## Finance Bill 2015 Headlines
22 October 2015

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INCOME TAX

The Bill contains provisions to enact the changes to tax rates announced by the Minister in his Budget speech.

Universal Social Charge

The Bill contains provisions to enact the reduction in the USC rates announced in the budget i.e.

- Income up to €12,012 – Rates reduced from 1.5% to 1%.
- Income from €12,013 to €18,668 – Rates reduced from 3.5% rate to 3%.
- Income between €18,669 - 70,044 – Rates reduced from 7% to 5.5%
- Income between €70,045 - €100,000 – 8% (no change)
- PAYE Income in excess of €100,000 – 8% (no change)
- Self-employed income in excess of €100,000 – 11% (no change)

Furthermore the Bill provides that employer contributions to a Personal Retirement Savings Account (PRSA) in respect of an employee will no longer attract a USC liability for the employee.

Self employed

As announced in the Budget the Bill includes a tax credit of €550 for self-employed individuals.

Expenses for foreign non-executive directors

The Bill includes a provision giving an exemption from income tax and USC for the vouched expenses of travel and subsistence expenses of non-resident, non-executive directors in attending business meetings of the company. This measure provides certainty that business requires that such expenses may be paid/reimbursed without deduction of tax following the change in Revenue practice in July 2014 which introduced uncertainty on the treatment of these expenses for non-executive directors.

Home Renovation Incentive

The Bill confirms that the Home Renovation Incentive is being extended until 31 December 2016. The Incentive provides for tax relief by way of an Income Tax credit at 13.5% of qualifying expenditure on repair, renovation or improvement works carried out on a main home or rental property by qualifying Contractors.

Employee Vouchers
There is an existing Revenue administrative concession whereby employees may receive a voucher to the value of €250 without any income tax, USC or PRSI applying. The Bill puts this on a statutory footing and increases the limit to €500.

**Transfer of Assets Abroad**

The transfer of assets abroad anti-avoidance legislation has been amended to seek to make it compatible with EU law. It has also been broadened to capture non-domiciled individuals who are chargeable to income tax on the remittance basis.

**Woodlands**

Further to the Budget announcement the Bill legislates for the removal of profits or gains from the occupation of woodlands from the High Earners’ Restriction. The change is effective from 1 January 2016.

**BUSINESS TAX MATTERS**

**Knowledge Development Box**

The Bill contains measures relating to the introduction of a Knowledge Development Box. The Knowledge Development Box provides that profits from patented inventions and copyrighted software (qualifying assets) earned by an Irish company can, to the extent it relates to R&D undertaken by that company, be taxed at a rate of 6.25%.

The relief is available to companies for accounting periods beginning on or after 1 January 2016 and before 1 January 2021.

The amount of the profits arising from the qualifying assets that can avail of the relief will be determined by the proportion that the Irish company’s R&D costs bear to the total R&D costs incurred on the qualifying assets. The total R&D costs could also include expenditure on R&D performed by other group companies or amounts paid to acquire intellectual property.

The qualifying expenditure includes the cost of R&D that is outsourced to unrelated parties but excludes expenditure on R&D performed by related parties and the costs of acquired intellectual property. By way of compensating for this excluded expenditure, an additional “uplift” provides that qualifying expenditure may be increased by the lower of (i) 30% of qualifying expenditure or (ii) the aggregate of amounts paid to related parties and to acquire intellectual property.
From 1 January 2016, detailed records are required to be maintained to track a company’s entitlement to the relief and transitional measures are provided for qualifying expenditure incurred before 1 January 2016 on existing assets producing current and future income.

The measures provide for each qualifying asset to be treated separately for the purposes of the Knowledge Development Box. However, an exception is provided for a “family of assets” where a number of qualifying assets are so interlinked that it would be impossible to apply the relief by treating each qualifying asset separately.

A company which claims the payable R&D tax credit will not receive a larger payable tax credit because of the operation of this relief.

In order to determine qualifying income, large companies must apply transfer pricing rules to any inter-company transactions that are relevant to the relief and also to any apportionments required between the company’s normal trading activities and the activities that qualify for the reduced rate. Small companies are not required to apply transfer pricing rules but must apportion income, where required, on a “just and reasonable” basis.

Any loss incurred by a company on activities that qualify for the relief are available for relief against other profits on a value basis.

The Bill contains measures to give Revenue power to consult with experts in relation to specific aspects however, a right of appeal is provided if disclosure to an expert would be prejudicial to a company’s trade or business.

The Bill also contains measures to extend the Knowledge Development Box to small companies with income arising from intellectual property of less than €7.5 million and turnover (or group turnover where that company is a member of a group) of less than €50 million. The measure extends the definition of qualifying assets for a small company to inventions that are certified as being novel, non-obvious and useful. The extension of the Knowledge Development Box to small companies is subject to ministerial order.

**Country-by-Country Reporting**

As announced in the Budget, the Finance Bill contains the rules relating to the introduction of Country-by-Country Reporting. The format of the Irish report will follow that specified in the OECD guidance and the obligation to file will apply for accounting periods commencing on or after 1 January 2016.

Irish parents of groups with turnover in excess of €750 million will be obliged to file within 12 months of the year end. The Revenue Commissioners will be making regulations relating to the manner and form in which a country-by-country report is to be provided. These regulations, amongst other things, shall contain provisions relating to the nomination of an Irish company as a
surrogate parent company with obligations to file a report if a report has not been filed in another jurisdiction for the group.

Failure to make a return or the filing of an incorrect or incomplete return will bring a penalty of €19,045 plus €2,535 for each day on which the failure continues.

**Deposit Interest Retention Tax (“DIRT”)**


**Relief for investment in films**

The Bill contains a number of amendments to the film tax credit such as (i) clarification of the definition of broadcaster and (ii) an increase in the cap on qualifying eligible expenditure from €50 million to €70 million. The increase in qualifying eligible expenditure is subject to a Ministerial Order.

In addition to the above, the Bill contains amendments to the information disclosure requirements for the credit in order to bring our disclosure obligations in line with those specified in the relevant EU guidelines.

**Relief from tax for certain start-up companies**

As highlighted in the Budget, the Bill contains measures to extend the three year tax relief for start-up companies to start-up companies which commence a new trade over the next three years.

**Employment Investment and Incentive Scheme**

As announced by the Minister on Budget day, the Bill provides for changes to the Employment Investment and Incentive Scheme (“EII”), including:

- A number of technical amendments to the terms of the EII in order to ensure that the relief complies with State Aid provisions.
- The scheme is extended to include companies who already own and operate nursing homes who raise EII funding in order to extend the nursing home or residential care units associated with the nursing home.
- An amendment to the additional employment requirements in order to qualify for EII relief.

The above measures apply to shares issued on or after 13 October 2015.
Farming and market gardening

As announced by the Minister on Budget day, the Bill provides for a number of amendments to certain tax reliefs for farmers, including:

- An extension to the period for which stock relief is available until 31 December 2018.
- A number of technical amendments to the Registered Farm Partnership regime.
- Introduction of an annual €5,000 tax credit for Succession Farm Partnerships, a succession planning model that encourages older farmers to form partnerships with young trained farmers and to ultimately transfer ownership of the farm to that young trained farmer.

The above amendments are subject to a Ministerial Order.

Capital Allowances – Aviation Services Facilities

The Bill contains amendments to the scheme of capital allowances for the construction of facilities used in the maintenance, repair, and overhaul and dismantling of aircraft to comply with State Aid rules. The scheme comes into operation with effect from 13 October 2015.

Allowances for capital expenditure on scientific research

Where a company carrying on a trade incurs capital expenditure on scientific research and makes a claim for an allowance the company may claim a full tax deduction for the cost of this capital expenditure. The Bill contains measures to ensure any asset representing such capital expenditure on scientific research is in use for the purposes of scientific research at the end of the chargeable period and to ensure that capital allowances are not claimed in respect of the same expenditure.

Petroleum Production Tax

Finance Bill 2015 contains measures introducing a new tax called the Petroleum Production Tax (“PPT”). The PPT will apply in the case of any oil and gas exploration authorisations first awarded after 18 June 2014 and replaces the Profit Resource Rent Tax. The PPT will apply on a field by field basis, calculated on a field’s net income at a rate that is determined by reference to the profit ratio of the oil or gas field having regard to the cumulative gross revenues and field costs. A summary of the keys measures contained is the Bill is set out as follows:

- The PPT will be payable in addition to the existing 25% rate of corporation tax that applies to the profits from oil and gas production.
- The PPT payments will be deductible for the purposes of calculating the amount of corporation tax due.
• The operation of the PPT regime will result in a maximum marginal tax take on a producing field of 55%.
• Once a field starts producing oil or gas, a minimum PPT payment of 5% will be payable in each year of production on the gross revenue of a field.
• The ultimate PPT amount due on each field will be determined on a sliding scale depending on profitability of the field.
• The PPT is applicable for accounting periods beginning on or after 18 June 2014.

FINANCIAL SERVICES TAX MATTERS

Encashment Tax

The Bill contains measures which extends the encashment tax return and payment deadlines from 20 days to 46 days after the year of assessment.

Life Assurance Companies – Declarations

The Bill contains a measure which removes the requirement that a declaration of non-residence be completed at or about the time of inception of a life policy. This means that a gain will not be treated as arising on a chargeable event in relation to a life policy provided the relevant declaration has been made prior to the chargeable event.

Unit Trusts and Offshore Funds

Finance Bill 2015 amends the definition of collective investment undertaking to include an authorised Irish Collective Asset-management Vehicle. This amendment clarifies the application of treaty benefits for Irish Collective Asset-management Vehicles in the context of the Double Taxation Agreement between Ireland and the United States.

AIFs

The Bill contains a technical amendment for non-resident investors in an Alternative Investment Fund (“AIF”). The amendment clarifies that a non-resident investor in an AIF will not be brought within the charge to Irish tax in respect of income or gains from the fund solely as a result of the AIF being managed by an independent Irish AIF Manager.

Additional Tier 1 Capital Instruments

The Bill contains a measure to deal with the tax treatment of Additional Tier 1 capital instruments issued by banks and provides that such instruments will be treated as debt instruments from a tax perspective.
CAPITAL GAINS TAX

CGT Entrepreneurs Relief

The Bill introduces a new 20 percent capital gains tax (“CGT”) rate for gains realised by entrepreneurs on disposal of certain business assets (as defined) on or after 1 January 2016. The relief is capped at a lifetime limit of €1 million of chargeable gains. In order to avail of the relief, the entrepreneur must have owned the chargeable business assets for at least 3 years. The relief can apply to the disposal of private (but not public) companies. However, the individual must have owned at least 15% of the shares in the company and also have been a full time working director in the company for at least 3 years prior to sale.

CGT Withholding

The threshold for deducting 15% CGT withholding (in the absence of a tax clearance certificate) from the purchase price of houses or apartments has increased from €500,000 to €1m. The amendment does not apply to other asset classes.

CGT Attribution

The CGT provisions which seek to attribute capital gains of certain non-resident companies to Irish residents will no longer apply to a gain on the disposal of an asset if it can be shown to the satisfaction of the Revenue Commissioners that the disposal was made for bona fida commercial reasons and one of the main purposes of the transaction is not be the avoidance of tax.

CGT Group Relief

Certain capital gains deferral provisions will not apply where assets are transferred to an authorised ICAV. This mirrors the existing anti-provisions for transfers to other gross roll up funds.

Reconstruction Relief

The CGT reconstruction relief in respect of the transfer of the whole or part of a company's business to another company will no longer apply from 22 October 2015 unless the reconstruction is effected for bona fida commercial purposes and one of the main purposes of the transaction is not the avoidance of tax.

CGT on Non-Residents

At present, the sale by a non-resident of shares which derive the greater part of their value from certain specified Irish assets (e.g. land and buildings) is within scope of Irish CGT. With effect from 22 October 2015, any cash transferred to the non-resident company by a connected person prior to
the share disposal will be ignored when calculating if the shares derive the greater part of their value from Irish specified assets if one of the main purposes of the transfer is the avoidance of tax.

**Section 23 Properties**

Where a Section 23 rental property was sold post 1 January 2012 there was an anomaly in the legislation that unintentionally restricted a capital loss. This has now been rectified. Taxpayers that sold a Section 23 rental property post 1 January 2012 may wish to review their computations to see if an increased capital loss is available.

**Standard Life**

Irish resident shareholders in Standard Life whose forms electing to take B shares in respect of the return of value by the company in early 2015 were delayed in the post will be treated as having received a capital payment within the scope of CGT rather than income tax.

**INDIRECT TAX**

**Anti-Fraud measures**

The Bill contains a number of measures to combat fraud including;

- Measures which will extend the VAT reverse-charge mechanism to certain supplies in the wholesale gas and electricity sector and to gas and electricity certificates. In such instances, the recipient, rather than the supplier, will account for VAT on a reverse-charge basis.
- Measures which will allow the Revenue Commissioners, following the cancellation of a person’s VAT number, to notify that person’s suppliers of the cancellation and to publish details of the cancellation.
- Proposed amendments to excise legislation which seek to strengthen the power of the Revenue Commissioners in seizing equipment and records when investigating suspected excise fraud.

**Exempt activities**

- The Bill contains a measure which seeks to clarify the application of the VAT exemption in respect of education and training. The relevant exemption will only apply when the activity is carried out by a
“recognised body”, as defined in the Bill. The Bill also confirms that the exemption applies to tuition given privately by teachers covering school or university education. An associated measure in the Bill will allow the Revenue Commissioners to make a determination that a specified educational activity is subject to VAT where its exemption creates a distortion of competition.

- The Bill also includes a measure which will extend the VAT exemption for on-line betting and betting exchange services to such services when provided to customers located outside the State.
- The Bill contains a measure which confirms that VAT exemption applies to the management of certain investment funds known as ICAVs (Irish Collective Asset-management Vehicle).

**Clarification measures**

The Bill contains measures that seek to clarify the following:

- that any adjustment to a VAT return, including by way of a supplementary or amended return, is subject to the same provisions regarding the imposition of penalties as the original VAT return.
- that the Revenue Commissioners may cancel a VAT registration number of a person.
- that the special margin scheme which applies to the supply of certain goods cannot be applied to cross-border supplies of new means of transport.

**Other measures**

- Irish VAT legislation allows the Revenue Commissioners to issue an assessment in certain cases (e.g. where a taxpayer has failed to file a VAT return). The Bill contains a measure which will ensure that, where a person seeks a refund of an excess of tax paid on foot of an estimated demand, that accountable person must make a claim for a refund of that excess of tax.
- Irish VAT legislation contains anti-avoidance measures which deal with supplies of completed properties between connected persons. The Bill includes a measure which extends these rules to supplies of incomplete properties.
- The Bill confirms the Budget increases in the rates of Tobacco Products Tax which, when Value-Added Tax is included, amount to 50 cent on a pack of 20
cigarettes in the most popular price category with pro-rata increases on other tobacco products.

- The Bill also contains the measure announced in the Budget which provides that the reduced rate of Alcohol Products Tax available for beer brewed in small breweries may be claimed by remission or by repayment. This is subject to a commencement order.
- Subject to regulations, the Bill includes a measure which will provide a grant to persons who are severely and permanently disabled in respect of the purchase of hydrocarbon oil for vehicles used by that person for transportation. This replaces an existing excise repayment.

**CAPITAL ACQUISITIONS TAX**

As announced in the Budget, the Bill amends the Group A threshold for capital acquisition tax from €225,000 to €280,000 with effect for gifts/inheritances from 14 October. The Group A threshold typically applies to transfers between parents and their children.

**STAMP DUTY**

The Bill contains legislation implementing the changes to stamp duty on ATM cards that were announced in the Budget whereby the existing €5 Stamp Duty on Debit/ATM cards to be replaced with a 12c charge for ATM transactions, subject to a cap of €2.50 or €5 depending on card type.

**OTHER MATTERS**

**Penalties for incorrect returns**

Currently tax law provides for tax-geared penalties for deliberately or carelessly making incorrect returns were tax is owed. The Bill amends the law to ensure penalties also arise where an excessive claim is made for a refund of tax.

**Property**

The Bill provides that property agents must provide an information return including the PPS number of landlords and Local Property Tax number for each residential property, and it also requires Government bodies paying rent or rent supplement to provide the Local Property Tax number for each residential property.
Revenue Powers

The Bill contains various enhancements to the Revenue Commissioners’ powers to seek records and documents from taxpayers and other third parties, including financial institutions.

Common Reporting Standard

The EU Directive implementing the OECD’s Common Reporting Standard is being transposed into Irish law.

Mandatory Disclosure

The Bill addresses the timing of certain obligations under Ireland’s mandatory disclosure regime for tax avoidance transactions.