



Finance Bill 2021 Headlines

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Introduction

Many of the provisions contained in Finance Bill 2021 relate to the tax measures already announced by the Minister for Finance in his Budget speech on 12 October 2021. There are also certain measures in the Bill which were not announced as part of the Budget some of which are highlighted below.

Income tax

Employer-funded health and wellbeing benefits

The Bill provides for certain employer-funded health and wellbeing related benefits to be exempt from benefit-in-kind (“BIK”) treatment for the employee. These include a qualifying medical check-up, COVID-19 testing and influenza vaccinations.

Exemption from income tax – Pandemic Placement Grant

The Bill provides for an exemption from income tax for certain payments made to qualifying students known as the Pandemic Placement Grant. The exemption applies up to a maximum amount of €2,100 per qualifying student.

Exemption from income tax for sale of renewable energy

The Bill provides for an exemption from tax on up to €200 of income annually for persons who sell renewable electricity to the National Grid.

Electric Vehicles – BIK exemption

The Bill provides for a tapered reduction in the relief available from BIK treatment for employees on the provision of an electric vehicle by their employer.

Deposit interest – trusts

The Bill includes a provision which removes a double charge to tax which currently exists in respect of deposit interest earned by a trust.

Pension amendments

The Bill makes several technical and administrative amendments to the legislation dealing with the taxation of pension schemes. These include:

- removing the requirement to have an Approved Minimum Retirement Fund (AMRF) in the case of individuals availing of the Approved Retirement Fund (ARF) option,

- providing for the ARF option to be available as an alternative to the compulsory purchase of annuities in the case of death-in-service pensions,
- removing the prohibition on transfers from an occupational pension scheme to a Personal Retirement Savings Account (PRSA) for members with more than 15 years service in the scheme, and
- providing for tax relief to be available for pension contributions made by an employer to occupational pensions schemes set up for employees of another company in certain circumstances.

Business tax

Non-resident corporate landlords

The Bill includes provisions that bring certain companies which are not resident in Ireland but are in receipt of Irish sourced rental income within the charge to Irish corporation tax. This will result in Irish source rental profits of such companies being subject to tax at a rate of 25% instead of 20%. In addition, the effect of the change will also bring such companies within the scope of the new general limitation rules on the deductibility of interest expense.

Interest limitation rules

The Bill provides for the transposition into Irish law of general interest limitation rules as provided for under the EU Anti-Tax Avoidance Directive. The new rules will limit the tax deductibility of net borrowing costs to 30% of a taxpayer's EBITDA subject to certain exceptions.

Transfer pricing

The Bill revises the exclusion from the scope of Irish transfer pricing rules available for certain non-trading transactions entered into between persons within the charge to Irish tax. The revised provisions supersede the changes made to the exclusion in last year's Finance Act which were subject to Ministerial Order.

The Bill also includes a provision that requires profits of an Irish branch of a non-resident company to be calculated in accordance with the authorised OECD approach for the attribution of profits to a branch.

Anti-hybrid rules

The Bill provides for a number of technical changes to the Irish anti-hybrid rules which were introduced in Finance Act 2019. In addition, as required under the EU Anti-Tax Avoidance Directives, the Bill also inserts a new chapter which targets certain reverse hybrid mismatch outcomes.

Domestic mergers

The Bill provides for an exemption from capital gains tax for domestic mergers by absorption which aligns the capital gains tax treatment of such mergers with the treatment that currently applies to cross-border mergers within the EU.

Tax relief for film investment

The Bill extends the scope of the relief to payments made directly by a qualifying company to an individual involved in the provision of labour-only services for the purposes of the production of a qualifying film.

Interest on certain connected party loans

The Bill extends the scope of the anti-avoidance provision which restricts the tax deductibility of interest on loans from a connected company used to purchase assets from another connected company. The provision now applies to promissory notes and deems that where a loan is refinanced it remains within the scope of the restriction.

Dividends from pre-migration profits

The Bill amends the scope of anti-avoidance rules applying to the taxation of dividends paid out of pre-migration profits. The purpose of the amendment is to ensure that an interim dividend paid out of profits earned in an accounting period in which a company becomes Irish resident is not deemed to have been paid from profits earned before the company was resident in Ireland.

Relief for investment in corporate trades

The Bill contains a number of technical amendments to the Employment Investment Incentive (“EII”) and Start-Up Relief for Entrepreneurs (“SURE”). These include removing the requirement that an EII / SURE investee company spends 30% of the investment on qualifying purposes before the relevant relief can be claimed.

Indirect tax

VAT

The Bill introduces a change such that VAT refunds will no longer be available on cancellation deposits and charges retained by a supplier. This follows recent European VAT case law which indicated that where a supplier receives a non-refundable payment for a good or service which is not actually consumed by the customer, VAT is nonetheless due on that payment.

The Bill includes a number of technical provisions in relation to VAT grouping. This confirms that at least one member of a VAT group must be VAT registered and that the cancellation of a VAT group can take effect from a date earlier than the Revenue cancellation notice. It also includes provisions to oblige the VAT group remitter to notify Revenue within 30 days if the conditions for VAT grouping are no longer met.

The Bill contains a number of provisions to allow for VAT exemption and zero-rating for goods and services aimed to combat the COVID-19 pandemic. This includes vaccines and in vitro diagnostic medical devices to combat COVID-19.

Excise

The Bill includes a provision to waive excise duty due on the renewal of certain intoxicating liquor licences for the licensing year 2021/2022. This extends the measure introduced in Finance Act 2020 for a second year and is part of the Government's support package for pubs, bars and nightclubs due to the COVID-19 restrictions.

Capital acquisitions tax

Interest free loans

The Bill provides that the annual value of the gift taken by a borrower in the case of an interest free loan will be the lowest borrowing rate available in the market for an equivalent sum.

Delivery of certain returns

The Bill provides that upon request by an Inspector of Taxes the disponent of a gift on which agricultural relief or business property relief is claimed will be required to file a return to Revenue providing certain details in relation to the gift irrespective of whether the gift breaches the relevant 80% group threshold for the recipient.

Stamp duty

Acquisition of multiple residential units

The Bill includes technical amendments to the provisions introduced during 2021 which provided for a new 10% rate of stamp duty on the purchase of multiple residential properties. The technical amendments clarify that apartments and certain leased mortgage to rent and social housing developments are not within the scope of the new 10% rate.

Stamp duty modernisation

The Bill contains several measures intended to streamline and modernise the collection of stamp duties on financial cards, cheques and insurance policies. The pay and file system for the collection of these stamp duties is to be streamlined and fully automated, replacing a system of manual returns and varied payment methods.

Miscellaneous

Mandatory disclosure and automatic reporting

The Bill provides for technical amendments to be made in respect of Ireland's transposition into Irish law of certain EU Directives on the exchange of information and administrative co-operation. The provision also grants powers of enforcement to Irish Revenue to allow enquiries to be made into compliance with the rules and powers to access data in certain instances.

The Bill also includes a provision to transpose into Irish law an EU Directive (DAC 7) that imposes automatic reporting obligations on certain digital platform providers.

Revenue penalties and publication

The Bill includes amendments to the penalties applicable for deliberately or carelessly submitting incorrect tax returns or failing to file returns. The revised provisions largely act to simplify the calculation of the appropriate tax-gearred penalty and the application of the tax defaulter disclosure regime.

The Bill also includes a new section that deals with the publication of the names of tax defaulters and makes amendments to the criteria for publication as well as to the details to be published.

Charities

The Bill includes a provision that allows charities to retain their charitable tax exemption status where that charity is subject to a re-organisation (other than amalgamation) resulting in a change in legal form, provided the body or bodies held Revenue authorisation and had met all relevant conditions prior to restructuring for a period of at least 2 years.

COVID-19 debt warehousing scheme

The Bill extends the COVID-19 special debt warehousing scheme to certain self-assessed taxpayers with a material interest in their employer company.