Irish operations should be sufficient.

The TPCR programme is not a formal audit so this allows for voluntary disclosures to be made at any time during the process. The outcome of a TPCR will be a letter from Irish Revenue indicating either:

1. no further enquiries or
2. issues that need to be further addressed within the TPCR process.

Irish Revenue reserves the right to escalate a case to a formal audit, for example in cases where a company declines to complete a self-review. Should a case escalate from a TPCR to an audit, the company will be issued with a separate audit notification letter.

Country-by-Country Reporting

Country-by-country (CbC) reporting for Irish-parented multinational enterprises (Irish MNEs) was introduced in 2016. The legislation requires Irish MNEs with consolidated annualised group revenue of €750 million or more to prepare an annual CbC report. The first CbC report covers fiscal years beginning on or after 1 January 2016. Irish MNEs captured under the legislation must file a CbC report annually to include specific financial data covering income, taxes, and other key measures of economic activity by territory.

Irish Revenue regulations provide for a secondary filing mechanism whereby, in certain circumstances, an Irish tax resident entity that is part of a foreign MNE with consolidated annualised group revenue of €750 million or more shall be required to submit an 'equivalent CbC report' to Irish Revenue.

Irish MNEs or Irish subsidiaries of foreign MNEs which are subject to CbC reporting are required to notify Irish Revenue of their filing requirements. The deadline for notification is

Transfer Pricing

the last day of the fiscal year to which the CbC report relates and must be submitted electronically via Irish Revenue's Online Service.

Advance Pricing Agreements

Ireland has a bilateral Advance Pricing Agreement (APA) programme which applies to bilateral APA applications made to Revenue on or after 1 July 2016 and only applies to transfer pricing issues (including the attribution of profits to a permanent establishment).

An application for a bilateral APA may be made by a company which is tax-resident in Ireland for the purpose of the relevant double tax treaty and also by a permanent establishment in Ireland of a non-resident company in accordance with the provisions of the relevant treaty.

The bilateral APA programme is intended to apply in respect of a transaction(s) where the transfer pricing issues involved are complex, e.g. there is significant doubt over the appropriate application of the arm's length principle, or where, for any other reason, there would otherwise be a high likelihood of double taxation arising (in the absence of a bilateral APA).

Ireland's bilateral APA programme is conducted within the legal framework of the double tax treaty which Ireland has entered into with the other jurisdiction concerned.

Mutual Agreement Procedure (MAP)

In August 2017 the Revenue Commissioners released an e-Brief detailing Guidelines for requesting MAP assistance in Ireland. The eBrief sets out the process through which taxpayers can request assistance from the Competent Authority in Ireland to resolve disputes arising from taxation not in accordance with the provisions of the relevant double taxation agreement ("DTA") and/or the EU Arbitration Convention. The Revenue is the Competent Authority in Ireland. MAP assistance is provided by Revenue's International Tax Division.

Coffey Report Recommendations

The Coffey report recommends that Ireland should update its transfer pricing rules to follow the current (2017) OECD Transfer Pricing guidelines. The rules currently reference the 2010 guidelines. As part of this, it also recommends that transfer pricing should apply to all transactions including non-trading, capital transactions and transactions of SMEs. Furthermore the report recommends that Ireland adopt the transfer pricing documentation requirements set out as part of BEPS Action 13.

Transfer Pricing

Contact us:

Gavan Ryle
Partner
Irish Headquartered Groups
t: +353 (0)1 792 8704
e: gavan.ryle@ie.pwc.com

Ronan Finn
Partner
Foreign Direct Investment
t: +353 (0)1 792 6105
e: ronan.finn@ie.pwc.com

Aoife Harrison
Director
Financial Services
t: +353 (0)1 792 5537
e: aoife.harrison@ie.pwc.com

Financial services

Banking and treasury

The international banking sector has developed into a vital component of the Irish economy, with approximately half of the top 50 world banks located in Ireland. In addition, a large number of multinationals have established corporate treasury operations in Ireland to manage inter alia, inter-group lending, cash pooling, cash management, debt factoring, multicurrency management and hedging activities on behalf of their respective groups.

Irish resident companies are subject to 12.5% corporation tax on their tax adjusted trading profits. A higher tax rate of 25% applies to “passive” income. These comparatively low tax rates have been supported by an envious tax framework, as detailed below, in contributing to Ireland’s success in attracting investment from international banks, various financial institutions and treasury companies:

- Absence of CFC and thin capitalisation rules
- Tax deductions are generally available for funding costs
- Extensive domestic exemptions from withholding tax on interest, dividend and royalty payments
- Generous double taxation relief provisions for foreign taxes and withholding taxes suffered
- Access to Ireland’s extensive double tax treaty network with 73 treaties signed all of which are in effect with negotiations at various stages with another 5 countries
- No capital duty or net assets wealth tax
- Favourable and improving income tax rules for non-Irish domiciled individuals working in Ireland
- Stamp duty exemptions available on the majority of financial instruments
- Tax credit for research and development activities
- Deduction for certain interest/dividend payments made in respect of capital instruments issued by banks in order to satisfy their Tier 1 capital requirements

A bank levy applies to banks and building societies and is calculated as 59% of the amount of DIRT (Deposit Interest Retention Tax) paid by the bank or building society from 2017 onwards. The levy is payable on 20 October annually. The annual levy was due to expire at the end of 2016 but will now run until 2021. The base year for calculating the levy due in 2018 will be 2015, with 2017 being the base year for the levies due in 2019 and 2020. The base year for the tax due in 2021 will be 2019.

Insurance

Ireland is a key player in the global insurance and reinsurance industry. The key factors behind this success include the fiscal environment, the European standard regulatory regime (in particular the passporting regime), a relatively low cost base and a strong business infrastructure relating to international insurance and reinsurance.

Insurance and reinsurance companies that are tax resident in Ireland are subject to Irish corporation tax at the rate of 12.5% on their tax adjusted trading profits and enjoy the same attractive tax framework outlined above for the banking and treasury sector. In addition, there are a number of tax features specific to the Irish insurance sector as follows:

- a gross roll up regime for life funds whereby investment returns for non-Irish resident policyholders accrue on a tax-free basis,
- exemption from US Federal Excise Tax (FET) under the US/Ireland double tax treaty in respect of the insurance/ reinsurance of US risks, and
- no Insurance Premium Tax (IPT) on insurance premiums received in Ireland in respect of risk located outside of Ireland and no IPT on reinsurance irrespective of where the risk is located.

A number of leading insurers and reinsurers have established significant hub operations in Ireland. The “hub and spoke” model, whereby pan-European insurance and reinsurance operations centralise their organisational structure in a single head office located within the EU, creates significant capital and operational efficiencies. Ireland is a leading location for such hubs and two of the main factors behind this are:

- Ireland’s 12.5% corporation tax rate on the Irish head office profits and
- Ireland’s generous double taxation relief regime that provides credit for foreign tax

Financial services

paid on foreign branch profits against the Irish tax on those profits. This achieves an effective exemption for foreign branch profits given that the Irish corporation tax rate is generally lower than corporation tax rates in other countries.

Ireland is a leading European domicile for reinsurers seeking to redomicile from centres such as Bermuda and Brexit impacted groups seeking to retain access to the EU market. Ireland also continues to be one of the largest exporters of life assurance in the EU.

Exit tax

A withholding tax, known as exit tax, is required to be operated in respect of Irish life policies on payments to taxable Irish individual policyholders on certain chargeable events at the rate of 41% and at 25% on payments to corporate policyholders. The holding of policies at the end of an eight year period (and each subsequent eight year anniversary) will constitute a deemed disposal on which exit tax may arise in respect of taxable Irish policyholders. Non-Irish resident and exempt Irish resident policyholders are not subject to exit tax on Irish life policies provided relevant declarations are in place.

Aircraft leasing

Ireland was the birthplace of the aircraft leasing industry over 35 years ago. Since then, Ireland has pioneered the development of an envied and supportive tax and legal environment to incentivise the continued growth of the industry.

A tax depreciation write-off period of eight years is available for aircraft and engines and means significant acceleration for such long-life assets. Ireland has an extensive (and ever increasing) high quality double tax treaty network, with the majority of these treaties providing for 0% withholding tax on inbound lease rentals. In addition, there are no withholding taxes on outbound lease rentals. Since 2011, Ireland's Section 110 companies (see 'Section 110 companies' below) can hold leased aircraft or engines as qualifying assets, providing potentially tax neutral aircraft leasing opportunities. There is 0% stamp duty on instruments transferring aircraft or any interest, share or property of or in an aircraft and there is 0% VAT on international aircraft leasing. In addition, there is a stamp duty exemption on the issue, transfer or redemption of an Enhanced Equipment Trust Certificate ("EETC") as an aviation financing tool in Ireland.

Unilateral credit relief was introduced in 2012 where withholding taxes are suffered on lease rental payments from countries with which Ireland does not have a tax treaty. This relief was further amended in 2013 to provide for the carry forward of excess foreign tax credits arising on lease rental income received by an Irish trading entity that would otherwise be lost.

The introduction and amendments over recent years to the Special Assignment Relief Programme incentivises executives to relocate to Ireland and the Foreign Earnings Deduction regime, which provides tax relief to Irish employees who spend time working overseas, helps to promote the growth of the aircraft leasing sector in Ireland.

Aviation Sector Capital allowances for aviation services

Finance Act 2015 introduced enhanced capital allowances for capital expenditure incurred on buildings employed in a trade of maintenance, repair or overhaul of commercial aircraft or a commercial aircraft dismantling trade. The scheme provides for tax depreciation over a seven year period instead of the normal 25 year period but is limited to the first €5 million of expenditure on relevant buildings (where incurred by a company) and €1.25 million (where incurred by an individual). Expenditure in excess of these limits may still qualify for the normal industrial buildings allowances regime. The scheme, providing for accelerated allowances over seven years, operates in respect of relevant expenditure incurred up to 13 October 2020. The scheme further enhances Ireland's offering in the aviation sector.

Section 110 companies

Ireland has a favourable securitisation tax regime for entities known as Section 110 companies. A Section 110 company is an Irish resident special purpose company that holds and/or manages 'qualifying assets', which includes 'financial assets'. The term 'financial asset' is widely defined and includes both mainstream financial assets such as shares, loans, leases, lease portfolios, bonds, debt, derivatives, all types of receivables as well as assets such as carbon offsets and plant and machinery.

Financial services

It is possible to establish a Section 110 company as an onshore investment platform to access Ireland's double tax treaty network. The Section 110 regime has been in existence since the early 1990s and with appropriate planning effectively allows for corporation tax neutral treatment, provided that certain conditions are met. The regime is used by international banks, asset managers, and investment funds to facilitate securitisations, investment platforms, collateralised debt obligations (CDOs), collateralised loan obligations (CLOs) and capital markets bond issuances and has recently been used for leasing transactions including big ticket assets such as aircraft and ships.

The range of investments in which a Section 110 company can invest (e.g. financial assets, commodities, plant and machinery) is significant. In particular, the inclusion of plant and machinery has secured Ireland as the leading global centre of excellence for aircraft financing transactions.

Finance Act 2016 introduced a new set of rules in respect of Section 110 companies. Broadly, the business of a Section 110 company which is impacted by the changes, referred to as 'specified property business', is that part of the Section 110 company's activity that involves the holding, managing or both the holding and managing of so-called 'specified mortgages'. A specified mortgage is defined as a loan or "specified agreement" deriving its value, or the greater part of its value, from land in the State.

This part of the Section 110 company's business is to be treated as a separate business from any other business the company may carry on and, with certain exceptions, no interest above an arm's length rate will be deductible in computing the taxable profits of that part of the business. The profit calculated will be taxable at the 25% of corporation tax.

The Finance Act 2017 extends the definition of specified mortgage to include shares in a company deriving the greater part of their value from land or building in the State. The interest deduction available against any gain realised by a Section 110 company on the disposal of shares in a property holding company will under these provisions be limited to an arm's length rate, with the remaining gain taxable at 25%.

This new restriction is effective in respect of interest or other distribution payable by a Section 110 company on or after 19 October 2017.

Real Estate Investment Trusts (REIT)

The REIT is the internationally recognised collective investment structure for holding commercial and/or residential property. Although the regimes differ somewhat from country to country, the REIT typically takes the form of a listed company (or group) with a diverse shareholding base.

The primary objectives of the REIT regime are to facilitate the attraction of foreign investment capital to the Irish property market, to release bank financing from the property market for use by other sectors of the economy and to provide investors with an alternative lower-cost, lower-risk method for property investment.

The tax regime applicable to the Irish REIT is relatively straightforward. While the normal stamp duty rate (2% for residential property in excess of €1m, 1% for residential property less than €1m or 6% for commercial property) applies to Irish property transfers into the REIT, the REIT itself is exempt from tax on rental income and on any capital gains arising on property disposals (except in instances where the development cost represents more than 30% of the market value of the asset and the property is disposed of within 3 years of the development). However distributions out of the REIT to shareholders are liable to dividend withholding tax at the rate of 20% subject to a number of exceptions:

- Irish resident shareholders are liable to tax on REIT distributions at their normal tax rates. Thus Irish resident individuals will generally be taxed at marginal rates with credit being allowed for the 20% withholding tax rate, while Irish corporates will generally be taxed at the passive income rate of 25%. Capital gains (e.g. on the disposal of REIT shares) will be taxable at the normal CGT rate (currently 33%).
- Shareholders who are tax resident in countries that have a double taxation agreement with Ireland can benefit from a lower dividend withholding tax rate if that is provided for under the agreement.

Financial services

Although rates vary depending on the double taxation agreement, typically the treaty rate would be less than 20% and this would represent the final Irish tax liability of the foreign shareholder. Relief is not available at source and the tax would have to be reclaimed from Irish Revenue.

- Certain exempt investors such as pension funds and Irish regulated funds will not suffer any withholding tax.

For non-resident shareholders the REIT regime carries one particularly attractive feature. Capital gains generated by the REIT do not have to be distributed to shareholders and, if retained and reinvested by the REIT, will be reflected in its share price. The non-resident investor can then dispose of the REIT shares free of Irish CGT. This would not be available if the non-resident investor held the property directly. The disposal of the REIT shares would however be liable to stamp duty (at the rate of 1%) in the hands of the purchaser.

Three REITs currently exist and speculation is that more REITs may be listed where investors look to restructure investments into Irish Real Estate Funds ("IREFs"). Further tax changes will be required if the Irish REIT is to become an attractive structure for holding international property but we understand that this feature is to be actively worked on and modifications may be expected in future Finance Acts.

Asset management

Ireland has a favourable tax regime which has contributed to establishing it as a tried and trusted domicile of choice for investment funds. As of July 2017, fund assets administered in Ireland amounted to €4.2 trillion, with assets in Irish funds accounting for approximately €2.2 trillion. Ireland is the largest centre for administration of hedge fund assets (over 40% of global hedge fund assets are administered in Ireland).

Ireland was among the first countries to adapt its legislation for the tax-efficient implementation of the UCITS IV regime. Ireland's tax rules also permit redomiciliations, mergers and reconstructions of investment funds without giving rise to adverse Irish tax consequences for funds of their investors.

Ireland was also one of the first jurisdictions to set out a detailed approach to the implementation of Alternative Investment Fund Managers Directive (AIFMD). It, among other things, provides for the appointment of alternative investment fund managers (AIFMs) located in one jurisdiction to manage alternative investment funds (AIFs) outside of their home jurisdiction. Similar to the legislative amendments introduced previously with regards to the UCITS Management Company Passport, Irish legislation confirms that the appointment of an Irish AIFM to manage non-Irish AIFs will not bring such non-Irish AIFs within the charge to Irish tax.

Irish fund management companies and service providers (e.g. fund administrators) are subject to Irish corporation tax at 12.5% on their trading profits.

Irish domiciled investment funds are exempt from Irish tax on their income and gains. Investment funds are required to operate a withholding tax, known as exit tax, on payments to taxable Irish individual investors at the rate of 41% on distributions and gains (on realisation of fund investment) and at the rate of 25% on payments to Irish corporate investors. The holding of shares at the end of an eight year period (and each subsequent eight year anniversary) will constitute a deemed disposal on which exit tax may arise in respect of taxable Irish investors. Non-Irish resident and exempt Irish resident investors are not subject to exit tax on Irish investment funds provided relevant declarations are in place.

Dividends and interest received by Irish funds from Irish equity and bond investments should not be subject to Irish withholding taxes. In addition, no Irish stamp duty is generally payable on the issue, transfer (but see page 29), repurchase or redemption of shares in an Irish investment fund, (where a subscription/redemption is satisfied by the in specie transfer of Irish securities or property, stamp duty may apply on such securities or property).

Financial services

Most services received by Irish funds should be exempt from Irish VAT, including investment management services. Where VAT is suffered, recovery is possible where the fund holds a percentage of non-EU investments or has non-EU investors. To the extent that Irish funds are in receipt of taxable reverse charge services from abroad, they must register and self-account for Irish VAT.

The Irish funds industry continues to work with the Irish government and Irish Central Bank to explore and progress the development of new and existing products that will enhance Ireland's competitiveness on the international stage.

Irish Real Estate Funds

Finance Act 2016 introduced a new type of fund, an Irish Real Estate Fund ("IREF"). A fund will be considered an IREF where 25% or more of the market value of its assets are derived from Irish land or buildings. Consideration of whether a fund constitutes an IREF will, in the context of an umbrella scheme, be determined on an individual sub fund basis.

Where a fund is categorised as an IREF, 20% withholding tax must be operated by the fund on distributions of income. Prior to Finance Act 2017 no tax applied in respect of gains on redemption except where those gains are derived from undistributed income or real estate disposed of within 5 years of acquisition. Gains derived from property held for at least 5 years were specifically excluded from the scope of the withholding tax, unless the fund is classified as a personal portfolio IREF ("PPIREF"). Broadly, PPIREFs are funds where a unit holder or a person connected with the unit holder has the ability to influence the selection of some or all of the IREF assets. From 1 January 2019, this exemption will no longer apply to disposals.

Certain categories of investors should be exempt from the withholding tax, including Irish pension funds, Irish regulated funds, life assurance companies and their EEA counterparts subject to equivalent supervision and regulation, Section 110 companies, Irish charities, Irish credit unions and approved retirement funds. Where the investor is an exempt investor it should be possible to obtain advance clearance from Revenue in order for the distribution/redemption to be made gross of IREF withholding tax.

The amendment will apply to accounting periods beginning on or after 1 January 2017.

All other Irish funds, falling outside of this new categorisation, will not be impacted by the legislative changes.

Global Information Reporting (FATCA & CRS)

The OECD released the Common Reporting Standard ("CRS") in February 2014 which seeks to establish a new Global Standard for the Automatic Exchange of Information between Governments with regard to certain details of financial account holders with financial institutions. It entails the annual sharing of certain account holder information from the country of the source of the payment to the tax authorities in the account holder's country of residence.

To date, over 100 jurisdictions have committed to implementing CRS and exchanging information. CRS came into effect in Ireland on 1 January 2016. The first reporting deadline under CRS occurred on 4 September 2017 in respect of the calendar year 2016. Going forward, the reporting deadline is expected to be 30 June of the year following the year the reports are in respect of (i.e. 30 June 2018 in respect of the calendar year 2017).

The OECD leveraged the US Foreign Account Tax Compliance Act ("FATCA") to design CRS and as such CRS is broadly similar to the FATCA requirements, albeit with numerous alterations. It will result in a significantly higher number of reportable persons due to the increased instances of potentially in-scope accounts and the inclusion of multiple jurisdictions to which accounts (of tax residents of such jurisdictions) must be reported.

The financial institutions covered by the standard include custodial institutions, depository institutions, investment entities and specified insurance companies. The financial information to be reported with respect to reportable accounts includes interest, dividends, account balance or value, income from certain insurance products, sales proceeds from financial assets and other income generated with respect to assets held

Financial services

in the account or payments made with respect to the account. Reportable accounts include accounts held by individuals and entities (which includes certain companies, trusts and foundations), and the standard includes a requirement to look through passive entities to report on the relevant controlling persons.

In addition to reporting the financial institution must carry out appropriate due diligence on both pre-existing and new financial accounts, including obtaining self-certifications from new account holders upon opening the account.

CRS will operate alongside the requirement for financial institutions to report details of certain US persons under FATCA. In relation to FATCA, the first filing deadline occurred in Ireland on 31 July 2015 for the 2014 reporting period. Similar to CRS, the FATCA filing deadline is expected to be 30 June of the year following the year the reports are filed in respect of (i.e. 30 June 2018 in respect of the calendar year 2017).

Islamic finance

Irish tax law facilitates most Islamic finance transactions, including ijara (leasing), takaful (insurance), re-takaful (reinsurance), murabaha and diminishing musharaka (credit arrangements), mudaraba and wakala (deposit arrangements) and sukuk. While there is no specific reference in the legislation to Islamic finance, rather the reference is to Specified Financial Transactions, overall, the premise of the legislation in Ireland is to ensure Islamic finance transactions are treated in the same favourable manner as conventional financing transactions.

The legislation also facilitates the favourable taxation (and tax impact) of UCITS management companies. The UCITS structure is one of the most commonly used structures for many different types of Islamic funds, such as retail Islamic equity funds, Shariah-compliant money market funds, Shariah-compliant exchange traded funds (ETFs), etc.

This demonstrates the Irish government's desire to enhance the attractiveness of Ireland as a location for Islamic finance transactions by extending to this form of financing the relieving provisions that currently apply to conventional financing.

Financial services

Contact us:

John O'Leary
Partner
Financial Services
t: +353 (0)1 792 8659
e: john.oleary@ie.pwc.com

Yvonne Thompson
Partner
Financial Services ,
Aviation Leasing
t: +353 (0)1 792 7147
e: yvonne.thompson@ie.pwc.com

Brian Leonard
Partner
Financial Services ,
Aviation Leasing
t: +353 (0)1 7926179
e: brian.a.leonard@ie.pwc.com

Jim McDonnell
Partner
Financial Services
t: +353 (0)1 792 6836
e: jim.mcdonnell@ie.pwc.com

Marie Coady
Partner
Financial Services
t: +353 (0)1 792 6810
e: marie.coady@ie.pwc.com

Ilona McElroy
Partner
Financial Services, Real Estate
t: +353 (0)1 792 8768
e: ilona.mcelroy@ie.pwc.com

Corporate - withholding taxes (WHT)

Dividend WHT

Dividend WHT applies at 20% to dividends and other distributions made by Irish resident companies. However, an exemption may be available where the recipient of the dividend/distribution is either an Irish resident company which holds a 51% or greater shareholding in the company or a non-resident company eligible for the Parent-Subsidiary Directive (which in Ireland requires a 5% or greater shareholding).

Exemptions from dividend WHT are also available where the recipient of the distribution falls into one of the categories listed below and makes an appropriate declaration to the company paying the distribution in advance of the distribution. This declaration is self-assessed and valid for up to six years:

- Irish resident companies (as above, a declaration is not required for Irish resident companies which hold a 51% or greater shareholding in the company).
- Non-resident companies which are resident in a treaty country or in another EU member state, provided they are not controlled by Irish residents.
- Non-resident companies which are ultimately controlled by residents of a treaty country or another EU member state.
- Non-resident companies whose principal class of shares is traded on a recognised stock exchange in a treaty country or another EU member state or on any other stock exchange approved by the Minster for Finance (or 75% subsidiaries of such companies).
- Non-resident companies which are wholly owned by two or more companies the principal class of shares of each of which is traded on a recognised stock exchange in a treaty country or another EU member state or on any other stock exchange approved by the Minister for Finance.
- Individuals who are resident in a treaty country or another EU member state.
- Certain pension funds, retirement funds, sports bodies, collective investment funds and employee share ownership trusts.

A company which makes a dividend/distribution is required, within 14 days following the end of the month in which the distribution is made, to make a return to Irish Revenue containing details of the recipient of the distribution, the amount of the distribution and the amount of any WHT required to be withheld. The return must be accompanied by payment of the tax withheld.

Interest WHT

Certain annual interest payments are subject to WHT at 20%. Interest payments made by companies to companies resident in another EU member state or in a treaty country are generally not subject to WHT. The EU Interest and Royalties Directive may also provide an exemption from WHT for payments between associated companies. Furthermore, interest payments from one Irish resident company to another Irish resident company in the same Irish tax group are generally not subject to WHT.

Royalties WHT

Royalties, other than patent royalties, are generally not subject to WHT under domestic law. Patent royalty payments and certain other annual payments are subject to WHT at 20%. Patent royalty payments made by companies to companies resident in another EU member state or in a treaty country are generally not subject to WHT. The EU Interest and Royalties Directive may also provide an exemption from WHT for payments between associated companies.

WHT on capital gains

Where any of the following assets is disposed of, the person by whom or through whom the consideration is paid (i.e. the purchaser) must deduct capital gains WHT at a rate of 15% from the payment:

1. land or minerals in Ireland or exploration rights in the Irish continental shelf,
2. unquoted (unlisted) shares deriving their value or the greater part of their value (more than 50%) from assets described in (1) above,
3. unquoted (unlisted) shares issued in exchange for shares deriving their value or the greater part of their value from assets as described in (1) above, and
4. goodwill of a trade carried on in Ireland.

Corporate - withholding taxes (WHT)

The requirement to withhold tax does not apply where the consideration does not exceed €500,000 (or €1 million in the case of houses disposed of after 1 January 2016) or where the person disposing of the asset produces a clearance certificate from Irish Revenue authorising payment in full. In the case of certain qualifying intra-group transfers of assets, the consideration is deemed to be the original cost of acquiring the asset by the vendor company.

A clearance certificate may be obtained by making an application to Irish Revenue supported by a copy of the agreement or contract for sale. The certificate may be obtained on the grounds that (i) the vendor is Irish resident, (ii) that no capital gains tax is due in respect of the disposal or (iii) that the capital gains tax has been paid. WHT is creditable against the capital gains tax liability of the vendor, and any excess is refundable.

To avoid the requirement to withhold, clearance must be obtained before the consideration is paid. The withholding procedure is also required to be applied, and therefore clearance should also be obtained, where the asset is held as trading stock or where the transaction is intra-group and a capital gains tax liability does not arise. Failure to obtain the certificate will lead to the purchaser being assessed to capital gains tax for an amount of 15% of the consideration even if no capital gains tax liability would arise on the disposal of the asset.

Professional services withholding tax (PSWT)

Income tax at the standard rate (currently 20%) is deducted from payments for professional services made to individuals and companies by “accountable persons”, which include government departments, local authorities and health boards. Credit is granted for any PSWT withheld against the corporation tax (or income tax for an individual) liability of the accounting period in which tax is withheld.

WHT rate reductions and exemptions

Exemptions and rate reductions apply under domestic law and under tax treaties. Where an exemption from WHT is not available, a reduced rate of WHT may apply under an applicable tax treaty (please refer to Appendix 1).

Tax treaties

Companies that are resident in Ireland may avail of the benefits of Ireland's tax treaty network. These tax treaties secure a reduction or, in some cases, a total elimination of withholding tax on dividends, royalties and interest. See Appendix 1 and Appendix 2 for details of withholding tax on payments both to and from Ireland. Ireland has tax treaties in effect with the countries listed in the table below. In addition, Ireland has concluded negotiations for new tax treaties with Azerbaijan, Ghana, Oman, Turkmenistan and Uruguay.

Treaties in force as at 1/1/2018				
Albania	Czech Republic	Italy	Netherlands	Slovenia
Armenia	Denmark	Japan	New Zealand	South Africa
Australia	Egypt	Kazakhstan	Norway	Spain
Austria	Estonia	Korea (Republic of)	Pakistan	Sweden
Bahrain	Ethiopia	Kuwait	Panama	Switzerland
Belarus	Finland	Latvia	Poland	Thailand
Belgium	France	Lithuania	Portugal	Turkey
Bosnia Herzegovina	Georgia	Luxembourg	Qatar	Ukraine
Botswana	Germany	Macedonia	Romania	United Arab Emirates
Bulgaria	Greece	Malaysia	Russia	United Kingdom
Canada	Hong Kong	Malta	Saudi Arabia	United States
Chile	Hungary	Mexico	Serbia	Uzbekistan
China	Iceland	Moldova	Singapore	Vietnam
Croatia	India	Montenegro	Slovak Republic	Zambia
Cyprus	Israel	Morocco		

Multilateral Instrument

Ireland's existing treaty base will be updated to incorporate provisions under the OECD's Multilateral Convention to implement tax treaty related measures to prevent Base Erosion and Profit Shifting (BEPS). Finance Act 2017 provides the first step towards Ireland's ratification of the Multilateral Instrument (MLI) which was signed on 7 June 2017.

While no definitive timeline has been given as to when the ratification process is expected to finalise, it is expected that Ireland will ratify the MLI by early Autumn 2018 in order for it to take effect from 1 January 2019.

Contact us:

Denis Harrington, Partner
International Structuring
t: +353 (0)1 792 8629
e: denis.harrington@ie.pwc.com

Value added tax (VAT)

General

VAT is a transaction based tax and is chargeable on the supply of goods or services in Ireland for consideration by an accountable person other than in the course or furtherance of an exempted activity. VAT is also chargeable on goods imported from outside the EU, on intra-Community acquisitions of goods and on the purchase of specified services from suppliers outside of Ireland. Please note that while VAT is governed by EU legislation, there are key differences in the VAT rules applied between the 28 Member States of the EU as each Member State is required to impose the EU VAT legislation by way of its own domestic legislation.

Certain persons carrying on business in Ireland whose annual turnover does not exceed the following thresholds are not required to register for and charge Irish VAT: €75,000 for goods and €37,500 for services. However, they can elect to register should they so wish.

The State, or any public body, is also regarded as an accountable person for VAT purposes in respect of certain activities carried out on a more than negligible scale, or in circumstances where by not treating the State or public body as an accountable person a significant distortion of competition would arise.

Foreign traders supplying certain taxable services in Ireland, or selling goods from stocks held or acquired in Ireland, are generally obliged to register for Irish VAT.

Foreign traders do not benefit from the registration thresholds unless the trader has a fixed place of business in Ireland. Foreign traders making distance sales (being the supply goods from another EU Member State to unregistered persons) to Ireland are obliged to register for Irish VAT if the value of these sales exceeds €35,000 in a calendar year. Alternatively, they can elect to register should they so wish.

Taxable persons (persons engaging in business for VAT purposes) in receipt of certain services from abroad which are deemed to be supplied in Ireland (known as reverse charge services) must register for Irish VAT and account for Irish VAT on the value of those services (where appropriate). They are also obliged to register for VAT if they make intra-Community acquisitions of goods which exceed €41,000 in a 12 month period.

Accounting for VAT

Persons obliged to register for VAT must submit periodic VAT returns, generally bi-monthly; however in certain cases (typically low VAT payment liability), monthly, four monthly, bi-annual or annual returns may be submitted. Some accountable persons may elect to account for their VAT liability on the basis of cash received in a taxable period rather than on the basis of invoiced sales (see planning tip below for more information) which should result in cash-flow advantages.

Planning tip!

If you primarily supply goods or services to persons who are not registered for VAT or if your turnover is less than €2 million you may be eligible to account for VAT on a cash receipts basis rather than on the basis of invoiced sales.

Rates

The rates of VAT and some of the supplies to which they apply are set out below:

Rates	
23%	The standard rate of VAT applies to supplies not subject to the rates below
13.5%	Land and buildings (if taxable), building services, heating fuel, electricity, and waste disposal services
9%	Certain printed matter e.g. newspapers/periodicals, hotel/ holiday accommodation, restaurant/catering services, hairdressing services, cinemas, museums, art gallery exhibitions, certain musical performances, fairgrounds/amusement parks, facilities for taking part in sporting activities.
4.8%	Supply of livestock (note - only live horses in certain circumstances).
0%	Exports, books, oral medicine, children's clothing & footwear, fertilizers and certain food products.

Value added tax (VAT)

Exempt activities

The supply of certain goods and services is exempt from VAT including most banking and insurance services, education and training, medical services and passenger transport. If a supplier is engaged in exempt supplies, typically no input VAT deductibility on related costs is possible i.e. VAT is a real cost.

Property

VAT on property rules were substantially changed on 1 July 2008. Transitional rules continue to apply to the supply of interests in immovable goods that were acquired or developed prior to 1 July 2008 and which are supplied on or after that date.

Under the post 1 July 2008 VAT on property regime, typical occupational lease interests in property are exempt from VAT (with a landlord's "option to tax" the rent in certain circumstances i.e. charge VAT at the 23% standard rate). The supply of freehold and freehold equivalent interests in "new" property is subject to VAT at 13.5%. The sale of "old" property is exempt from VAT unless the vendor and purchaser exercise a joint option for taxation.

Examples of "new" property include:

- the first supply of a completed property within 5 years of its completion
- the second and subsequent supply of a completed property within 5 years of its completion unless it has been occupied for at least 2 years
- old property which has been significantly re-developed i.e. made 'new' again

Exempt supplies/use of property may result in a capital goods scheme (CGS) adjustment. The CGS was introduced on 1 July 2008. The CGS provides for the adjustment of VAT deductibility in respect of acquisition or development costs over the property's 'VAT life' i.e. it monitors the use of the property for purposes of input VAT deductibility. Typically the VAT life will be 20 years. However a 10-year VAT life applies in the case of refurbishment (development work on a previously completed building).

Planning tip!

Irish VAT on property rules are complex and specific advice should be sought in respect of all property related supplies. There can be pitfalls and planning opportunities.

Section 56 Authorisation (formerly Section 13A)

Accountable persons may be authorised (by Irish Revenue) to import, to make intra-Community acquisitions of goods and to acquire most domestic goods and services at the zero-rate of Irish VAT if at least 75% of their annual turnover comprises of exports or zero-rated intra-Community supplies of goods. Suppliers to such qualifying persons should ensure they obtain a valid VAT56B from their customer prior to applying the zero rate of VAT. Such suppliers also have additional invoicing obligations.

Withdrawal of VAT credit for bills not paid within six months

As part of the Government's initiatives to tackle the shadow economy and protect compliant businesses, measures were introduced in 2013 which provide that where payment for a supply of goods or services has not been made within six months of the period in which the VAT was deducted, i.e. the initial period, the purchaser will be obliged to adjust the amount of original deductible VAT accordingly.

The measures took effect for initial periods beginning on or after 1 January 2014. For example, VAT deducted on invoices received in Jan/Feb 2014 that remain unpaid in September should be adjusted in the July/August VAT return. If payment is subsequently made, in full or in part, the deductible VAT can be increased accordingly. It is important to note that where, on or before the due date for the return, the Revenue Commissioners are satisfied that there are reasonable grounds for not having paid the full amount, such a clawback of VAT will not be required.

Planning tip!

Remember to claim VAT bad debt relief at the earliest opportunity **

** VAT previously paid over on invoices which subsequently become reclassified as 'bad debts' can be reclaimed provided certain conditions are met.

Value added tax (VAT)

Contact us:

Tom Corbett
Partner
t: +353 (0)1 792 5462
e: tom.corbett@ie.pwc.com

Caroline McDonnell
Partner
t: +353 (0)1 792 6526
e: caroline.mcdonnell@ie.pwc.com

Sean Brodie
Partner
t: +353 (0)1 792 8619
e: sean.brodie@ie.pwc.com

Stamp duty

Stamp duty is a tax on certain documents / instruments. It is payable on transfers of land and on other assets the title to which cannot be passed by delivery. It is chargeable on instruments of transfer executed in Ireland and on instruments, wherever executed, which relate to Irish property or relate to matters done or to be done in Ireland.

A form of stamp duty, known as a "levy", also arises on certain policies of insurance and on certain financial cards and instruments.

Stamp duty on the transfer of assets between associated companies may be fully relieved from stamp duty provided the following key conditions are met:

- The companies have a 90% relationship (that is, one company is, directly or indirectly, the beneficial owner of at least 90% of the ordinary share capital of the other and is entitled to at least 90% of the profits available for distribution and at least 90% of the assets in the case of a winding-up of the other company, or a third company has these rights, directly or indirectly, in respect of both companies).
- This relationship is maintained for a period of at least two years after the transfer of the assets to avoid the relief being clawed back. Note, the relief will not be clawed back where the relationship ceases due to the liquidation or merger out of existence of the transferor, provided a) the transferred property is retained by the transferee, and b) the ownership of the transferee does not change, for at least 2 years.

There is an exemption from stamp duty for transfers of intellectual property (IP). The categories of IP qualifying for this exemption are identical to those for which IP capital allowances are available (see Intellectual Property on page 6).

Stamp duty is payable based on the higher of (a) the consideration paid for the transfer and (b) the market value of the assets transferring.

Rates

Rate	
1% / 6%	Transfer of certain stocks and shares (including share options)†
Nil	Issue of shares
1% to 6%	Transfer of property other than stocks and shares
1% to 6%	Premiums on leases of houses, land and other real property
1% - 12%	Average annual rent reserved by lease (rate depends on the length of the lease)

† transfers of shares not exceeding €1,000 in value are exempt and transfers of shares in certain commercial property holding companies are liable to stamp duty of 6%.

Transfer/purchase of residential property

Value of property	Rate
Up to €1,000,000	1%
Any excess over €1,000,000	2%

Transfer/purchase of other property

Written transfers of other types of property such as land, buildings, goodwill, book debts, cash on deposit and benefits of contracts attract stamp duty at a rate of 6%. Where non-residential immovable property is acquired for the purposes of constructing residential property, a rebate of 4% can be obtained where certain conditions are satisfied.

Stocks and shares are liable to stamp duty of 1%. However, stocks or marketable securities in certain companies (including non-Irish incorporated companies) deriving their value from Irish commercial property will be liable to stamp duty of 6% where the commercial property is held as trading stock or was acquired / is being developed with a view to realising a gain on disposal, and the transfer of the stocks or marketable securities results in a change in control over the company. This 6% rate also applies to transfers of interests in funds and partnerships holding Irish commercial property in similar circumstances.

Gifts are chargeable on their market value at the same rates as for other conveyances.

Planning tip!

Always seek advice before executing a Business Purchase Agreement. Careful drafting can help to minimise the stamp duty liability.

Stamp duty

Exemptions and reliefs

Transaction	Stamp Duty Analysis
Transfers between associated companies where the necessary 90% beneficial ownership relationship exists and where certain other conditions are satisfied	Full relief available
Transfers on certain reorganisations, takeovers and mergers	Full relief available
Most transfers of surplus assets by liquidator to shareholder	Nil
Transfers of intellectual property, such as copyright, trademarks, brands and patents	Exempt
Most transfers of foreign shares and foreign land	Exempt
A wide range of financial services instruments	Exempt
Transfers of Irish government stocks	Exempt
Transfers under wills	Exempt
Transfers between spouses or civil partners (including certain transfers on divorce/dissolution)	Exempt
Transfers of carbon credits	Exempt

Planning tip!

Remember that transfers of assets between spouses or civil partners are exempt from stamp duty. If you are married or in a civil partnership you should consider whether you hold your assets in the most tax efficient manner.

Contact us:

Darragh Duane
Director
t: +353 (0)1 792 6313
e: darragh.duane@ie.pwc.com

Relevant contracts tax (RCT)

Relevant Contracts Tax (RCT) is a withholding tax on payments by Principal Contractors (as defined) to subcontractors under a "relevant contract" in respect of works defined as "relevant operations".

While the common perception is that it is of relevance only to the construction, meat processing or forestry industries, a broad range of businesses have found that they are required to withhold RCT from payments to contractors. Examples of non-construction type companies where RCT can apply are hospitals, banks, telecommunication companies, oil and gas undertakings, supermarkets, utility companies and local authorities. A person connected with a company engaged in construction, land development, meat processing or forestry activities may also be subject to RCT.

The broad category of Principals that can fall within the scope of RCT means that individuals and companies need to evaluate, in advance of making payments to contractors, the impact of RCT in order to avoid a costly tax settlement.

Wide scope of RCT

As above, telecommunications companies and others in that sector, including companies involved in the alteration and repair of telecommunications systems, are regarded as Principal Contractors for RCT purposes and are required to operate RCT procedures in respect of payments to subcontractors for relevant operations.

The definition of 'relevant operations' includes the installation, the repair and the alteration of systems such as heating, lighting, telecommunications, power supply, water supply, air conditioning, ventilation, security, drainage and sanitation systems.

RCT applies to works carried out in the territory of Ireland, its territorial waters and designated areas of the Continental Shelf. The designated areas of the Continental Shelf are the extension of Ireland's territorial waters where the natural land extends under the sea to the outer edge of the continental margin.

Operation of RCT

RCT operates through an electronic system (eRCT). The Irish Revenue Online system (ROS) has three RCT rates: 0%, 20% and 35%. The rate that is applied to a subcontractor depends on the subcontractor's compliance record. Criteria for the rates are summarised as follows:

- 0% rate - subcontractors fully tax compliant and have obtained zero rate authorisation approval from Revenue
- 20% rate (standard rate) - subcontractors registered for tax, are mainly tax compliant, however have not received zero rate authorisation from Revenue
- 35% rate - subcontractors not registered for tax or with a history of poor tax compliance

RCT withheld will be treated as a payment on account and available for offset against other tax liabilities including PAYE or VAT or for repayment at year-end.

The scheme involves the mandatory use of electronic means for sending information, filing returns and making payments through Revenue On-line system (ROS). Principal contractors must notify all contracts online and notify Irish Revenue in advance of making payments to subcontractors. Revenue will then confirm the RCT rate to apply to a subcontractor payment and authorise the Principal to make the payment.

Revenue have recently issued further guidance on the operation of the eRCT system, particularly around closed contracts and unreported payments. This is reflective of Revenue's continued emphasis on the importance that all payments subject to RCT are notified on the eRCT system prior to being paid.

There are significant penalties for non-operation of RCT by a Principal Contractor. From 2015, the penalties for non-compliance range from 3% to 35% of the gross payment amount and are dependent on the tax compliance position of the subcontractor. As the RCT base has been broadened considerably in recent years, it requires many entities (including those in the telecommunications industry), to evaluate the scope of RCT and the extent of its application to their businesses.

Relevant contracts tax (RCT)

Contact us:

Emer O'Sullivan
Director
t: +353 (0)1 792 6695
e: emer.osullivan@ie.pwc.com

Jim Kinahan
Senior Manager
t: +353 (0)1 792 8641
e: jim.kinahan@ie.pwc.com

Elaine O'Rourke
Senior Manager
t: +353 (0)1 792 5098
e: elaine.orourke@ie.pwc.com

Interest

Interest paid/payable

Relief is available for interest payable in respect of money borrowed:

- for the purpose of a trade or profession carried on by an individual or company (but may be restricted in certain tax avoidance situations)
- for the purchase, improvement or repair of a rented property except that, in the case of a residential premises, relief is subject to conditions which includes that the deduction may not exceed 85% of the interest otherwise allowable in respect of interest accrued between 1 January 2018 and 31 December 2018 (this restriction on the amount qualifying as a deduction is to be abolished from 2021). Finance Act 2015 introduced measures whereby a 100% interest deduction can be claimed for certain qualifying lettings.

Loans to finance corporate acquisitions / investment

Relief is available to a company for interest paid on moneys borrowed to acquire an interest in, or to lend to, a company which is a trading company, a rental company or a holding company of trading or rental companies. Finance Act 2017 has legislated for an existing administrative practice whereby relief is also available for moneys borrowed to acquire or lend to a holding company which holds shares in a trading company indirectly through one or more intermediate holding companies.

To qualify for relief, the investing company must have:

- a material interest (more than 5% of the equity) in the company in which it is investing and, where moneys on-lent are used by a company connected with that company, in the connected company, and
- at least one director who is also a director of the investee company and, where moneys on-lent are used by a connected company, of the connected company.

Certain additional conditions also apply. For instance, where the money is lent to, or is subscribed for newly issued share capital of a company, it must be used for the specific trading, rental or holding company activities of that company or of a connected company. There may be a restriction on the amount of interest relief available to an investing company providing funds to a company where the funds are used to acquire specified intangible assets upon which the company is entitled to claim capital allowances.

Anti-avoidance provisions may deny or restrict relief for interest on related party borrowings for the acquisition of related entities, or the acquisition of assets or trades from a related party. These measures are subject to a number of conditions.

“Recovery of capital” and other anti-avoidance measures also restrict relief for interest on both related and third party borrowings.

Planning tip!

Review your company structure and transactions annually to ensure that the conditions for interest relief remain satisfied.

Loans to acquire Interest in a Partnership

Tax relief on interest payable on a loan to purchase a share in or to contribute to certain partnerships has been abolished in respect of loans made after 15 October 2013, with a phasing out period to 2017 for loans made before that date. However, the cessation provisions do not apply to farm partnerships.

Interest

Deposit interest retention tax (DIRT)

The rate of DIRT on deposit interest has reduced from 41% in recent years. The rate of DIRT for calendar year 2017 is 39%, 37% for 2018, 35% for 2019 and 33% for 2020 and each subsequent year.

Exemptions and repayments

The following can apply to have DIRT repaid or to have deposit interest paid to them without the deduction of DIRT:

- individuals or their spouses or civil partner aged 65 or over who are not liable to income tax
- incapacitated individuals
- non-residents
- charities
- companies that are liable to corporation tax

DIRT & First Time Buyers

First time buyers are entitled to a refund of DIRT in respect of interest earned on savings to be used either to buy or build a dwelling. The refund applies to DIRT deducted from interest paid on savings up to a maximum of 20% of the purchase price or the completion value. The relief applies in respect of purchases or builds completed and suitable for occupation between 14 October 2014 and 31 December 2017.

Planning tip!

Unlike other investment income, EU deposit interest is not liable to the Universal Social Charge. However, a higher 40% income tax rate will apply if the income is not declared on a tax return by the due date.

Contact us:

Sean Walsh
Senior Manager
t: +353 (0)1 792 6543
e: sean.walsh@ie.pwc.com

Local Property Tax

Local Property Tax payable in respect of residential properties operates through a system of self-assessment. The following persons are liable to pay LPT:

- Owners of Irish residential property, regardless of whether they live in Ireland or not.
- Local authorities or social housing organisations that own and provide social housing.
- Lessees who hold long-term leases of residential property (for 20 years or more).
- Holders of a life-interest in a residential property.
- Persons with a long-term right of residence (for life or for 20 years or more) that entitles them to exclude any other person from the property.
- Landlords where the property is rented under a short-term lease (for less than 20 years).
- Personal representatives for a deceased owner (e.g. executor/administrator of an estate).
- Trustees, where a property is held in a trust.
- Where none of the above categories of liable person applies, the person who occupies the property on a rent-free basis and without challenge to that occupation.

The liable person in respect of the property is responsible for completing and submitting the Return and paying the tax due. For LPT purposes, residential property means any building or structure (or part of a building) which is used as, or is suitable for use as, a dwelling and includes any shed, outhouse, garage or other building or structure and includes grounds of up to one acre.

For 2018, an LPT liability will arise where a person owns a residential property in the State on 1 November 2017. LPT will be based on the market value of a residential property on the "valuation date", i.e. 1 May 2013.

LPT Rates

The LPT rate is 0.18% for properties up to a market value of €1 million. Above €100,000 there is a system of market value bands of €50,000 up to €1 million and the tax liability will be calculated by applying the tax rate to the mid-point of the band. LPT on residential properties valued at over €1 million will be charged at 0.18% on the first €1 million and 0.25% on the excess over €1 million.

For 2018, some local authorities have reduced their LPT rate. The reductions range from 10% to 15%. Revenue will make the changes automatically.

LPT rate reduced by	Local authority
10%	Fingal
15%	Dublin City, Dun Laoghaire/ Rathdown, South Dublin

For 2018, some local authorities have increased their LPT rate. The increases range from 2.5% to 15%. Revenue will make the changes automatically.

LPT rate increased by	Local authority
2.5%	Waterford
5%	Kerry, Longford
7.5%	Limerick
10%	Laois, Tipperary, Wexford

Local Property Tax

Returns

The 2018 Payment Instruction was due to be submitted to Irish Revenue by 25 November 2017. Payment was due by 10 January 2018. As outlined above, a property is not required to be revalued for 2018. The market value/valuation band declared on the 2013 LPT1 Return applies. Any work carried out on a residential property under the Home Renovation Incentive will not affect the amount of LPT payable.

If arrangements have not been made to pay the tax in full or by phased payments throughout 2018, the liable person should access the Revenue LPT On-line system immediately to file a 2018 Payment Instruction in order to minimise interest charges. If the liable person paid the 2017 LPT by phased payment method, deferred the full charge or claimed an exemption, the current payment method/exemption will automatically apply for 2018 and there is no requirement to contact Revenue.

There are various payment methods including payment by Single Debit Authority, Debit/Credit Card, Direct Debit and voluntary deduction at source from salary, an occupational pension and certain payments from Department of Social Protection or the Department of Agriculture, Food and the Marine. Where a liable person does not elect a method, Irish Revenue may deduct the tax due at source (through the PAYE system, social welfare payments etc).

Late Payment/Non-Compliance

If a liable person fails to submit a return, Irish Revenue can estimate the LPT due. A rate of 8% per annum will be charged on the amount outstanding. A maximum penalty of €3,000 will be imposed for failure to submit a return or for knowingly undervaluing property to reduce LPT payable. Where the LPT remains outstanding, a charge will attach to the property.

Chargeable Persons for Income Tax/Corporation Tax/Capital Gains Tax who are also designated liable persons for LPT may incur a LPT generated surcharge of 10% of their Income Tax/Corporation Tax/Capital Gains Tax liability where the LPT return is outstanding or an agreed payment arrangement is not being met at the date of filing the Income Tax/Corporation Tax/Capital Gains Tax Return. There are a limited number of exemptions available.

Contact us:

Lisa McCourt
Senior Manager
t: +353 (0)1 792 7492
e: lisa.mccourt@ie.pwc.com

Income tax

Main personal tax credits and reliefs

	2018	2017
Single person with no dependent child	1,650	1,650
Married or in a civil partnership	3,300	3,300
Widowed person or surviving civil partner with no dependent child	2,190	2,190
Widowed person or surviving civil partner bereaved in the year	3,300	3,300
Single parent with dependent child [a]	3,300	3,300
Widowed parent or surviving civil partner with dependent child - first year after bereavement [b]	5,250	5,250
Incapacitated child	3,300	3,300
Married couple or civil partnership - home carer [c]	1,200	1,100
Blind person's tax credit: Single, married or in a civil partnership (one blind)	1,650	1,650
Married or in a civil partnership (both blind)	3,300	3,300
Dependent relative	70	70
Age tax credit - Single, widowed or surviving civil partner - Married or in a civil partnership	 245 490	 245 490
Employee (PAYE) tax credit	1,650	1,650
Earned income tax credit	1,150	950
Medical insurance [d]	standard rate	standard rate
Dental insurance [d]	standard rate	standard rate
Certain fees for third level colleges - maximum qualifying fees [e]	standard rate 7,000	standard rate 7,000
Medical expenses [f]	standard rate	standard rate
Fisher tax credit (max) [g]	1,270	1,270

a. with effect from 1 January 2014, available for the principal carer of the child only

b. reducing credit available for subsequent years

c. full credit is available where the carer's income is €7,200 or less. A reduced tax credit applies where income is over €7,200 and no more than €9,400.

d. the relief is restricted to the first €1,000 per adult insured and the first €500 per child insured

e. the maximum limit on qualifying fees is €7,000 per person per course. The first €3,000 paid for fulltime courses and the first €1,500 paid for part-time courses is disregarded for the purposes of calculating the relief.

f. expenses paid to nursing homes which provide 24 hour nursing care are tax relieved at the marginal tax rate

g. With effect from 1 January 2017, credit is calculated at 20% of the income from fishing, subject to a maximum of €1,270. It is available where a person spends a total of 8 hours per day for a minimum of 80 days per year fishing in a registered fishing vessel. A claim for the seafarer's allowance cannot also be made in the same year.

Income tax

Main tax allowances

Allowances at marginal rate	2018 €	2017 €
Employment and Investment scheme (EII) - maximum qualifying investment per annum [a]	150,000	150,000
Pension contributions		
Retirement annuity contracts - maximum % of net relevant earnings [b]	15%-40%	15%-40%
Occupational pensions - maximum % of income [b]	15%-40%	15%-40%
Permanent health benefit schemes - maximum % of statutory income	10%	10%

a. The EII scheme is in place to 2020.

b. the applicable percentage rate is based on age; see page 55 "Pension schemes" for details

Income tax exemption limits

Persons aged 65 and over	2018 €	2017 €
Single, widowed or surviving civil partner [a]	18,000	18,000
Married or in a civil partnership [a]	36,000	36,000

a. There is an increase of €575 for each of the first two qualifying children and €830 for each subsequent child.

Income tax rates

	2018 €		2017 €	
	20%	40%	20%	41%
Single, widowed or surviving civil partner: no dependent children	34,550	balance	33,800	balance
Single [a], widowed or surviving civil partner: dependent children	38,550	balance	37,800	balance
Married couple or civil partnership: one income	43,550	balance	42,800	balance
Married couple or civil partnership: both with incomes	43,550 (with an increase of up to €25,550 max [b])	balance	42,800 (with an increase of up to €24,800 max [b])	balance

a. This rate is available for the principal carer of the child only

b. The increase in the standard rate tax band is restricted to the lower of (i) €25,550 for 2018 or €24,800 for 2017 or (ii) the amount of the income of the spouse or civil partner with the lower income

Income tax

Maternity Benefit

Since 1 July 2013, maternity benefit, adoptive benefit and health and safety benefit are treated as taxable income and taxed under Schedule E as employment income. They remain exempt from PRSI and Universal Social Charge (USC).

Alimony/maintenance payments

In general, for payments under legally enforceable maintenance agreements, income tax is not deducted at source and the payer deducts the payments in computing total income for the tax year. The payments are assessed for income tax purposes as the recipient's income. Payments for the benefit of a child are made without deduction of tax at source and do not reduce the total income of the payer for income tax purposes. Separated/divorced spouses and civil partners are treated for tax purposes as single persons unless an election is made to Revenue to claim alternative treatment.

Personal Insolvency

A number of changes to the law were made in 2013 in order to facilitate the personal insolvency legislation that was introduced in 2012.

Firstly, the transfer of property under a Debt Settlement Arrangement or a Personal Insolvency Arrangement to a person to be held in trust for the benefit of creditors (i.e. personal insolvency practitioner) does not trigger a clawback of capital allowances and, where rental income arises in respect of the property while it is held by the practitioner, the debtor remains liable to income tax in respect of that rental income.

Secondly, the transfer of assets to a personal insolvency practitioner is not liable to capital gains tax. However, the practitioner will be liable to capital gains tax on the subsequent disposal of the asset.

Thirdly, any benefit arising from the write-off or reduction of debt under a Debt Relief Notice, Debt Settlement Arrangement or Personal Insolvency Arrangement is not a gift or inheritance for CAT purposes.

Finally, any Debt Settlement Arrangement or Personal Insolvency Arrangement must provide for payment of current tax liabilities of the debtor and for the payment of any tax liabilities of the personal insolvency practitioner during the course of such arrangements.

Remittance basis of taxation (RBT)

RBT provides favourable taxation treatment for Irish tax resident, non-Irish domiciled individuals in respect of foreign investment income (e.g. rental) and foreign source employment income relating to overseas duties. RBT is not available in relation to earnings from a foreign employment exercised in Ireland. Such earnings are liable to PAYE, subject to certain exclusions. Where RBT applies, the amount of foreign income taxable in Ireland is limited to the amount remitted to Ireland. Where an individual subject to RBT transfers foreign source income (or property bought using that income) to their spouse or civil partner and that income or property is remitted to Ireland, the remittance will be deemed to have been made by the individual.

Capital gains arising on the disposal of non-Irish assets by non-Irish domiciled individuals are liable to Irish capital gains tax only to the extent that the gain is remitted to Ireland.

The table below summarises the position:

Resident, non-Irish domiciled	Income/gains taxable in Ireland
Irish source income	yes
Foreign employment – Irish workdays	yes
Foreign employment – non-Irish workdays	only if remitted
Foreign investment income (eg rental income)	only if remitted
Irish capital gains	yes
Foreign capital gains	only if remitted

Income tax

Domicile levy

A domicile levy of up to €200,000 applies to individuals who are Irish domiciled irrespective of their tax residence position and whether or not they hold Irish citizenship. Liability to the levy depends on the level of worldwide income (relevant if more than €1 million) and the value of Irish-located property (relevant if in excess of €5 million).

The domicile levy must be paid on a self-assessment basis and any Irish income tax paid will be allowed as a credit against the levy. Individuals liable to the levy must file a return and pay the appropriate levy by 31 October following the year end.

Special assignment relief programme (SARP)

A special expatriate assignment relief programme applies to certain employees assigned to Ireland to work for a period of at least one year. The relief was first introduced in 2009. A new enhanced scheme was introduced for individuals arriving in Ireland from 2012. Further amendments were introduced to this enhanced scheme with effect from 1 January 2015 which are designed to increase the take-up levels of SARP.

The relief is available for a maximum of five consecutive tax years both to Irish domiciled and certain non-Irish domiciled individuals who are required by their existing employer organisation to come to Ireland between 2012 and 2020 to work here for a minimum period of 12 months. The individual can be engaged under an Irish or non-Irish employment contract.

Qualifying individuals will be entitled to exclude 30% of employment earnings over €75,000 from the charge to Irish income tax.

In addition, qualifying individuals are entitled to receive tax free payment or reimbursement of the reasonable costs of one return trip to their 'home' country and school fees (up to €5,000 per annum) for each child, subject to restrictions. The relief may be claimed up-front by way of a payroll deduction or by way of a repayment after the tax year end. Either way, advance approval by Irish Revenue is required.

SARP conditions for individuals arriving in Ireland from 2015 to 2020

For tax years 2015 to 2020, in order to qualify and claim SARP relief the individual must:

- have a 'base salary' of at least €75,000;
- be tax resident in Ireland (the individual may also be resident elsewhere);
- have been non-resident in Ireland for the five years immediately preceding the year of arrival; and
- have been employed on a full-time basis by a 'relevant employer' for the entire 6 months immediately prior to arrival.

The relevant employer must have been incorporated and resident in a country with which Ireland has either a double tax treaty or an exchange of information agreement. From 2015, the employer must certify to Irish Revenue within 30 days of the date the individual arrives in Ireland, that the qualifying conditions have been met.

There are differing conditions in relation to what is included as earnings both for the base salary and the income to which the 30% is applied. Certain other reliefs (e.g. for non-Irish workdays) cannot be claimed in conjunction with SARP relief. The relief also imposes certain reporting obligations on employers.

It should be noted that, while the income is relieved from income tax, it is not relieved from the Universal Social Charge (USC) or PRSI (where applicable).

Cross border workers

Income tax relief is available to individuals who are resident in Ireland but who work outside Ireland. The relief operates in such a way as to effectively exclude from Irish tax the income arising from a qualifying employment. In order to qualify for the relief, the individual must hold an employment outside Ireland for a continuous period of at least 13 weeks in a country with which Ireland has a double tax treaty. Income from the qualifying employment must be fully taxed in that country and the foreign tax paid. The individual must also be present in Ireland for at least one day per week during the period of the qualifying employment.

Income tax

Foreign earnings deduction (FED)

FED relief was introduced in 2012 to encourage companies that are expanding into emerging markets. The relief applies to individuals who spend significant amounts of time working in a "Relevant State". Finance Act 2016 extended the relief until 31 December 2020 and made some enhancements to the relief for FED claims for 2017 and subsequent years by: (1) increasing the list of Relevant States to include Colombia and Pakistan and (2) reducing the minimum required number of days working in a Relevant State from 40 to 30 days per annum.

The relief provides for a reduction in the individual's employment income (excluding certain benefits in kind but including share based rewards) by apportioning the income by reference to the number of qualifying days worked in a Relevant State in the year over the number of days that the employment is held in the year. However, the reduction is capped at €35,000 in any year.

The relief currently applies to individuals who spend at least 30 days per annum working in Algeria, Bahrain, Brazil, Chile, China, Colombia, The Democratic Republic of Congo, Egypt, Ghana, India, Indonesia, Japan, Kenya, Kuwait, Malaysia, Mexico, Nigeria, Oman, Pakistan, Qatar, Russia, Senegal, Singapore, Saudi Arabia, South Africa, South Korea, Tanzania, Thailand, the United Arab Emirates and Vietnam.

The minimum number of days required working abroad is 30 days per annum. Periods comprising at least three consecutive days working in these locations count towards the 30 day threshold. Time spent travelling to/from Ireland or between Relevant States is deemed to be time spent in a Relevant State.

Employment & Investment Incentive / Startup Refunds for Entrepreneurs (SURE)

The Employment Investment Incentive (EII) is a tax relief incentive scheme that provides tax relief for investment in certain corporate trades. The scheme allows an individual investor to obtain income tax relief on investments up to a maximum of €150,000 per annum in each tax year up to 2020. The minimum investment in any one company is €250. Individuals interested in EII can invest directly through a private placement or through a Designated Investment Fund.

Income tax relief is granted in two instalments - the initial, based on 30/40ths of the amount invested, is generally granted in the first year and the balance is deferred until the year of assessment following the later of four years after the date the shares were issued or trading commenced. Tax relief in respect of the deferred amount is conditional upon the investee company demonstrating that it has increased employment numbers or research and development expenditure.

This scheme is available to the majority of small and medium-sized trading companies that satisfy certain EU State Aid regulations. An overall limit of €15 million (and €5 million annually) is placed on the amount of the investment raised by a qualifying company which can qualify for relief under the EII.

In order to qualify under the scheme, the individual must subscribe on his/her own behalf for shares which:

- represent new ordinary share capital in a qualifying company, and
- carry no preferential rights as to dividends, assets on a winding up or to be redeemed.

Shares must be held for at least four years if the investor wants to retain the full tax relief. Gains realised on the disposal of EII shares are subject to normal capital gains tax rules but losses are not generally allowed due to the availability of income tax relief.

The scheme "Startup Refunds for Entrepreneurs" (SURE), formerly known as the "Seed Capital Scheme", is a slightly more generous version of the EII that targets individuals who leave PAYE employment to set up their own companies. The SURE investor may have been a top rate taxpayer when employed so the scheme is designed to allow him/her elect to shelter income earned during any of the previous six years in order to maximise the tax rebate. The maximum investment that can qualify under SURE is €700,000 (€100,000 per annum for the previous six tax years and €100,000 in the current year).

R&D tax credit

Companies may surrender a portion of their R&D tax credit to reward key employees who have been involved in the R&D activities of

Income tax

the company, allowing them to effectively receive part of their remuneration tax-free. In order to qualify as a 'key employee':

- the employee must not have been a director of the employer company;
- the employee must not have had a material interest in the employer company;
- the employee must perform at least 50% of their duties "in the conception, or creation of new knowledge, products, processes, methods or systems"; and
- at least 50% of the emoluments of the employee must qualify as R&D expenditure.

The effective rate of tax of the employee cannot be reduced below 23% and unused tax credits which the employee has been allocated may be carried forward. The employee may only make a claim to Irish Revenue for a tax refund after the tax year-end.

Relief for mortgage interest payments

Mortgage interest tax relief is no longer available for loans taken out after 31 December 2012. Mortgage interest relief for loans taken out on or before 31 December 2012 was due to end on 31 December 2017. However, relief has now been extended for another three years for owner occupiers who took out qualifying mortgages between 2004 and 2012. Tapered relief on qualifying interest will apply from 2018 to 2020. 75% in 2018, 50% in 2019 and 25% in 2020. The relief will cease from 2021.

From January 2014, lenders are obliged to grant this tax relief at source (TRS) based on the amount of interest actually paid by the borrower within a tax year. This change will have no impact for borrowers who pay the correct mortgage amount on time, in accordance with the terms of their loan. However, where borrowers do not make payment/s or pay less than the amount of interest charged to their account, the TRS amount due will be reduced to reflect the actual amount paid.

First time buyers

In the case of qualifying first time buyers, tax relief was available on the first €10,000 of interest paid for 2017 (single person). For 2018 - 2020, this interest threshold or maximum amount of interest allowable is reduced to €7,500, €5,000 and €2,500 respectively (single person). The rate at which tax relief will apply is based on a sliding scale (25% down to 20%) for the first seven years of any qualifying loan but see the exception below regarding properties purchased between 1 January 2004 and 31 December 2008. From year 8, the rates and thresholds for relief are as for non-first time buyers.

Non-first time buyers

For qualifying non-first time buyers tax relief was available on the first €3,000 in interest paid for 2017 (single person). For 2018 - 2020, this interest threshold or maximum amount of interest allowable is reduced to €2,250, €1,500 and €750 respectively (single person). The rate of tax relief is 15%.

Purchasers of properties between 2004 and 2008:

The rate of mortgage interest relief is increased to 30% for buyers who took out their first mortgage between 2004 and 2008.

The ceilings for tax relieved mortgage interest payments for 2018 are as follows:

	First time buyers years 1-7 €	Other €
Single	7,500	2,250
Married/widowed Civil partnership/ surviving civil partner	15,000	4,500

Rent relief for private accommodation

In relation to new tenancies, relief for rent paid is no longer available. For individuals who were paying rent in respect of a tenancy on 7 December 2010, relief was available up until 2017 but has been abolished with effect from 2018. Relief was given by way of a tax credit at 20% on the actual rent paid subject to a maximum credit amount.

Rent a room scheme

Income from the letting, as residential accommodation, of a room in a person's principal private residence is exempt from tax where the gross annual rental income with effect from 1 January 2017 is not greater than €14,000 (previously €12,000).

Income tax

The relief does not apply where the letting is between connected parties.

Rental income

Net profit arising from a rental property is taxed at an individual's marginal rate of tax. Deductions in arriving at net profit include rates, management fees, maintenance, insurance, certain legal and accountancy fees, wear and tear on furniture and fittings and repairs.

Finance Act 2017 introduced a new deduction for certain pre-letting expenditure of a revenue nature incurred in respect of previously vacant residential premises. A tax deduction, up to a maximum of €5,000, will be available in respect of expenses incurred on a residential premises that has been vacant for at least 12 months and is rented to tenants during the period 25 December 2017 to 31 December 2021. The expenditure will be deductible provided it is incurred in the 12 months prior to the residential property being let and the expenditure would have qualified for a deduction if it had been incurred during the period of letting. A claw back provision provides that any deduction claimed will be clawed-back if, within 4 years of the first letting, the property ceases to be a rental property.

A deduction is also allowed for interest on money borrowed for the purchase of, or repair to, the property. The tenancy must be registered with the Residential Tenancy Board (RTB). Finance Act 2016 introduced measures to restore full interest deductibility for landlords of residential properties on a phased basis, starting 2017. For 2018, the interest deduction has increased from 80% to 85% and the deductible amount will increase by 5% every year until 2021 when the 100% interest deduction will be restored for qualifying residential lettings.

In general, a net rental loss can be offset against profit from another property or carried forward against future rental profits. Foreign rental losses can be offset against foreign rental income only.

Help To Buy Incentive (HTB)

The HTB Incentive was introduced in Finance Act 2016 with the aim of assisting first-time buyers in attaining the deposit required to buy/self-build a new home by allowing for a refund of income tax and DIRT paid in the prior four tax years. The refund is available up to a maximum of €20,000, subject to certain criteria. In order to claim the refund, the first-time buyer must not have bought a property previously (either individually or jointly) and, where more than one individual is involved, all parties must be first-time buyers.

The incentive applies to a first-time buyer who buys/self-builds a new residential property between 19 July 2016 and 31 December 2019. The first-time buyer must then live in the property for five years from the date the property is habitable.

To make a claim, the individual must supply Revenue with information regarding the property and mortgage online, and their tax affairs must be in order for each of the four tax years prior to making the claim.

Home Renovation Incentive (HRI)

The HRI was introduced in Finance Act 2013 and provides tax relief by way of an income tax credit of 13.5% of qualifying expenditure for repair, renovation or improvement works carried out by a qualifying contractor on a main home or rental property. The maximum tax credit that can apply per property is €4,050.

For the relief to apply, the work must be carried out between 25 October 2013 and 31 December 2018 for Homeowners, between 15 October 2014 and 31 December 2018 for Landlords and between 1 January 2017 and 31 December 2018 for local authority tenants. The scheme was due to expire on 31 December 2016 but was extended in Finance Act 2016 by two years to the end of 2018.

In order to avail of the relief, both Homeowners and Landlords must have met their payment and return filing obligations for Local Property Tax and the Household Charge. Landlords must also be registered with the Residential Tenancies Board (RTB).

Living City Initiative

The Living City Initiative was introduced in Finance Act 2013 and has been amended and updated in subsequent Finance Acts. EU approval for the scheme was received so that the provisions are effective from 5 May 2015 to 4 May 2020.

Income tax

Residential Property

The Living City Initiative is a relief for owner-occupiers and landlords in relation to expenditure incurred on the conversion or refurbishment of certain residential properties located in defined special regeneration areas in the centres of Limerick, Waterford, Cork, Galway, Dublin and Kilkenny. Details of the qualifying areas can be located on the websites of the respective local authorities. The scheme originally provided relief for owner-occupiers only but was extended to provide relief for landlords in Finance Act 2016.

The relief takes the form of a deduction from the individual's total income for the year in which the expenditure is incurred.

The relief for owner occupiers is given by way of a deduction at 10% per annum over ten years of the qualifying conversion/ refurbishment expenditure (must be at least €5,000). If, in any year, the property ceases to be used as the person's only or main residence, no relief will be available for that year. If the property is sold at any time, there is no clawback of the relief claimed but the relief may not be claimed by a subsequent purchaser.

From 1 January 2017, the relief has been extended to rented residential properties within the special regeneration areas. The relief for landlords is given by way of an accelerated capital allowance of 15% of qualifying expenditure (must be at least €5,000) for the first six years, and 10% in the seventh year.

The relief is intended to include regeneration works on any residential buildings built prior to 1915 and now includes single-storey buildings. It is subject to a system of certification by the relevant Local Authority. In the case of a rental property, it must be let as a dwelling on bona fide commercial terms, once the refurbishment/conversion takes place.

Finance Act 2014 introduced measures to ensure that a claim for relief is made electronically. The Act requires that certain information is provided to Revenue with the claim, including details of the aggregate of all qualifying expenditure incurred in respect of the qualifying premises.

Finance Act 2016 clarifies that the qualifying refurbishment/conversion costs must be greater than €5,000. Previously, qualifying expenditure of 10% or more of the property's market value was needed. The Act also removes the need for the building to have been originally built as a dwelling, as well as removing the cap on the floor size of buildings.

Commercial Property

As regards commercial property, relief can be claimed for expenditure in excess of €5,000 incurred on certain commercial property located in a special regeneration area. The relief is provided in the form of capital allowances for expenditure incurred on the conversion or refurbishment of a qualifying property. The capital allowances are available at a rate of 15% per annum (years 1 – 6) and 10% (year 7). A clawback of capital allowances claimed can arise if the property is disposed of within seven years.

The relief will apply to expenditure incurred on the conversion/refurbishment of buildings located in a special regeneration area that are in use for the purposes of the retailing of goods.

Broadly, the relief may be claimed by owner-occupiers or landlords but property developers are excluded from claiming the relief. Any relief claimed will be included in the calculation of the high earner's restriction, where applicable.

There are limits on the amount of qualifying expenditure on which relief can be claimed in relation to commercial premises. These are €1,600,000 in the case of a company trading from the premises, or €800,000 if the investor is a company letting the premises, and €400,000 in the case of an individual.

Special apportionment rules apply where individuals and companies incur qualifying expenditure on a joint basis on the same building. The application of these rules effectively caps the value of the relief at €200,000 for an individual project.

High Earner's Restriction

Certain tax reliefs available to high income earners are restricted. A tapering restriction applies to individuals with income in excess of

Income tax

€125,000 (before claiming the specified tax reliefs) and specified reliefs for the year exceeding €80,000. This results in an effective rate of income tax of 32% where the maximum restriction applies.

Any reliefs not used in a particular tax year are carried forward. In the case of married couples or civil partners, each spouse/civil partner is treated separately when calculating this restriction. As such, each spouse or civil partner can benefit from the threshold of €125,000. Individuals subject to these restrictions are obliged to file and pay via the Irish Revenue's On-line Service (ROS).

Employment of a carer

A tax deduction of up to €75,000 for the actual cost of employing a person to care for an incapacitated family member may be claimed at the claimant's marginal tax rate.

Childcare Services Relief

Income tax is not payable on the earnings of an individual arising from the taking care of up to three children in the individual's own home, provided the gross amount received is less than €15,000 a year. If such earnings exceed €15,000 the total amount is taxable. Certain conditions apply.

Self-assessment - payment and returns

In general, self-assessment applies to all individuals with non-PAYE income in excess of €5,000 and to all directors controlling 15% or more of the share capital of certain companies. The self-assessment system places the onus on the individual to file a return, calculate the tax liability, and pay the relevant tax due. To avoid a surcharge, returns of income for the 2017 tax year must be filed on or before 31 October 2018. Any balance of tax due for the year must also be paid by this date, provided preliminary tax obligations for the year have been met (see below).

To avoid interest charges, preliminary income tax due for 2018 must be paid by 31 October 2018. The tax paid must represent at least 90% of the individual's estimated liability for 2018 or 100% of the ultimate liability for 2017 (before any Employment and Investment Incentive (EII) relief).

Self-assessed taxpayers are also liable to PRSI at 4% on their unearned income (e.g. investment income, rental income). Previously, self-assessed contributors were exempt from making PRSI contributions on such income. Please refer to the "PRSI" section on page 52 for further details.

Certain individuals are obliged to file returns and pay any tax due electronically via the Irish Revenue's On-Line Service (ROS), e.g. individuals claiming certain property incentive reliefs, who acquire certain offshore products, or who claim relief for pension contributions (RACs, AVCs), etc.

Irish Revenue generally announces an extension to mid-November to the ROS return filing and tax payment date for self-assessment income tax customers who both pay and file electronically

Planning tip!

Your 2017 tax return is due by 31 October 2018. If your total income for 2018 is less than that in 2017, consider basing your preliminary tax payment for 2018 on the estimated 2018 liability.

Contact us:

Pat Mahon
Partner
t: +353 (0)1 792 6186
e: pat.mahon@ie.pwc.com

Frances Smith
Senior Manager
t: +353 (0)1 792 6141
e: frances.smith@ie.pwc.com

Employee taxation

Termination payments

Payments made in connection with the termination of an employment, on retirement or on removal, may qualify for one of the following tax exemptions (the highest exemption usually applies):

- Basic Exemption - €10,160 with an additional €765 for each complete year of service. Generally applicable where an employee's length of service is short.
- Increased Exemption - the basic exemption may be increased by up to €10,000. The additional amount is reduced Euro for Euro by the net present value of any future tax free lump sum entitlement from an occupational pension scheme. No reduction applies where the individual irrevocably waives their right to the pension lump sum. It cannot be claimed if an exemption other than the Basic Exemption has been used by the individual in the previous ten tax years. Prior approval by Irish Revenue is no longer required, but employers still need to check with the employee that the criteria have been met.
- Standard Capital Superannuation Benefit (SCSB) - generally for those employees with long service/high earnings but dependent on pension choices of employee. It is based on average earnings and length of service and is calculated as follows:

(A x B /15) – C where:

A = average annual taxable remuneration for the last 3 years' service

B = number of complete years' service

C = net present value of any future tax free lump sum entitlement from an occupational pension scheme. No reduction applies where the individual irrevocably waives their right to the pension lump sum

The maximum exemption available in respect of termination payments is restricted to a lifetime limit of €200,000. Termination payments in excess of the applicable exemption are subject to tax and the Universal Social Charge (USC) but not PRSI. Termination payments made in connection with the death of an employee or on account of injury to or disability of an employee are also subject to the €200,000 exemption limit.

Special rules apply where two or more termination payments are made by the same or associated employers.

Certain reliefs associated with termination payments have been abolished. In particular, Foreign Service Relief was abolished from 27 March 2013 and Top Slicing Relief was abolished from 1 January 2014.

Statutory redundancy payable under the Redundancy Payments Acts 1967-2012 continues to be exempt from tax, USC and PRSI.

Planning tip!

Ensure you know what counts as service for statutory redundancy, tax exemptions and ex-gratia purposes.

Benefits-in-kind (BIKs) - general

The majority of employee benefits are subject to PAYE, PRSI and the Universal Social Charge (USC). The taxable benefit is treated as "notional pay" from which PAYE, PRSI and USC are deducted.

BIK on company cars

General rules

The BIK charge applying to company cars is payable under the PAYE system. The cash equivalent of the private use of a company car is calculated at 30% of the original market value (OMV) with a reduction for business travel over 24,000km.

A further reduction is available on a euro for euro basis for any amount made good by an employee directly to the employer in respect of the cost of providing or running the car.

Where an employee is required to work abroad for an extended period, the notional pay is reduced by reference to the number of days spent working abroad. This is conditional on the employee travelling abroad without the car and the car not being available for use by family or household members.

Employee taxation

There is a 20% relief from notional pay on cars for employees whose annual business travel exceeds 8,000km, who spend 70% or more of their time away from their place of work on business and who do not avail of the tapering relief for high business travel.

Electric vehicles

A temporary BIK exemption has been introduced for employer provided electric vehicles (cars and vans) for the 2018 tax year only. Electrical charging points provided for use in the workplace for charging electric vehicles will also be exempt from a BIK charge, provided all employees and directors of the company can avail of the facility. These interim measures are intended to allow time for a comprehensive review of the taxation of employer provided vehicles, the results of which may mean further changes in next year's Finance Bill.

BIK on preferential loans

In calculating the BIK charge in respect of preferential loans from employers, the specified rates applicable for 2018 are 4% (home loans) and 13.5% (other loans). The BIK charge arises on the difference between the interest on the loan at the specified rate and the interest actually paid on the loan for the year.

BIK on professional subscriptions

The BIK statutory exemption for professional subscriptions was removed from 2011. The taxable benefit is treated as "notional pay" from which PAYE, PRSI and the USC are deducted. There are certain limited exceptions where no BIK will arise, including where there is a statutory requirement for membership of a professional body.

BIK on travel passes and small benefits

The following benefits are exempt from income tax:

- the provision of new bicycles and/or related safety equipment to employees up to a cost of €1,000, provided the bicycle is used for travel between home and the normal place of work or travel between work places. The exemption can only be claimed once in a five year period. If certain conditions are met, it is possible to provide the benefit by reducing gross salary.
- the provision by an employer of a monthly or annual bus/train/Luas pass for employees. If certain conditions are met, it is possible to provide such travel passes by reducing gross salary.
- with effect from 22 October 2015, the provision by an employer of a voucher or a non-cash benefit to a value not exceeding €500. No more than one such benefit may be given to an employee in a tax year.

Certain other benefits are, by concession, treated as tax exempt. For details of the tax treatment of employer contributions to occupational pension schemes, refer to the section "Pension schemes" on pages 55-58.

Planning tip!

If employees are contributing to the running costs of the car, consider whether such payments can be structured to reduce the BIK charge.

Travel and subsistence

Where an individual is obliged to use their private car for business purposes and incurs expenses in relation to the business use of the vehicle (e.g. petrol, insurance, tax) or an individual incurs subsistence expenses when performing their employment duties away from their normal place of work, subject to certain conditions these expenses may be reimbursed by the employer tax-free up to the level of the prevailing civil service rates.

Employee taxation

The following travel and subsistence rates may be paid tax-free for genuine business travel in Ireland subject to certain limits and conditions. (Alternative rates apply in respect of time spent working abroad. The rates are dependent on work location and other factors).

Motor travel rates (from 1 April 2017)

Band	Distance (km)	Engine capacity up to 1200cc (cent)	Engine capacity 1201c-1500cc (cent)	Engine capacity 1501cc & over (cent)
1	0-1,500	37.95	39.86	44.79
2	1,501-5,500	70.00	73.21	83.53
3	5,501-25,000	27.55	29.03	32.21
4	25,001 & over	21.36	22.23	25.85

Subsistence rates - within Ireland

Overnight rates (from 1 April 2017)			Day rates (from 1 April 2017)	
normal rate	reduced rate	detention rate	10 hours or more	between 5 & 10 hours
€133.73	€120.36	€66.87	€ 33.61	€ 14.01

Notes: The day rate applies in respect of a continuous absence of 5 hours or more from the employee's normal place of work, provided the employee is not absent at a place within 5km of home or normal place of work. Advice should be taken before proceeding with any payments.

Travel and subsistence expenses for Non-Executive Directors (NEDs)

From 1 January 2016, non-resident NEDs are exempt from income tax, USC and PRSI on vouched travel and subsistence costs incurred for the purposes of attending board meetings in Ireland.

With effect from 1 January 2017, vouched travel and subsistence costs incurred by and Irish resident NED will also be exempt from income tax, USC and PRSI, provided that their income from that office does not exceed €5,000 per annum.

For more information Contact:

Mary O'Hara
Partner
t: +353 (0)1 792 6215
e: mary.ohara@ie.pwc.com

Sean Walsh
Senior Manager
t: 353 (0)1 792 6543
e: sean.walsh@ie.pwc.com

Employee share schemes

Unapproved employee share schemes

Unapproved share option schemes

Where an employee receives an unapproved share option, a charge to income tax arises on exercise. Income tax may also arise at grant if the option is at a discount and is capable of being exercised 7 years after the date of grant. The taxable amount on exercise is the excess of the market value of the share over the option price. Income tax, the Universal Social Charge (USC) and employee PRSI must be remitted by the employee along with a Form RTSO1 within 30 days of exercise.

Free or discounted share schemes

Where free or discounted shares are awarded, a tax charge arises for the recipient. The taxable benefit is equal to the fair market value of the shares at the date when beneficial ownership is transferred, less the employee's purchase price, if any. As a general rule, Restricted Stock Unit (RSU) plans also fall within this category. Employers are obliged to withhold income tax, USC and employee PRSI through the PAYE system when the shares are delivered to employees.

Restricted shares and forfeitable shares

Where share awards are 'restricted' such that the individual is precluded from selling the shares for a certain period of time, and certain other conditions are met, the taxable value of the shares can be abated. The prohibition on disposal must be absolute and for genuine commercial reasons. The permitted abatement is determined by the period of years for which the restriction applies (e.g. 10% for a one-year restriction, 20% for a two-year restriction) up to a maximum 60% abatement for a restriction of greater than five years. The abated market value will also be used when calculating the USC and employee PRSI exposures. Employer withholding of income tax, USC and employee PRSI through the PAYE system is required. If shares are awarded subject to forfeiture and a qualifying forfeiture ultimately occurs, employees may seek tax, USC and PRSI rebates where tax is paid in the year of acquisition.

PRSI position for unapproved share awards and share options

All forms of share based remuneration are now liable to an employee PRSI charge. There is no employer's PRSI charge on any share based remuneration.

Key Employee Engagement Programme (KEEP)

KEEP is a new employee engagement programme which was announced in Finance Act 2017. The scheme is aimed at assisting unquoted (and certain quoted) SMEs to attract and retain key employees. There are a number of conditions for the company and its employees to meet but broadly, subject to meeting those conditions, it is a tax favoured option scheme which allows the employer to grant options at market value to certain or all employees and will enable the employee to defer taxation until the disposal of those shares. On the ultimate sale of those shares, the employee will be subject to CGT at 33% (rather than income tax at up to 52% which applies to unapproved share options).

There is no pre-approval process for the scheme or the share valuation but the employer has a requirement to report details of options granted or exercised to Revenue no later than 31 March following the year of assessment. The scheme applies to options granted on or after 1 January 2018 and before 1 January 2024.

Planning tip!

Employer PRSI costs of 10.85% could be saved by remunerating employees with shares in the employer or parent company rather than cash.

Planning tip!

Employees may be entitled to claim a reduction of between 10% and 60% in the taxable value of company shares received if there is an absolute restriction imposed on the sale of the shares and other conditions are met.

Revenue approved employee share schemes

Approved profit sharing schemes

Employees are exempt from income tax on shares received, up to the value of €12,700 annually, from Revenue approved profit sharing schemes. However, employee PRSI and USC apply on appropriation and must be

Employee share schemes

collected via employer payroll withholding. Significant employer PRSI savings are still available. To avoid an income tax liability, the shares must be held in trust for a total of three years. The profit sharing scheme must be available to all employees on similar terms. A disposal of shares may give rise to a capital gains tax liability.

Save As You Earn (SAYE) approved share option schemes

Options under a Revenue approved SAYE scheme can be granted at a price discounted by up to 25% of the market value of the share. To fund the exercise of the option, employees must commit to regular monthly savings (maximum €500) from after-tax income, over a period of 36 or 60 months. The SAYE scheme must be open to all employees on similar terms. Subject to certain requirements, options granted under SAYE schemes are not liable to income tax on grant or exercise. However, the gain on exercise is subject to employee PRSI and USC (collected via employer payroll withholding for current employees). Capital gains tax may arise on the sale of the shares.

Planning tip!

Shares delivered through a correctly structured and Revenue-approved share scheme (e.g. APSS and SAYE) are exempt from income tax (up to 40% saving) and employer PRSI (10.85% saving).

Employer reporting requirements

Companies are required to submit annual returns reporting any unapproved share scheme activity during the year. This information is reportable on Form RSS1. Only the grant, exercise, release and assignment of share options and other similar rights are required to be declared on Form RSS1 which must be filed electronically by employers. The statutory reporting deadline is 31 March following the end of the relevant tax year. Other share awards which are subject to employer payroll withholding (e.g. RSUs, Restricted shares, Forfeitable shares) are not required to be reported on Form RSS1. Withholdings due on such share awards should be remitted with the company's P30 return for the month in which the shares are delivered.

Real Time Reporting

From 2017 onwards, any taxable share awards provided to employees and the associated withholdings need to be separately disclosed in the company's annual P35 return.

Annual scheme returns are also required for all approved share schemes. The reporting deadline is also 31 March following the end of the relevant tax year. In the case of approved profit sharing schemes, the trustees also have separate e-filing reporting obligations to meet by 31 October following the end of the tax year.

Tax treatment of loans from employee benefit schemes

Anti-avoidance legislation was introduced in 2013 to counteract tax avoidance schemes where an employer, instead of paying salary or bonus, places funds in an unapproved employee benefit scheme (usually a discretionary trust located outside the State) or other structure from which an employee (including former or future employees or any connected person) receives, on or after 13 February 2013, loans or other assets from the scheme with no tax arising under general or benefit-in-kind income tax provisions. This anti-avoidance legislation is consistent with UK legislation intended to combat what is described as "disguised remuneration".

These anti-avoidance measures will not apply to schemes that are approved by Irish Revenue such as Approved Profit Sharing Schemes, Employee Share Ownership Trusts or Occupational Pension Schemes. Revenue have also confirmed that these provisions are not intended to impact on the current tax treatment of unapproved share option schemes, restricted shares (clog schemes) or RSUs.

Employee share schemes

Contact us:

Pat Mahon
Partner
t: +353 (0)1 792 6186
e: pat.mahon@ie.pwc.com

Tara Murray
Director
t: +353 (0)1 7925465
e: tara.g.murray@ie.pwc.com

Liam Doyle
Director
t: +353 (0)1 792 8638
e: liam.doyle@ie.pwc.com

PRSI

Rates

Earnings	Employer	Employee
Class A - most employed persons		
€38 - €352 inclusive per week	8.6%	Nil
€352.01 - €376 per week	8.6%	4%*
€376.01 - €424 per week	10.85%	4%*
€424.01 per week or more	10.85%	4%
Class S - self-employed people, including certain company directors	N/a	4%

*Subject to PRSI Credit

Employee/Employer PRSI (Class A)

PRSI is charged on employment earnings including most benefits. Employees (known as "employed contributors" in PRSI legislation) who earn less than €352 in any week are not required to pay employee PRSI in that week, however employer PRSI is still due. Where the employee's weekly earnings are between €352.01 and €424, the 4% employee PRSI charge is reduced by a tapered PRSI credit up to a maximum of €12 per week.

Employed contributors who are also self-assessed taxpayers are liable to PRSI on unearned income (e.g. rental profits). Previously, employed contributors were exempt from making PRSI contributions on such income. This change applies to employees with significant amounts of non-employment income (generally more than €5,000 per year) who, for this reason, are required to submit an annual Form 11 self-assessment tax return. Such unearned income is liable to PRSI under Class K at 4%.

Certain taxable lump sum payments made to employees on leaving an employment (including redundancy and ex-gratia) are not liable to PRSI. However, the Universal Social Charge (USC) may still need to be applied to any taxable element of such payments. Most employed persons are liable to PRSI at Class A; however, other classes may apply in certain circumstances (e.g. certain public sector employments or employees aged over 66).

All share awards, share options and Revenue approved share schemes (APSS / SAYE) are liable to employee PRSI. Share-based remuneration is generally exempt from employer PRSI but liable to USC. No deduction is available in calculating either employer or employee PRSI contributions in respect of payments made by employees to pensions.

Self-employed PRSI (Class S)

Self-employed persons are liable for PRSI contributions in respect of income from a trade or profession or from investment income. The contributions are payable on income net of capital allowances. The minimum contribution payable for 2018 is €500. Payment must be included with preliminary tax, which is payable on or before 31 October each year.

Invalidity Pension and Treatment benefit entitlements are available to self employed individuals under certain conditions in 2018.

Planning tip!

The question of social insurance liability for Irish people working abroad and those coming to Ireland to take up employment should not be overlooked. Careful planning for international assignments can help to reduce or eliminate the often higher cost of social insurance abroad, particularly in mainland Europe. However, the impact in respect of benefits available must also be considered.

Planning tip!

Employer pension contributions qualify for full relief in calculating employee and employer PRSI contributions. This is something that should be considered by employers when deciding on a reward policy for employees.

PRSI

PRSI classification of working directors

Before 1 July 2013, the PRSI status of working directors was decided on a case-by-case basis under general employed v self-employed principles, including the guidelines outlined in the Code of Practice for Determining the Employment or Self-employment Status of Individuals.

From 1 July 2013, proprietary directors who own or control 50% or more of the shareholding of the company, either directly or indirectly, are considered self-employed contributors and are liable to pay PRSI at Class S on income from the company. Interestingly, the Act also provides that such directors are also insurable under Class S in respect of duties carried out in the period before 1 July 2013. However, should a working director believe that Class S should not apply before this date, then formal confirmation must be obtained from the Department of Social Protection.

The PRSI class of individuals who own or control less than 50% of the shareholding of the company will continue to be determined under general principles.

The above rules do not apply to the PRSI classification of non-executive directors. In the absence of an employment contract, fees paid to such directors will generally be subject to Class S contributions.

Universal Social Charge

The Universal Social Charge (USC)

The USC is payable on gross income after relief for certain trading losses and capital allowances, but before relief for pension contributions.

2018 Bands	Rate	2017 Bands	Rate
€0 - €12,012	0.5%	€0 - €12,012	0.5%
€12,013 - €19,372	2%	€12,013 - €18,772	2.5%
€19,373 to €70,044	4.75%	€18,773 to €70,044	5%
€70,045 and above	8%	€70,045 and above	8%
€100,000 and above (self-assessed income only)	11%	€100,000 and above (self-assessed income only)	11%

Individuals aged over 70 or individuals in possession of a full medical card pay the USC at a maximum 2% rate on income above €12,012 provided their 'aggregate' income for the year is €60,000 or less. 'Aggregate income' does not include payments from the Department of Social Protection. A 'GP only' card is not considered to be a full medical card for USC purposes.

Planning tip!

Social welfare payments are not considered reckonable earnings and are exempt from PRSI and the Universal Social Charge. In certain circumstances, there is now the potential for these payments to be made directly to the employer. It is possible with careful planning to reduce both employee and employer PRSI costs in this area where employees continue to be paid while taking certain leave of absence.

Contact us:

Ken O'Brien
Director
t: +353 (0)1 792 6818
e: ken.obrien@ie.pwc.com

Pension schemes

Certain rules apply throughout the pensions cycle. These are summarised below as follows:

- Pension contribution rules - the amount of pension contributions that can be made by individuals and employers
- Pension accumulation rules – the limits on how much pension benefits can be built up in a tax efficient manner for an individual
- Pension distribution rules - the options that are available at retirement and their tax treatment

Pension contribution rules – for employers

Employers qualify for tax relief when they make pension contributions to approved pension plans on behalf of their employees. Employees, on their part, are exempt from Income Tax, PRSI and Universal Social Charge (USC) where those employer contributions are made to an occupational pension scheme. Previously, a liability to USC arose where the employer made pension contributions on behalf of employees to a Personal Retirement Savings Account (PRSA). The USC liability no longer applies in respect of employer contributions on or after 1 January 2016.

For occupational pension schemes, there is no specific monetary limit on the amount of employer pension contributions that can be made but overall pension benefits at retirement must fall within certain limits set by Irish Revenue (see below regarding 'pension distribution rules').

For PRSA plans (see below) an unrelieved benefit-in-kind charge arises on the excess where employer contributions to the PRSA (when combined with the employees') exceed the age related contribution limits outlined below. The unrelieved contribution can be carried forward and relieved in future years subject to the age related contribution limits.

Pension contribution rules – for individuals, the earnings limits

There are tax rules and limits regarding personal contributions made to approved pension plans. These limits apply to employees who pay towards occupational pension schemes or Additional Voluntary Contribution (AVC) arrangements. The rules also apply where individuals contribute to Retirement Annuity Contracts (RACs) and where individuals and their employers both pay into a Personal Retirement Savings Account (PRSA):

- individuals can make pension contributions based on their annual earnings (employment or self-employed income) subject to a maximum annual earnings limit of €115,000
- personal contributions to a pension plan qualify for tax relief but not for PRSI or USC relief

Pension contribution rules – for individuals, the age related limits

In addition to the earnings limit of €115,000 above, there is also an age related limit for individual pension contributions to approved pension plans. The percentage of an individual's earnings (subject to the upper limit of €115,000 above) that qualifies for tax relief at the individual's marginal tax rate each year is based on age as follows:

Age attained during tax year	Maximum % of earnings/limit
Less than 30	15%
30 but less than 40	20%
40 but less than 50	25%
50 but less than 55	30%
55 but less than 60	35%
60 and over	40%

These are the upper percentage limits that apply where both an employer and an individual pay into a PRSA plan for that employee. For certain specified occupations and professions a minimum rate of 30% applies for individuals aged under 50.

Pension accumulation rules – the lifetime pensions limit

Whilst there are annual earnings and age related limits for individual pension contributions, (the contribution rules can be more generous where employers make pension contributions to an occupational pension scheme) there is also an overall lifetime pensions limit beyond which pension funds cease to be tax efficient. The rules are broadly as follows:

Pension schemes

- the maximum tax relieved pension fund limit from all pension arrangements is €2 million (unless a personal fund threshold has been previously agreed with Revenue). Where the aggregate value of all pension funds (which have been crystallised since 7 December 2005) at retirement exceeds the lifetime pensions limit, the excess is chargeable to exit tax at 40%
- in addition, the pension payable to the individual, net of the 40% exit tax above, may be further liable to marginal rate income tax etc, leading to penal effective rates of tax of around 70% on funds above the threshold
- pension funds are tested against the limit when they are crystallised (i.e. generally speaking at the time of drawdown). For Defined Contribution Schemes it is the value at the time of crystallisation that is used. For Defined Benefit Schemes separate valuation principles are used i.e. the value is determined using capitalization factors
- for private sector employees and the self-employed, the exit tax on the pension value that exceeds the limit is generally deducted from a member's retirement benefits prior to the payment of the net benefits to the individual
- if the pension scheme discharges the tax without reducing member benefits, this will be treated as a further benefit and a 're-grossing' will be required to calculate the correct tax due
- public service employees can, subject to certain rules, discharge any such taxes by way of a reduced pension lump sum, by a reduced pension over a specified period or by settlement from their own resources
- public sector employees with separate pension arrangements in respect of private sector income can elect to encash their private sector pension, subject to certain conditions, and pay a once-off tax at their marginal tax rate, USC and PRSI on a lump sum withdrawal from their private pension. Encashed private pensions are not counted towards the overall lifetime pensions limit

Pension distribution rules – occupational pension schemes – the maximum pension allowed

Where an employer establishes an occupational pension scheme to provide pension benefits to its employees at retirement, the following is the maximum pension that can be provided:

- a pension of up to 2/3rds of final remuneration provided that the employee has completed at least ten years of service to their normal retirement age. This overall pensions limit applies to defined benefit or defined contribution type pension schemes and is inclusive of all contributions made by both an employer and an employee and any retained benefits (pensions from former employments/self-employments)

Pension distribution rules – occupational pension schemes – the maximum lump sum allowed

Occupational pension schemes generally allow members to opt for the first portion of their pension benefits in the form of a lump sum. The rules are as follows:

Pension lump sum

- a lump sum of up to 1.5 times final remuneration can be taken for members of defined benefit pension schemes and for members of defined contribution schemes who elect for 'old rules' (i.e. a lump sum based on salary and service, with the remaining fund being used to buy an annuity for life)

or

- defined contribution members and defined benefit members owning more than 5% of the company that employs them can instead elect for a pension lump sum of up to 25% of the value of the pension fund where they choose Approved Retirement Fund (ARF) options (see below)

Taxable portion of the lump sum

When applying the limits below all pension lump sums (from all Revenue approved pension plans) taken since 7 December 2005 are aggregated in determining how the current lump sum is taxed. The amounts are as follows:

- first €200,000 is tax free

Pension schemes

- next €300,000 at the standard rate of income tax (20%) but not PRSI or USC. The standard rate income tax (20%) paid under this rule is available as a credit against tax due where pension benefits exceed the lifetime pensions limit (see 'Pension accumulation rules' above)
- balance liable to marginal rate income tax, USC and PRSI. The marginal rate income tax paid is not available as a credit against tax due where pension benefits exceed the lifetime pensions limit

Pension distribution rules – PRSA and personal pensions

The self-employed (and employees who are not members of an occupational pension plan with their employer) can save for their retirement using a PRSA or a Retirement Annuity Contract (RAC), collectively referred to as personal pension plans. For personal pension plans, there is no specific Revenue maximum pension that can be taken at retirement (as there are with occupational pension schemes where an employee's salary and service with the employer are relevant). However, the total value of personal pension plans must remain below the lifetime limits referred to above to avoid the penal taxation rates.

Rules from 25 December 2016 were introduced requiring that the value of PRSA and RAC contracts are automatically tested against the lifetime limits when a person reaches age 75. Certain transitional rules apply.

For personal pension plans, the lump sum is calculated as 25% of the value of the fund. The taxation of the lump sum and aggregation rules outlined above apply.

Pension distribution rules – Approved Retirement Funds (ARFs)

At retirement, and as an alternative to buying a pension/ annuity for life, certain individuals can opt to invest in an ARF. An ARF is a fund that is used by an individual to generate income during retirement. On death, any remaining value in the ARF can be passed on to the individual's survivors. No tax applies on ARFs transferred to a spouse/ civil partner, but a tax of 30% applies where the ARF unwinds and is left to one's children (over 21). Different rates of tax apply depending upon the relationship of the beneficiary to the deceased.

ARF rules can be summarised as follows:

- ARF options are available to those with personal pension plans (RAC contracts and PRSA contracts), to AVC holders, to those in defined contribution occupational pension schemes and those in defined benefit occupational pension schemes where they own/control more than 5% of the voting shares of the company that employs them (i.e. proprietary director)
- in the case of buy-out bonds, Revenue has advised that, where the funds have transferred directly from a defined benefits scheme, the individual can now avail of the ARF options irrespective of whether they were a proprietary director or not
- to invest funds in an ARF at retirement, an individual must have at least €12,700 of other annual pension income already in payment. If the individual cannot satisfy this minimum income test they must initially invest the first €63,500 of pension funds in an approved minimum retirement fund (AMRF). From 1 January 2015 holders of AMRFs are permitted to draw up to a maximum of 4% per annum from the fund. The AMRF becomes subject to the ARF drawdown rules on the earlier of reaching age 75, death or meeting the €12,700 annual pension income test
- after satisfying the €12,700 pension income test, or the approved minimum retirement fund test, the balance of funds can be invested in an ARF
- in the ARF (or vested PRSA), tax is payable under the PAYE system based on the amount of the distributions taken from the ARF. There is a minimum distribution requirement from the ARF outlined in the table below. The minimum distributions are based on the value of the ARF at 30 November each year, with a credit for any actual distributions that were made during the year
- from 1 January 2015 the following table applies in relation to deemed distribution rules for ARFs and vested PRSAs:

Pension schemes

Age for whole of tax year	Where the value of all ARFs is under €2m Deemed distribution %	Where the value of all ARFs is over €2m Deemed distribution %
Aged under 61	0%	0%
Aged 61 to 70	4%	6%
Aged 70 and over	5%	6%

Treatment of ARF Distributions for Double Taxation Agreements

The Irish Revenue have updated their Pension Manual to confirm that they do not regard ARF distributions as a pension for the purpose of the eliminating double taxation. This is likely to result in a Irish PAYE withholding tax on the majority of the amount of the distribution.

Limited access rules for Additional Voluntary Contributions (AVCs)

Was available for a limited period of 3 years up to 26 March 2016 and is now expired.

Planning tip!

Remember pensions tax relief is one of the few remaining tax shelters available at an individual's marginal tax rate.

Employer contributions are more tax efficient than employee contributions

The Lifetime Limits and Lump lifetime limits apply separately to each individual

Contact us:

Munro O'Dwyer, Partner
Corporate Pensions
t: +353 (0)1 792 8708
e: munro.odwyer@ie.pwc.com

Roger Murphy, Senior Manager
Personal Pensions
t: +353 (0)1 792 6527
e: roger.murphy@ie.pwc.com

Capital gains tax

Individuals resident or ordinarily resident in Ireland are liable to capital gains tax ("CGT") on gains from worldwide disposals. Individuals resident or ordinarily resident, but not domiciled, in Ireland are liable to CGT on gains arising on the disposal of assets situated in Ireland and on all other foreign gains (with the exception of gains on certain funds) to the extent that those gains are remitted to Ireland. Individuals neither resident nor ordinarily resident are liable on gains made on the disposal of certain 'specified assets'. These include land and buildings situated in Ireland and shares deriving the greater part of their value from such assets.

Irish resident companies are liable to corporation tax in respect of 'chargeable gains' arising on worldwide disposals while non-resident companies are liable to CGT in respect of gains arising on disposals of 'specified assets' which includes, in addition to the above, certain assets used or held for the purposes of an Irish branch/trade. Further details on corporate CGT, including certain reliefs available, is included in the Business Taxation section.

Rates

- The CGT rate is 33% (effective from 6 December 2012; previously 30%). Lower rates, 15% for a partnership / individual and 12.5% for a company, may apply in relation to chargeable gains arising on the receipt of a "carried interest", being a share of profits in certain venture capital funds engaged in research, development or innovation activities.
- In arriving at the chargeable gain on the disposal of an asset that was acquired prior to 31 December 2002, the allowable cost is to be adjusted for inflation based on the consumer price index up to that date. Indexation factors for disposals in 2018 are as follows:

Year expenditure incurred**	Factor	Year expenditure incurred	Factor
1974/75	7.528	1989/90	1.503
1975/76	6.080	1990/91	1.442
1976/77	5.238	1991/92	1.406
1977/78	4.490	1992/93	1.356
1978/79	4.148	1993/94	1.331
1979/80	3.742	1994/95	1.309
1980/81	3.240	1995/96	1.277
1981/82	2.678	1996/97	1.251
1982/83	2.253	1997/98	1.232
1983/84	2.003	1998/99	1.212
1984/85	1.819	1999/00	1.193
1985/86	1.713	2000/01	1.144
1986/87	1.637	2001	1.087
1987/88	1.583	2002	1.049
1988/89	1.553	2003 onwards	1.000

**Note: For all years to 2000/2001 inclusive, a year means a 12 month period commencing on 6 April and ending on the following 5 April.

**Note: In the case of disposals of development land, inflation relief is restricted to the current use value of the asset, with associated incidental costs, at the date of acquisition

Capital gains tax

Losses

Losses in any year are set off against chargeable gains arising in the same year. Unused losses may be carried forward indefinitely. Capital losses cannot generally be carried back. Capital losses arising in relation to disposals to a connected person may only be used to shelter chargeable gains on disposals to that same connected person. Gains on development land may only be offset by losses on development land. Inflation relief may not operate to convert a monetary gain into an allowable loss or to increase a monetary loss.

Planning tip!

Review your asset portfolios prior to year end to consider whether any losses can be crystallised in order to mitigate CGT liabilities.

Planning tip!

Review your property portfolios to see whether any property/land acquired between 7.12.11 and 31.12.14 will qualify for CGT relief where they have been held for 4 years or more.

Exemptions and reliefs

The following are some of the main exemptions and reliefs available:

- Annual exemption €1,270. For married couples or civil partners the exemption is €1,270 each (non-transferable).
- Transfers between spouses/civil partners are generally treated as disposals on which no gain/loss will arise.
- The gain on the disposal of an individual's principal private residence. Certain restrictions may apply where the residence has development potential, has been used for business purposes and/or where the property was not the individual's principal private residence for the entire period of ownership.
- An exemption may be available on some or all of gains arising on the disposal of certain land or buildings purchased between 7 December 2011 and 31 December 2014. With effect from 1 January 2018, full CGT relief will apply on the disposal of a qualifying property if it has been held for at least four years to a maximum of 7 years from the date of acquisition. Where the property is held for a period in excess of 7 years, the relief is allowed in the proportion that the seven years bears to the total period of ownership.
- A gain on the disposal of a dwelling home occupied rent-free by a dependent relative.
- Entrepreneur Relief – pre 2016. This measure provides a CGT tax credit to individuals who use the proceeds of a disposal, made on or after 1 January 2010 and upon which CGT has been paid, to acquire certain chargeable business assets as an "initial risk finance investment" in the period 1 January 2014 to 31 December 2018. This tax credit is available on a subsequent disposal of the chargeable business asset.

  Where this disposal takes place on or after 1 January 2016, Revised Entrepreneur Relief (outlined below) will instead apply unless the CGT payable is higher under the Revised Entrepreneur Relief than the amount payable under the original Entrepreneur Relief.
- Revised Entrepreneur Relief – Finance Act 2015 provides for a revised entrepreneur relief for individuals applying to disposals of chargeable business assets from 1 January 2016. A reduced rate of CGT of 10% currently applies to qualifying disposals up to a lifetime limit of €1 million.

  A qualifying business for the purposes of the relief excludes businesses which consist of the holding of investments, the holding of development land or the development or letting of land. The qualifying business assets, which are subject to a number of exclusions, must have been owned for a continuous period of not less than 3 years in the 5 years immediately prior to their disposal. Where the business is carried on by a private company, an individual holding no less than 5% of the shares in the

Capital gains tax

company may qualify for relief. The individual must have been a director or employee of the company, spending not less than 50% of their working time in the service of the company in a managerial or technical capacity for a continuous period of 3 years in the period of 5 years immediately prior to the disposal.

The relief can also apply to shares in a holding company whose business consists wholly or mainly of holding at least 51% of the shares in one or more companies carrying on a qualifying business (a "qualifying group"). The individual must have been a director or employee as above of one or more members of the qualifying group.

Finance Act 2017 introduced some new measures which are largely tax avoidance measures which can deny relief in certain circumstances, e.g. where shares are being transferred to a company to which the individual is connected after the transfer or certain restrictions where incorporation relief has been claimed. However it is worth noting that these new amendments would not apply where there are bona fide commercial reasons for the disposal and the transaction is not a tax avoidance scheme.

- The gain on the sale of Irish government securities. Although no chargeable gain can arise on these assets, any accrued interest income in the consideration may, in certain circumstances, be charged to income tax.
- Disposals of individual works of art which are valued at not less than €31,740 when loaned to an approved gallery or museum for public display for a minimum period of ten years.
- Retirement Relief for an individual aged 55 years or more on disposal of a business or a farm owned for ten years or more (which can also include assets held personally but used in the trade). An individual is not required to retire in order to avail of this relief. Where the disposal is to a child, and the person making the disposal is under 66 years of age, full CGT retirement relief may apply regardless of the consideration received. Where the person making the disposal is 66 years of age or over, the relief is limited to the amount that would apply if the proceeds (or market value in the case of a gift) were capped at €3 million. For the purpose of this exemption, a "child" includes a nephew or niece who has worked in the business substantially on a full-time basis for the period of five years ending with the disposal, or a child of a deceased child. The relief is limited to proceeds of €750,000 (€500,000 in the case of a person aged 66 years or over) where the disposal is not to a child of the individual.

Finance Act 2017 introduced some amendments to retirement relief which are largely anti-avoidance measures and can apply in certain circumstances, e.g. where shares are being transferred to a company to which the individual is connected after the transfer or certain restrictions where incorporation relief has been claimed. However it is worth noting that where the transactions are undertaken for bona fide commercial reasons and do not form part of a tax avoidance scheme these provisions will not apply.

Retirement relief is extended to disposals of leased farmland where certain conditions are met. Land which has been leased for up to 25 years in total ending with the disposal of that land will now qualify for relief. In all cases, the person making the disposal must have owned and been farming the land for at least 10 years prior to the first letting.

The subsequent disposal must be to a child (including a niece or nephew who farms the land) or to another individual provided the disposal took place before 31 December 2016 or the land is being disposed of to an individual to whom it was leased for farming purposes and each letting of the land was for a period of at least 5 consecutive years.

Land let on a conacre basis will now qualify provided the land was disposed of by 31 December 2016 or was leased before that date for a minimum period of 5 years (and a maximum of 25 years) ending with the disposal.

- CGT exemption on gains arising from the disposal by farmers to active farmers of payment entitlements under the "Single Payment Scheme" where those entitlements were fully leased

Capital gains tax

- CGT relief for farm restructuring where a sale, purchase or exchange of land occurs in the period from 1 January 2013 to 31 December 2019, provided certain conditions are met.
- CGT exemption on gains arising on the transfer of a site of up to 1 acre from a parent to a child provided it is for the construction of the child's principal private residence and the market value of the site does not exceed €500,000.

Impact of debt write-off

It is worth noting that there is a restriction on the base cost allowable in calculating the gain/ loss on disposal of a chargeable asset in situations where a loan or part of a loan, relating to the purchase or enhancement of the disposed asset, has been forgiven or written off by the lender.

This provision applies to borrowings incurred by the person making the disposal or to borrowings of a connected person. It does not apply to a debt write-off between group companies or to a debt write-off in respect of exempt assets in certain circumstances. The provision will be academic where the investor concerned has plentiful other CGT losses available for offset but may create a real tax cost in other circumstances and should be borne in mind in debt negotiations.

Planning tip!

Consider the tax impact of debt write off in any debt negotiations to ensure that all potential tax costs are factored into the discussions.

Self-assessment – payment and returns

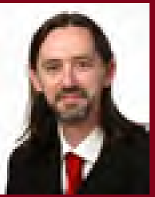
Individuals

- 15 December 2018 - payment of CGT for disposals made from 1 January 2018 to 30 November 2018.
- 31 January 2019 - payment of CGT for disposals made from 1 December 2018 to 31 December 2018.
- 31 October 2018 - filing of 2017 return of income (including gains). This deadline can be extended if filing online (see page 45).

Companies

- The payment dates for CGT in respect of gains arising to companies are set out on page 11.

Contact us:



Tim O'Rahilly
Partner
t: +353 (0)1 792 6862
e: timothy.orahilly@ie.pwc.com

Marie Flynn
Director
t: +353 (0)1 792 6449
e: marie.flynn @ie.pwc.com

Capital acquisitions tax

General

Capital acquisitions tax ("CAT") comprises principally gift and inheritance tax. CAT applies in the case of a person becoming beneficially entitled to property, either by way of a gift or on a death, for less than full consideration. The charge to CAT for gifts or inheritances will generally arise where:

- the disponer (the person providing the benefit) is resident or ordinarily resident in Ireland, or
- the beneficiary is resident or ordinarily resident in Ireland, or
- the subject matter of the gift or inheritance is situated in Ireland

Special rules apply to non-domiciled disponers and beneficiaries.

Calculation of CAT

Gifts or inheritances taken on or after 5 December 1991 from disponers within the same group threshold (see below) must be taken into account when calculating CAT. These gifts or inheritances serve to reduce, or cancel out, the amount of the tax free threshold available. From 6 December 2012 amounts in excess of the threshold are taxed at 33% (previously 30%).

There are three categories which are based on the relationship between the disponer and the beneficiary:

Group A

Applies where the beneficiary is a child or minor child of a deceased child of the disponer, or a foster child (subject to certain conditions) of the disponer, or a child of the civil partner of the disponer, or a minor child of a deceased child's civil partner. This threshold also applies to inheritances taken by a parent from a deceased child, subject to certain exceptions.

Group B

Applies where the beneficiary is a lineal ancestor, lineal descendant (other than a child, or minor child of a deceased child), a brother, sister, or a child of a brother or sister of the disponer, or a child of a civil partner of a brother or sister of the disponer.

Group C

Applies where the beneficiary is not related as outlined for Group A or Group B.

The thresholds for gifts and inheritances taken on or after 12 October 2016 are:

- Group A €310,000
- Group B €32,500
- Group C €16,250

The Group A threshold for gifts and inheritances taken between 14 October 2015 and 12 October 2016 was €280,000, the Group B threshold was €30,150 and the Group C threshold was €15,075. Different threshold amounts apply to each group for gifts and inheritances taken before 14 October 2015.

Self-assessment – payment and returns

Self-assessment applies to gift and inheritance tax. The pay and file date is 31 October for gifts and inheritances which have a valuation date falling in the 12 month period ending on the previous 31 August. The obligation to file a return only applies where 80% of the group threshold is exceeded and the return is filed by the beneficiary.

Planning tip!

Make use of reduced asset values to transfer wealth to the next generation at a lower tax cost or, where certain reliefs apply, at no tax cost. Remember, you can transfer wealth to the next generation while retaining control over the assets transferred.

Main exemptions

Subject to certain conditions, the following are exempt from CAT:

- the first €3,000 of gifts taken by a beneficiary from any one disponer in a calendar year
- gifts and inheritances between spouses and civil partners
- transfers of property by virtue of any order under the Family Law Acts 1995 or 1996 in relation to a divorce/dissolution
- transfers of property by virtue of any order under the Cohabitants Act 2010 in relation to the break-up of a relationship

Capital acquisitions tax

- an inheritance consisting of a dwelling house that is the only or main residence of the donor at the time of their death and the only or main residence of the beneficiary for three years immediately prior to the date of the inheritance
- a gift or inheritance of a dwelling house that is the only or main residence of the beneficiary who is dependant relative of the donor
- the proceeds of certain life policies
- gifts or inheritances for public or charitable purposes
- certain receipts by a child of the disponer, a child of a civil partner of the disponer, or a person to whom the disponer stands in loco parentis, for support, maintenance and education where the child is under 18, or under 25 if they remain in full-time education.

Main reliefs

- Business relief: a 90% reduction in the market value of a benefit can be applied if the benefit consists of relevant business property (such as unincorporated businesses, shares in certain family companies) where certain conditions are met.
- Agricultural relief: a 90% reduction in the market value of agricultural property (such as agricultural land, livestock and machinery) can be applied where certain conditions are met. For gifts and inheritances taken up to 31 December 2014, the main test for this relief was for the recipient to show that at least 80% of the value of his/her assets after taking the gift/ inheritance was made up of agricultural assets. With effect from 1 January 2015, in addition to the 80% asset test, there is a new “active farmer” requirement. It is important that beneficiaries ensure that this condition is met when claiming the relief.

Discretionary trust

There is a once-off levy of 6% on certain discretionary trusts (and similar entities such as foundations) which may, in particular circumstances, be reduced to 3%. At present the levy becomes payable on the latest of the following events:

- the date the property is placed in trust*
- the date of death of the settlor
- the date on which the youngest principal object of the trust attains the age of 21.

**Property will be treated as being subject to a discretionary trust on the date of death of the disponer where the discretionary trust is created in the disponer’s will.*

Discretionary trusts (and similar entities such as foundations) which are liable to the once-off levy are also liable to an annual levy of 1%.

Planning tip!

Consider the impact of inheritance tax when planning your will. You should ensure that your will is tax efficient. Remember that separate wills are needed for foreign assets.

Contact us:

Tim O’Rahilly
Partner
t: +353 (0)1 792 6862
e: timothy.orahilly@ie.pwc.com

Beryl Power
Senior Manager
t: +353 (0)1 792 6285
e: beryl.power@ie.pwc.com

Local taxes

Local taxes known as 'rates' are not based on income but rather are levied on the occupiers of business property by reference to a deemed rental value of the property concerned. The level of rates levied can depend on the region in which the property is located. Rates are an allowable deduction for corporation tax purposes.

Local authorities are also empowered to levy charges on all occupiers for specific services (e.g. water supply). These charges are also deductible for corporation tax purposes.

Environmental Taxes

Emissions allowances

Irish tax legislation contains provisions dealing with the tax treatment of emission allowances under the EU Emissions Trading Scheme. The legislation distinguishes between allowances acquired free of charge from the Environment Protection Agency under the EU Scheme and those which are purchased.

Allowances which are purchased are treated as trading assets, subject to corporation tax treatment. Allowances which are acquired free of charge are subject to capital gains tax treatment.

Carbon tax

Ireland levies a carbon tax on mineral oils (e.g. auto fuels, kerosene) which are supplied in Ireland. The rate of carbon tax broadly equates to EUR 20 per tonne of CO2 emitted. Relief applies where mineral oils are supplied to Emissions Trading Scheme (ETS) installations, to combined heat and power plants or for electricity generation. Relief also applies to biofuels.

Carbon tax also applies to natural gas and solid fuel where supplied for combustion. Again, reliefs apply where these fuels are supplied to ETS installations, CHP plants, for electricity generation or for use in chemical reduction, electrolytical or metallurgical processes.

Reliefs also apply for solid fuels which contain a high biomass content. The relief will be determined by reference to the level of biomass content of the solid fuel.

Plastic Bag Tax

In Ireland, a levy (currently 22 cent per bag) is imposed upon consumers provided with a plastic bag when purchasing goods in supermarkets and other retail outlets. Under the applicable legislation, retailers are obliged to collect 22 cent in respect of every plastic bag or bag containing plastic, regardless of size, unless specifically exempted, that is provided to customers and remit all plastic bag levies collected to Irish Revenue. As a result of the levy, most non-supermarket retailers provide paper carrier bags, and many supermarket retailers offer for sale 'bags for life' (i.e. re-usable bags), which are not subject to the environmental levy.

Contact us:

Ronan MacNioclais
Partner
t: +353 (0)1 792 6006
e: ronan.macnioclais@ie.pwc.com

Mary Douglas
Director
t: +353 (0)1 792 7024
e: mary.douglas@ie.pwc.com

Customs and excise

Customs

Goods imported into Ireland from countries outside the European Union ("EU") are liable to customs duty at the appropriate rates specified in the EU's Combined Nomenclature (CN) Tariff. These rates vary from 0% to 14% for industrial goods, with much higher rates applicable to agricultural products. Imports may qualify for a partial or full reduction in rates in specific circumstances.

The three main elements ("customs duty drivers") that determine the duty liability arising on goods imported into the EU from a non-EU country are (i) the product's commodity code (Tariff Classification); (ii) its customs valuation; and (iii) its origin. Each of these elements will need to be considered when determining the customs duty cost at import.

There are special customs procedures which allow for the import of goods into the EU from non-EU countries with full or partial relief from customs duty or under a suspension of customs duty. Examples of these are Customs Warehousing, Inward and/or Outward Processing End Use Relief, and Temporary Admission. There are different conditions attached to each customs special procedure and an analysis of the trade footprint of the importer of the goods will need to be considered in order to determine whether or not they may avail of one of these reliefs. These procedures are important and are in place with the intention of stimulating economic activity within the EU.

Excise

Excise duties are charged on mineral oils (including petrol and diesel), alcohol products (including spirits, beer, wine, cider and perry) and tobacco products where they are consumed in Ireland. Reduced rates of excise duty may apply when setting up a microbrewery in Ireland (depending on production quantities). Since 1 January 2017, natural gas and biogas used as vehicle gas are also liable to excise duty by way of a Mineral Oil Tax. Natural Gas Carbon Tax no longer applies to supplies of vehicle gas.

In addition, a diesel rebate scheme was recently introduced in Ireland . It provides hauliers or coach/bus owners with an opportunity to claim a partial refund of excise duty paid on fuel used in specifically designated vehicles for the purposes of transporting goods or passengers.

Excise duties are not charged on the export or sale of excisable goods to other EU countries but special control arrangements apply to the intra-EU movement of such goods.

In addition, Ireland applies excise duties to electricity, betting and the first registration of vehicles in the State (the latter is known as VRT). The current VRT regime for motor vehicles is based on a CO2 emissions rating system and charged on the "open market selling price" of the vehicle. Specific reductions in VRT apply to electric and hybrid vehicles subject to certain conditions being met. A repayment of VRT may be claimed at export under certain conditions. In addition there are reliefs available for cars imported temporarily by non-residents, or imported on transfer of residence to Ireland (such VRT reliefs require prior approval from the Customs authorities).

A new "sugar tax" will be introduced in Ireland in April 2018. This tax will apply to most beverages and concentrates of beverages which contain 5g or more of sugar per 100ml. The tax is payable at the point of first supply within Ireland. There are reliefs available for certain types of beverages, exports or returned products. Its operating provisions will be significantly different to those applied in the UK.

Customs and excise

Contact us:

John O'Loughlin
Director
t: +353 (0)1 792 6093
e: john.p.oloughlin@ie.pwc.com

Deirdre Lavery
Senior Manager
t: +353 (0)1 792 5989
e: deirdre.lavery@ie.pwc.com

Tax contacts

Tax & Legal Services Leader

Joe Tynan

Business taxation

Alan Bigley
Private Clients
Pensions

Paraic Burke
Domestic & International Structuring
Consumer Products & Retail

Marie Coady
Financial Services & International Structuring

Jean Delaney
Inward Investment & International Structuring
Customs & Trade

Liam Diamond
Inward Investment & International Structuring

Enda Faughnan
Financial Services & International Structuring
Real Estate

Ronan Finn
Transfer Pricing

Denis Harrington
Inward Investment & International Structuring

Harry Harrison
Inward Investment & International Structuring

Mary Honohan
Inward Investment & International Structuring, Consumer Products & Retail

Susan Kilty
Inward Investment & International Structuring, Technology, InfoComms, Entertainment & Media, Global Compliance Services

Brian Leonard
Financial Services & International Structuring
Aviation Leasing

Ronan MacNioclais
Domestic & International Structuring,
Carbon Tax, Energy & Renewables, Mergers & Acquisitions

Teresa McColgan
Private Companies, Not-for-Profit, Health & Education

Jim McDonnell
Financial Services & International Structuring

Ilona McElroy
Financial Services & International Structuring,
Real Estate

James McNally
Tax Reporting, Strategy and Corporate Tax Compliance,
Pharmaceuticals

Stephen Merrimen
R&D Tax Credits

John Murphy
Domestic & International Structuring, Technology Companies, Mergers & Acquisitions

Colm O'Callaghan
Private Companies, Domestic & International Structuring

Carmel O'Connor
EU Taxes, Consumer Products & Retail, Payroll, Company Administration Services

Terry O'Driscoll
Domestic & International Structuring,
Consumer Products & Retail,
Mergers & Acquisitions

Munro O'Dwyer
Corporate Pensions

John O'Leary
Financial Services & International Structuring

Tim O'Rahilly
Private Clients, Real Estate

Gavan Ryle
Transfer Pricing

Colin Smith
Domestic & International Structuring, Industrial and Consumer Products,
Technology and Retail

Yvonne Thompson
Financial Services & International Structuring,
Aviation Leasing

Joe Tynan
Inward Investment & International Structuring,
Technology, InfoComms,
Entertainment & Media, R&D Tax Credits, Intellectual Property

Tax contacts

Individual taxation

Pat Mahon
Employment Taxes, Share Incentive Schemes, Revenue Audits

Mary O'Hara
Employment Taxes, Reward, Workforce Reshaping

Doone O'Doherty
Employment Taxes, Global Mobility

VAT

Sean Brodie

Tom Corbett

Caroline McDonnell

Cork

Nicola Quinn

Mid West

Anita Kissane

South East

Ronan Furlong

Dublin

One Spencer Dock,
North Wall Quay, Dublin 1
Tel +353 (0) 1 792 6000

Cork

1 South Mall, Cork
Tel + 353 (0) 21 427 6631
Fax + 353 (0) 21 427 6630

Galway

Harris House,
IDA Small Business Centre,
Tuam Road, Galway
Tel + 353 (0) 91 764 620
Fax + 353 (0) 91 764 621

Kilkenny

Leggetsrath Business Park,
Dublin Road, Kilkenny
Tel + 353 (0) 56 770 4900
Fax + 353 (0) 56 776 5962

Limerick

Bank Place, Limerick
Tel + 353 (0) 61 212 300
Fax + 353 (0) 61 416 331

Waterford

Ballycar House, Newtown,
Waterford
Tel + 353 (0) 51 874 858
Fax + 353 (0) 51 872 312

Wexford

Cornmarket, Wexford
Tel + 353 (0) 53 915 2400
Fax + 353 (0) 53 915 2440

Appendix 1

Withholding tax on payments from Ireland

Country	Dividends	Interest	Royalties
	%	%	%
Non-Treaty Countries	20	20	20
Albania	0/5/10	0/7	7
Armenia	0/5/15	0/5/10	5
Australia	0	10	10
Austria	0	0	0
Bahrain	0	0	0
Belarus	0/5/10	0/5	5
Belgium	0	15 [2]	0
Bosnia Herzegovinia	0	0	0
Botswana [5]	0/5	0/7.5	0/7.5
Bulgaria	5/10	0/5 [2]	10 [2]
Canada	5/15	0/10	0/10
Chile	5/15	5/15	5/10
China	5/10	0/10	6/10
Croatia	5/10	0	10 [2]
Cyprus	0	0	0/5 [2]
Czech Republic	5/15	0	10 [2]
Denmark	0	0	0
Egypt	5/10	0/10	10
Estonia	5/15	0/10 [2]	5/10 [2]
Ethiopia [5]	5	0/5	5
Finland	0	0	0
France	20	0	0
Georgia	0/5/10	0	0
Germany	5/15	0	0
Greece	5/15	5 [2]	5 [2]
Hong Kong	0	0/10	3
Hungary	5/15	0	0
Iceland	5/15	0	0/10
India	10	0/10	10
Israel	0	5/10	10
Italy	15	10 [2]	0
Japan	0	10	10
Kazakhstan [6]	0/5/10	0/10	10
Korea (Republic of)	0	0	0
Kuwait	0	0	5
Latvia	5/15	0/10 [2]	5/10 [2]
Lithuania	5/15	0/10 [2]	5/10 [2]
Luxembourg	0	0	0
Macedonia	0/5/10	0	0
Malaysia	10	0/10	8
Malta	5/15	0	5 [2]
Mexico	5/10	0/5/10	10
Moldova	5/10	0/5	5
Montenegro	0/5/10	0/10	5/10
Morocco	6/10	0/10	10
Netherlands	0/15	0	0
New Zealand	0	10	10
Norway	0/5/15	0	0
Pakistan	5/10	0/10	0
Panama	5	0/5	5
Poland	0/15	0/10 [2]	10 [2]
Portugal	15	0/15 [2]	10 [2]
Qatar	0	0	5

Appendix 1

Withholding tax on payments from Ireland (continued)

Country	Dividends	Interest	Royalties
	%	%	%
Romania	3	0/3 [2]	0/3 [2]
Russia	10	0	0
Saudi Arabia	0/5	0	5/8
Serbia	5/10	0/10	5/10
Singapore	0	0/5	5
Slovak Republic	0/10	0	0/10 [2]
Slovenia	5/15	0/5 [2]	5 [2]
South Africa	5/10	0	0
Spain	0	0	5/8/10 [2]
Sweden	0	0	0
Switzerland	0	0	0
Thailand	10	0/10/15	5/10/15
Turkey	5/15	10/15	10
Ukraine	5/15	5/10	5/10
United Arab Emirates	0	0	0
United Kingdom	5/15	0	0
United States	5/15	0	0
Uzbekistan	5/10	5	5
Vietnam	5/10	0/10	5/10/15
Zambia	7.5	0/10	8/10

Note 1:
Domestic legislation may also provide an exemption from the dividend withholding tax subject to providing the necessary documentary evidence of qualification. An exemption may also be available under the EU Parent-Subsidiary Directive.

Note 2:
The EU Interest and Royalties Directive may provide an exemption from withholding tax for payments between associated companies.

Note 3:
In general, in the case of royalties withholding tax applies only to patent royalties.

Note 4:
Under domestic legislation withholding tax will not apply if the loans or advances are for a period of less than one year or if the interest is paid in the course of a trade or business to a company resident in an EU or treaty country and that country imposes a tax that generally applies to foreign interest receivable.

Note 5:
Treaty in effect from 1 January 2017.

Note 6:
Treaty in effect from 1 January 2018.

Appendix 2

Withholding tax on payments to Ireland

Country	Dividends %	Interest %	Royalties %
Albania	0/5/10	0/7	7
Armenia	0/5/15	0/5/10	5
Australia	15	10	10
Austria	10 [1]	0	0/10 [2]
Bahrain	0	0	0
Belarus	0/5/10	0/5	5
Belgium	15 [1]	15 [2]	0
Bosnia Herzegovinia	0	0	0
Botswana [5]	0/5	0/7.5	0/7.5
Bulgaria	5/10 [1]	0/5 [2]	10 [2]
Canada	5/15	0/10	0/10
Chile	5/15	5/15	5/10
China	5/10	0/10	6/10
Croatia	5/10	0	10 [2]
Cyprus	0	0	0/5 [2]
Czech Republic	5/15 [1]	0	10 [2]
Denmark	0/15 [1]	0	0
Egypt	5/10	0/10	10
Estonia	5/15 [1]	0/10 [2]	5/10 [2]
Ethiopia [5]	5	0/5	5
Finland	0/15 [1]	0	0
France	10/15 [1]	0	0
Georgia	0/5/10	0	0
Germany	5/15 [1]	0	0
Greece	5/15 [1]	5 [2]	5 [2]
Hong Kong	0	0/10	3
Hungary	5/15 [1]	0	0
Iceland	5/15	0	0/10

Country	Dividends %	Interest %	Royalties %
India	10	0/10	10
Israel	10	5/10	10
Italy	15 [1]	10 [2]	0
Japan	10/15	10	10
Kazakhstan [6]	0/5/15	0/10	10
Korea (Republic of)	10/15	0	0
Kuwait	0	0	5
Latvia	5/15 [1]	0/10 [2]	5/10 [2]
Lithuania	5/15 [1]	0/10 [2]	5/10 [2]
Luxembourg	5/15 [1]	0	0
Macedonia	0/5/10	0	0
Malaysia	10	0/10	8
Malta	5/15 [1&3]	0	5 [2]
Mexico	5/10	0/5/10	10
Moldova	5/10	0/5	5
Montenegro	0/5/10	0/10	5/10
Morocco	6/10	0/10	10
Netherlands	0/15 [1]	0	0
New Zealand	15	10	10
Norway	0/5/15	0	0
Pakistan	10	0/10	0
Panama	5	0/5	5
Poland	0/15 [1]	0/10 [2]	10 [2]
Portugal	15 [1]	0/15 [2]	10 [2]
Qatar	0	0	5
Romania	3 [1]	0/3 [2]	0/3 [2]
Russia	10	0	0
Saudi Arabia	0/5	0	5/8

Appendix 2

Withholding tax on payments to Ireland (continued)

Country	Dividends	Interest	Royalties
	%	%	%
Serbia	5/10	0/10	5/10
Singapore	0	0/5	5
Slovak Republic	0/10 [1]	0	0/10 [2]
Slovenia	5/15 [1]	0/5 [2]	5 [2]
South Africa	5/10	0	0
Spain	0/15 [1]	0	5/8/10 [2]
Sweden	5/15 [1]	0	0
Switzerland	5/10/15	0	0
Thailand	10	0/10/15	5/10/15
Turkey	5/10/15	10/15	10
Ukraine	5/15	5/10	5
United Arab Emirates	0	0	0
United Kingdom	5/15 [4]	0	0
United States	5/15	0	0
Uzbekistan	5/10	5	5
Vietnam	5/10	0/10	5/10/15
Zambia	7.5	0/10	8/10

Note 1:
A complete exemption from dividend withholding tax may be available under the EU Parent-Subsidiary Directive.

Note 2:
A complete exemption from interest and royalty withholding tax may be available under the EU Interest and Royalties Directive.

Note 3:
Malta tax on gross amount of the dividend shall not exceed that chargeable on the profits out of which the dividends are paid.

Note 4:
The UK does not operate dividend withholding tax.

Note 5:
Treaty in effect from 1 January 2017.

Note 6:
Treaty in effect from 1 January 2018.

www.pwc.ie