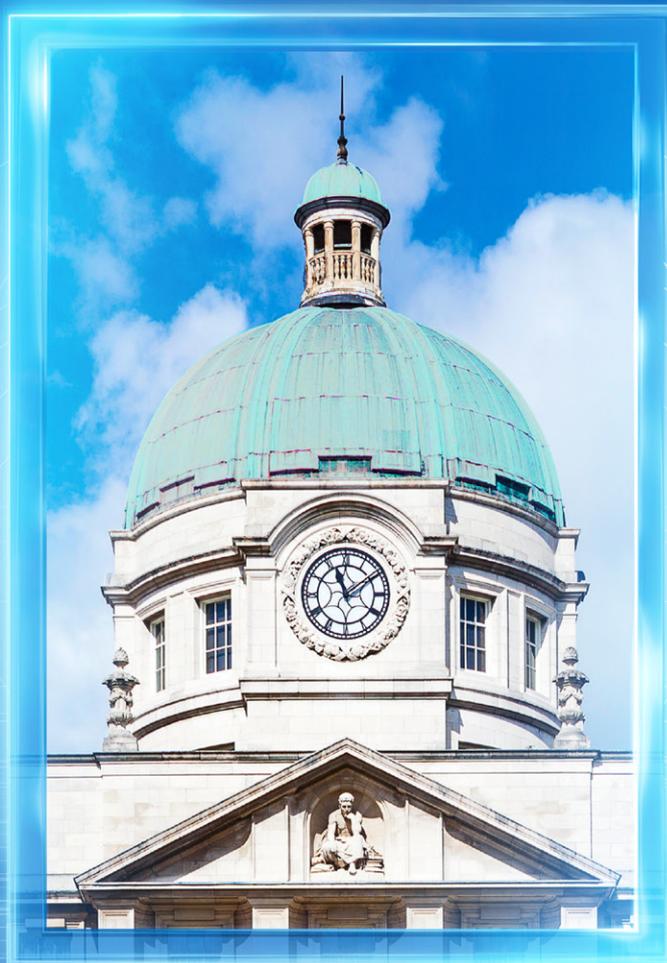




# Taxing Times

**Finance Act 2021 & Current Tax Developments**



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For further information on Finance Act 2021  
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**Tom Woods**  
Partner

# Introduction

The Government published Finance Bill 2021 on 21 October 2021. The Bill contained the taxation measures announced in the Minister for Finance's Budget speech on 12 October 2021 as well as a number of measures not previously announced. As the Report stage is complete, we refer to the Bill in this issue of Taxing Times as Finance Act 2021.

Finance Act 2021 was introduced by the minister with the stated aim of investing in our future, of meeting the needs of today, while putting the public finances on a sustainable path. The Act confirms the tax measures announced in the Budget while also introducing some anti-avoidance and technical changes to the law.

To deal with the continued impact of Covid-19 on certain sectors of the economy, the Act confirms the Budget announcement to extend the Employment Wage Subsidy Scheme (EWSS) until 30 April 2022. It also includes a provision to exempt/zero rate certain Covid-19 related goods and services for VAT purposes.

In his speech on Budget Day, the minister emphasised the importance of tackling both housing and climate change, and supporting entrepreneurs and the wider business community as the core missions of the current Government. The Act contains the following measures:

- The extension of the Help-to-Buy scheme to the end of 2022
- The extension of relief for pre-letting expenses for landlords to the end of 2024
- The introduction of a zoned land tax to encourage the use of vacant land for residential development
- A tax exemption of up to €200 for personal income of individuals who generate energy from renewable, sustainable or alternative energy sources for sale to the grid
- Extension of and amendments to the accelerated capital allowances scheme for energy efficient equipment up to the end of 2024
- Extension of and improvement to the Employment Investment Incentive (EII) scheme for a further three years
- Extension of the relief for certain start-up companies up to the end of 2026
- Subject to European state aid approval, the introduction of a new tax credit for digital games to support the design, production and testing of a digital game

From a personal tax perspective, the Act implements the changes announced in relation to the increases in the income tax standard rate band and income tax credit, along with some minor amendments to the USC bands. It also confirms the income tax deduction for remote working of 30% of the cost of vouched heat, electricity and broadband. In addition, it puts on a statutory footing a number of benefit-in-kind (BIK) related matters that have operated on a concessionary basis up to now and it includes a number of improvements to the tax treatment of pensions.

There are a number of measures in the Act which will impact those in the property sector. These include a measure to bring non-resident corporate landlords within the scope of corporation tax (instead of income tax). This will increase the rate of tax on rental profits for those companies from 20% to 25%. The Act also includes detailed legislation setting out the 3% Zoned Land Tax.

The Act also includes new provisions which will complete the transposition of the EU Anti-Tax Avoidance Directive into Irish law. These include the introduction of anti-reverse-hybrid rules and a new interest limitation ratio which will sit alongside Ireland's existing rules regarding tax deductions for interest. In addition, changes were introduced to align the calculation of the profits of an Irish branch of a non-resident company with OECD guidelines.

Following the significant changes to Ireland's transfer pricing regime in recent years, the Act includes further changes intended to clarify the operation of the exemption for certain transactions between Irish taxpayers.

The total budgetary package of €4.7 billion was based on the Summer Economic Statement which forecasted a combined deficit of €34.5 billion for 2021 and 2022. Based on recent economic activity, this deficit is now forecasted at €21.5 billion, which represents a reduction of nearly 40%. Despite improving public finances, the budgetary package did not change. Recognising that our debt level needs to be managed, it is hoped that there will be investment in more measures to maintain our attractiveness for inward investment and entrepreneurs in the coming year.

**Tom Woods**

Head of Tax & Legal Services

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# Personal Tax



**Robert Dowley**  
Partner



## Universal social charge

The Act provides for the various changes to universal social charge (USC) thresholds for 2022 announced in the Budget. All changes take effect from 1 January 2022.

The changes have been made to reflect the increased minimum wage of €10.50 per hour. The 2% rate remains the highest rate of USC that is charged on the income of full-time minimum wage workers.

The Act provides for the continuation of the cap on USC for medical-card holders aged under 70 with aggregate income not exceeding €60,000. USC for such individuals will remain capped at a rate of 2% until 31 December 2022.

The USC remains capped at a rate of 2% for those aged 70 years and over with aggregate income not exceeding €60,000.

Full details of the revised rates and thresholds are available in the Tax Rates and Credits 2022 table at the end of this publication.

## Tax bands and tax credits

The Act provides for the increase in an individual's standard rate tax band from €35,300 to €36,800. This €1,500 increase is also reflected in the bands for married couples (either with one or two earners), and the band for those claiming the single person child carer credit.

The Act provides for the increases in the personal tax credit, employee tax credit and earned income tax credit from €1,650 to €1,700 respectively.

The availability of a tax credit of €1,500 for sea-going naval personnel has also been extended until 31 December 2022.

All increases apply from 1 January 2022 and full details of the revised bands and credits are available in the Tax Rates and Credits 2022 table at the end of this publication.

## Pandemic Placement Grant

The Act introduces a new section which provides an exemption from income tax for a grant (known as the Pandemic Placement Grant) made by or on behalf of the Minister for Health to undergraduate students who are

included on a register maintained by the Nursing and Midwifery Board of Ireland and who are undertaking a Supernumerary Clinical Placement as part of an undergraduate programme in nursing or midwifery.

This section applies from 1 January 2021 until 31 December 2021 and the maximum exemption amount for each qualifying student is €2,100.

## Micro-generation of electricity

The Minister for Finance proposed in his budget speech a modest tax disregard of personal income received from the sale of surplus electricity by households back to the grid.

The Act provides that in circumstances where an individual who purchases electricity for their own use is able to generate electricity at their sole or main residential premises in Ireland using 'renewable, sustainable or alternative forms of energy' and sell any excess electricity back to the grid, then the profits or gains arising from such sales up to an amount of €200 will be exempted from income tax, USC and PRSI. The exemption does not apply to

profits generated from a trading activity.

The term 'renewable, sustainable or alternative forms of energy' means energy used in the production of electricity, which is mainly sourced from one or more of wind, hydro, biomass, waste, biofuel, geothermal, fuel cells, tidal, solar and wave.

The exemption will be available from 1 January 2022 until 31 December 2024.

### Interest free loans

Capital acquisitions tax ('CAT') has always been required to be applied to the benefit conferred to the recipients of interest free loans. The taxable benefit for CAT purposes is currently calculated by reference to the highest rate of return which the individual giving the loan could obtain by placing the funds on deposit i.e. the deposit interest foregone.

The Tax Strategy Group paper on Capital and Savings Taxes published earlier this year suggested that this is not in accordance with how the taxable benefit is calculated on the free use of other types of property and this difference is particularly stark given prevailing interest rates.

A previous draft of the Act provided that from 1 January 2022, the benefit arising from the free use of money would be determined by reference to the best price that the recipient could obtain if they were to borrow an equivalent sum on the open market. This provision was removed from the Act as a result of a Committee Stage amendment. However, it is likely to be re-introduced at some point in the future once the Government have worked out what an appropriate deeming rate for tax purposes should be and, therefore, the risk of greater imputation than current deposit interest rates should be contemplated in the context of existing loans or possible succession planning.

### Delivery of CAT returns

The Act includes a further change to the delivery of CAT returns. It allows Revenue to request a taxpayer to submit a return if they have received a gift which qualified for either agricultural relief or business relief.

This return can be requested whether or not the taxable value of the aforementioned gift, aggregated with the taxable value of all previous gifts and/or inheritances received since 5 December 2001, exceeds 80% of the relevant threshold.

### Exclusion from the charge to CAT as a gift or inheritance

A minor amendment was made to section 82 CATCA 2003 to exclude not only the receipt of money from betting, lottery and games with prizes from the scope of CAT but also winnings in money's worth from the same activities.

### Principal private residence relief

The Act provides for a change to principal private residence relief whereby an interest in a dwelling house and surrounding lands, which qualified as the principal private residence of the individual or a dependant relative of the individual, is disposed of as part of a lottery or a game for prizes and the proceeds of the lottery or game exceeds the market value of such interest in dwelling house and qualifying surrounding lands at the time of disposal. In this case, the relief is restricted to the gain that would have arisen had the consideration equalled the market value of the asset i.e. relief is not granted in respect of the proceeds of the lottery or game that exceeds the market value of the property at the date of disposal.



# Employment Taxes



**Eoghan Quigley**  
Partner

## Employment Wage Subsidy Scheme ('EWSS')

A central element of the Government's response to the pandemic was the Employment Wage Subsidy Scheme (EWSS), providing much needed cashflow assistance to businesses during the pandemic and maintaining the relationship between the employer and employee.

In keeping with what was announced by the minister in the Budget and fulfilling his prior commitment to there being no 'cliff-edge' end to the EWSS, the Act now confirms that the scheme will be extended until 30 April 2022 in a graduated form.

Currently, to be eligible to participate in the EWSS the employer must be able to demonstrate to the satisfaction of the Revenue that their business has been significantly disrupted by reason of Covid-19. Broadly, employers need to demonstrate they meet a relevant 30% decline in turnover test in order to qualify for the EWSS. Employers are required to review their eligibility criteria at the end of each month to ensure their continued participation in the scheme.

In a welcome move, the Act provides that where an employer is eligible for the EWSS at the end of 2021, there is no longer a requirement to review their business circumstances on a monthly basis during the months of January through to April 2022.

The legislation also confirms that the operational aspects of the scheme will remain unaltered until 31 January 2022. Specifically, this means that the enhanced subsidy rates, reduced employer PRSI rate and employer eligibility criteria will remain in operation until this date.

However, for the month of February 2022, a reduced two-rate subsidy structure of €151.50 and €203 per employee will apply.

The Act confirms in the final phase of the scheme, March and April 2022, a flat rate subsidy of €100 per qualifying employee will be paid. Further, there will be a return to full rates of employer PRSI, with effect from March 2022.

Finally the Act also provides that the scheme will not be open to employers who have not availed of the EWSS by 31 December and so new entrants will not be permitted to avail of the scheme after this date.

## Covid Restrictions Support Scheme ('CRSS')

Finance Act 2020 introduced the CRSS, specifically aimed at sectors impacted by the restrictions set out in the Government's 'Living with Covid-19' plan. The CRSS scheme provides for a weekly cash payment to be made

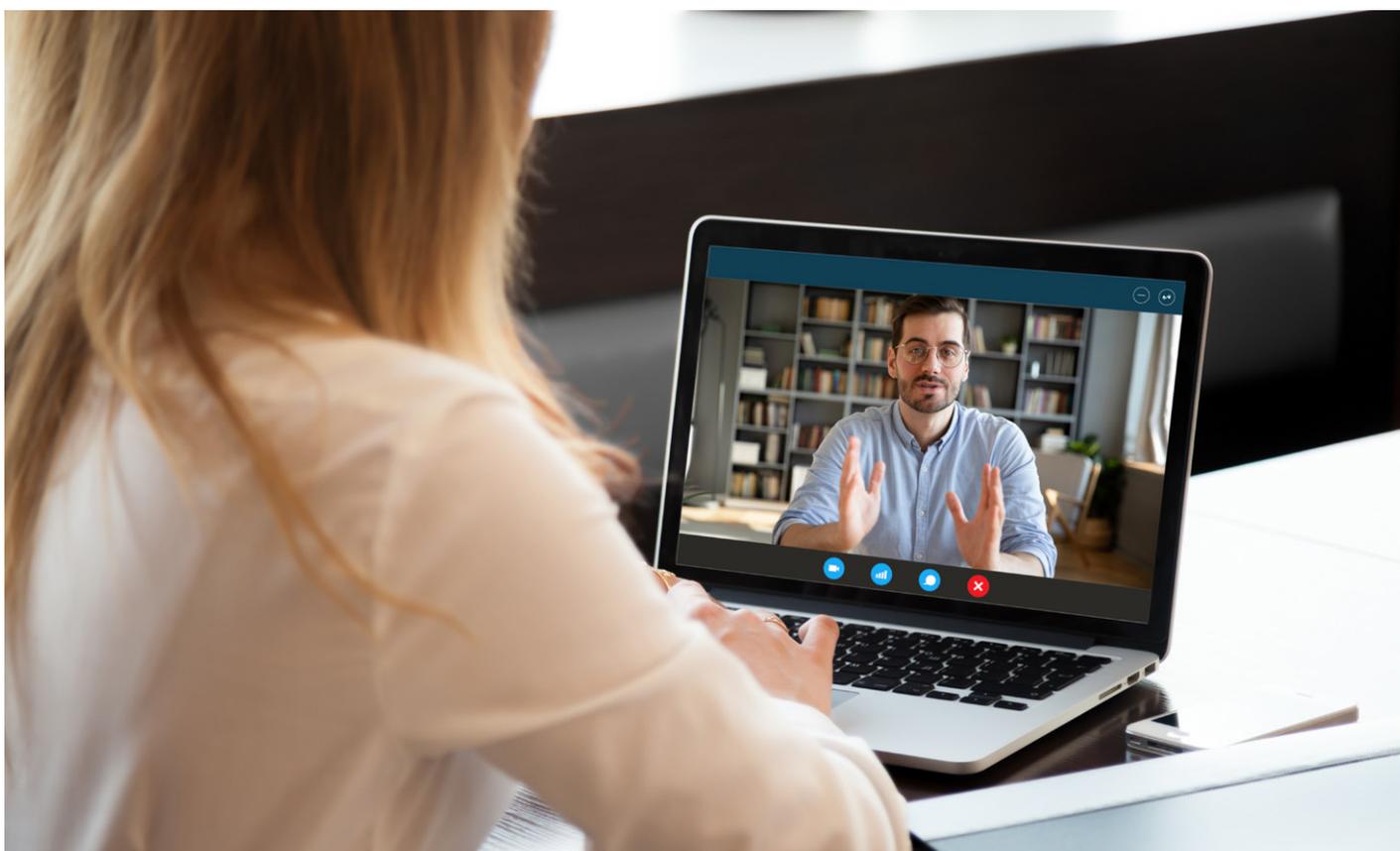
to impacted businesses who meet the qualifying conditions. Finance Act 2021 extends the CRSS for eligible businesses from 31 December 2021 to 31 January 2022, with the potential for a further extension to 30 April 2022 at the minister's discretion.

## Remote working

Covid-19 has fundamentally changed the way in which we work and indeed from where we work. As a result, employers and employees across the country had to adapt very quickly to remote working.

In clear recognition that this trend is set to continue, in the Budget the minister announced an enhancement to the current working from home income tax reliefs with a promise of formal legislation to support the future of remote working by employees.





Consequently the Act includes provisions which permit a claim for an income tax deduction of 30% of the cost of vouched expenses for heat, electricity and broadband in respect of days spent working from home. The legislation incorporates a formulaic approach to the calculation of the relief due and there is also a requirement for the taxpayer to provide full particulars of the relevant expenses.

### Benefit in Kind (BIK) on electric vehicles

The Finance Act confirms Budget day intentions for the special BIK provisions relating to the provision of electric company cars and vans by employers to employees to be extended to 2025.

Presently, employees who are provided with an electric vehicle with an open market value (OMV) of €50,000 or less are entitled to an exemption from a BIK charge. For vehicles with a higher OMV, an amount of €50,000 is deducted from this value to provide the basis for the BIK calculation.

The Act provides that where an electric vehicle, with an OMV of more than €50,000, is provided by an employer, the deduction from the OMV is to be a tapered for BIK purposes with effect from 2023. The OMV will be reduced by €35,000 for 2023, €20,000 for 2024 and €10,000 for 2025 which will result in an increased BIK amount payable by employees.

### Benefit in Kind (BIK) on health and wellbeing related benefits

The Act provides for a very welcome exemption from the normal charge to BIK for employees where an employer incurs an expense in the provision of certain health and wellbeing related benefits to an employee or director, including the following:

- *Medical check-ups* conducted by a qualified medical practitioner where the check-ups are made available to all employees or directors or where the employee/director is required under the terms of their office or employment to undergo the examination. Such a medical check-up can be provided tax free once annually (unless the employee



or director if required to undergo the medical check-up under the terms of their office or employment contract)

- *Access to health care* once such access is granted to all employees and directors
- *Covid-19 testing*, again where the tests are made available to all employees and directors and where the test is necessary for the performance of the duties of the office or employment of the individual. Covid-19 testing for this purpose includes PCR testing in addition to certain compliant rapid antigen tests
- *Flu vaccine*, where the vaccine is made available to all employees and directors. This exemption also applies to the reimbursement by an employer of costs incurred by an employee or director in obtaining a vaccine independently.

The Act puts on a statutory footing a number of the specific Revenue concessions that were provided in 2020 and 2021 in relation to the provision of health and wellbeing related benefits by employers in response to the Covid-19 pandemic.

These formal BIK exemptions will be backdated to 1 January 2021.

### Retirement benefits

The Act provides for a number of improvements to the law governing the operation of certain pension products/schemes as follows:

#### Death in service benefits

Where an employed member of an occupational pension scheme dies in service, the Act provides that their spouse or dependant will be able to take the deceased employee's pension fund as either a pension or transfer the benefits to an Approved Retirement Fund (ARF). Previously, where an employee died while still in service, the option for benefits to be transferred to an ARF was not available. Where the benefits are transferred to an ARF, the normal rules and conditions relating to ARFs will apply.

#### Transfer of occupational pension scheme to PRSA

Previously an employee who was a member of an occupational pension scheme with more than 15 years' service was not permitted to transfer their entitlements from the occupational pension scheme to a Personal Retirement Savings Account ('PRSA'). In a welcome move, the Act removes this time limit such that an employee has the option to transfer their pension entitlements to a PRSA irrespective of the length of service they have had with the relevant employer.

### Abolition of the Approved Minimum Retirement Fund ('AMRF')

Currently, any individual wishing to have the balance of their pension fund (after taking any pension lump sum) transferred to an ARF on retirement must have a guaranteed minimum pension income if under 75 years of age. This minimum pension income requirement is currently €12,700. Where this minimum income requirement is not met, the individual must transfer the lesser of the pension fund or €63,500 to an AMRF. The Act provides for the removal of the AMRF requirement for individuals availing of the ARF option on retirement with effect from the passing of the Act.

The Act also provides that on 1 January 2022 all current AMRFs will become ARFs and will be governed by the rules that apply to ARFs thereafter (with all legislation governing AMRFs being repealed). Fund managers should not accept any assets into an AMRF from 1 January 2022.

### Pension contributions on behalf of employees of another company

Employer contributions paid to an approved occupational pension scheme set up for employees is an allowable expense in computing the profits of the employer's trade or profession. Finance Act 2019 extended this provision to also provide tax relief, in certain circumstances, for pension

contributions made by a company to an approved occupational pension scheme established for the benefit of employees of another company.

Tax relief is available if the following conditions are met:

- i) The contributions are paid on foot of a legally binding agreement between two or more companies within a group, under a scheme of reconstruction or amalgamation, under a merger, under a division or under a joint venture,
- ii) The scheme members are current or former employees of one of the parties to the agreement, and
- iii) The contributions would be deductible if the scheme members were employees of the payor company.

Finance Act 2021 provides for a broadening of condition ii) to ensure that relief is not limited to contributions made for employees or former employees of the parties to the agreement only but rather should extend to contributions made in respect of current or former employees of a company for the benefit of whose employees the contributions are paid under the terms of the legally binding agreement referenced under i) above.

### Debt warehousing

The Act provides for some amendments to the existing debt warehousing provisions where an individual has a material interest (controls more than 15% of the ordinary share capital) in their employing company.

In a situation where the employing company qualifies for tax debt

warehousing, but the individual does not qualify for income tax debt warehousing, the Act provides that the individual will in fact qualify for debt warehousing in relation to employment income arising from the employer company only.

In a further amendment, where both the employing company and the individual with a material interest in the employer qualify for tax debt warehousing, the Act removes the interest charge arising for the employee that is currently provided for in legislation leaving the interest charge solely payable by the employer. However should the employer fail to pay the tax and interest due on those liabilities, the employee will be liable for the interest due on the outstanding employment income tax liabilities.



# Business Tax



**Anna Scally**  
Partner



**Paul O'Brien**  
Partner

## Corporation tax relief for certain start-up companies

Certain start-up companies carrying on a new business may qualify for relief from corporation tax on business profits in their first three years of trading. The relief is granted by reducing the corporation tax payable on the profits of the new trade and gains on the disposal of any assets used for the purposes of the new trade. Currently the amount of relief available in any year is directly linked to the amount of Employer's PRSI paid in the same year and is capped at €40,000 per annum. Where the amount of the corporation tax liability is less than €40,000 in any year, any unused relief from the 3-year period may be aggregated and carried forward against future trading profits of the company.

The scheme was due to end on 31 December 2021, but is now extended to 31 December 2026. In addition, recognising the difficulties qualifying companies have had in utilising the relief in the past two years (due to the impact of Covid related support on Employer's PRSI payments) the relief is amended to extend the period of availability from the first 3 years to the first 5 years of trading. The extension can be availed of by qualifying companies who began to trade on or after 1 January 2018. As a result, companies already in the scheme should benefit from the two-year extension.

## Employment and Investment Incentive (EII)

The EII is a tax relief which is designed to encourage equity investment by individuals in the SME sector. The minister acknowledged in his Budget speech that while positive changes have been made to the EII rules in recent years, the relief has not yet reached its potential to become a real driver of investment in early stage companies and



high potential start-ups. The Finance Act implements a number of enhancements designed to continue the improvement and reform of EII relief. These include:

- Most importantly, under existing rules, qualifying EII investments by individual investors can be made directly in an SME company or through a 'designated investment fund'. Under the terms of the EII legislation, the Revenue Commissioners can designate a fund as a 'designated investment fund'. Once approved and designated, the fund can be used as a collective investment vehicle which can invest in qualifying EII companies. A fund will only be designated where certain conditions apply and to date Revenue approval has been limited to funds formed under the Designated Investments Funds Act 1985. The Act introduces a provision which enables investment funds other than Designated Investment Funds raise investments that qualify for relief, namely Limited Partnerships and Investment Limited Partnerships, which satisfy certain conditions.
- Under existing rules, an EII company can redeem shares from any member other than an investor who is within their compliance period (called the 'capital redemption window') without triggering a clawback of EII relief in certain limited circumstances. The Finance Act includes changes which result in a relaxation of the rules around the 'capital redemption window' for investors to allow greater capacity for investors to redeem their capital without penalty.
- A company that raises EII funding prior to 8 October 2019 was required to satisfy certain employment growth related conditions in order for the investors to be entitled to claim the 'second phase' of their tax relief. After that date, EII relief is granted upfront and the first phase/second phase approach was removed from law. The Finance Act makes it clear that for shares issued after 1 January 2022, any company that does not meet those same employment growth related conditions will trigger a clawback of an amount of the EII relief claimed by its investors



**Orla Gavin**  
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**Donal Thomas**  
Partner

(equivalent to the 'second phase' relief in terms of quantum).

- The Act removes the requirement that a qualifying company must have spent 30% of the funds raised before it can issue a Statement of Qualification to Investors. This change will only apply to shares issued after 1 January 2022 so shares issued prior to year end will still be subject to this requirement.
- The sunset provisions have been amended to extend the scheme for a further three years to 2024.

The above changes are welcome as they largely clarify the law and broaden the scope of the relief.

### Domestic mergers

The Act introduces a new provision which confirms that where a subsidiary company transfers all of its assets and liabilities to its 100% parent by way of merger by absorption, as provided for by the Companies Act 2014, the parent company will not be treated as having disposed of its share capital in the subsidiary company. This new provision brings the tax treatment of domestic mergers by absorption in line with the existing tax treatment of EU cross-border mergers by absorption.

### Cross border mergers

The Act amends the definition of the term 'transfer' for the purposes of certain cross border merger relief provisions. The amendment is designed to distinguish reliefs that apply to the transfer of a trade or trades and the relief which applies to the transfer by a subsidiary of all of its assets and liabilities to its parent by way of merger by absorption. The clarification that the assets transferring in the latter case do not need to be assets of a trade is helpful.

### Dividends paid out of foreign profits

An anti-avoidance provision exists which is designed to tax dividends paid to Irish holding companies from Irish tax resident subsidiaries where those subsidiaries have migrated their tax residence into Ireland and the profits out of which the dividend was paid arose while the company was not tax resident in Ireland.

The Act makes an amendment to this anti-avoidance provision to address an anomaly in the existing law whereby a profit made after migration into Ireland but before the end of an accounting period could be viewed as a 'foreign profit' where the company pays an interim dividend before the end of its first accounting period after becoming Irish tax resident. Going forward, such profits will be taken out of the scope of the anti-avoidance legislation.

### CFC changes

In line with the EU Anti-Tax Avoidance Directive, Ireland introduced a Controlled

Foreign Company ('CFC') tax regime in 2019. The general thrust of the CFC regime is to assess an Irish company with a tax charge based on an arm's length measure of the undistributed profits of certain foreign subsidiaries, where such profits are attributable to the activities of 'significant people functions' carried on in Ireland.

There are a number of exemptions from the charge under the CFC rules, including where the foreign company has profits below a certain level. Finance Act 2020 disappplied some of the exemptions included in the legislation for subsidiaries that are resident in territories which are on the EU's list of non-cooperative jurisdictions for tax purposes. This list is reviewed and updated by the EU twice a year.

The Act includes an amendment to clarify the list that applies for accounting periods beginning between 1 January 2021 and 31 December 2021 (the list published in October 2020) and for accounting periods beginning on or after 1 January 2022 (the list published in October 2021).





**Andrew Gallagher**  
Partner



**Camilla Cullinane**  
Partner



## Double taxation treaties

The Act includes two updates to the list of countries with which Ireland has agreed Double Tax Treaties. Firstly, the Protocol signed by Ireland and Germany in January 2021 will be included on the list. This Protocol includes several amendments to Ireland's Double Tax Treaty with Germany (including an amendment to the articles dealing with permanent establishments, dividends and capital gains, and the insertion of a new article dealing with the prevention of treaty abuse). The newly agreed Treaty with the Republic of Kosovo will also be added to the list.

## Agri-business measures

The agri-business related measures included in the Finance Act are largely those flagged by the minister in his Budget speech. These measures include:

### Stamp duty relief for young trained farmers

Stamp duty relief for the conveyance of farmland to eligible young (i.e. under 35 years old) trained farmers, is being extended to the end of 2022. In the absence of this relief, such conveyances would generally be charged to stamp duty at a rate of 7.5%.

### General stock relief

The general stock relieving provisions, which provide for stock relief at a rate of 25% of the amount by which the value of farm trading stock at the end of an accounting period exceeds the value of such stock at the beginning of the accounting period, are extended for a further three years until the end of 2024.

### Enhanced stock relief

Enhanced stock relief for young trained farmers and registered farm partnerships is available at a rate of 100% and 50%

respectively. This relief will be extended for a further year, until the end of 2022.

## Film relief

The Act makes an amendment to the definition of 'eligible expenditure' for film relief purposes to bring within the scope any payments made by a qualifying company to individuals who are involved in the provision of labour-only services for the production of a qualifying film.

## Donations to approved bodies

The Act makes it clear that tax exempt charities can retain their tax exemption where they have been subject to a process of re-organisation (other than an amalgamation) if they held Revenue authorisation and had met all of the relevant conditions for two years prior to the restructuring. A similar relief was introduced for amalgamating charities in Finance Act 2020.



**Ken Hardy**  
Partner

## Digital Gaming Credit

In order to support employment growth in the Digital Gaming sector in Ireland, Minister Donohoe announced the headline details of Ireland's first Digital Games Corporation Tax Credit ('DGTC') in his Budget 2022 speech. Further details of this new credit are provided for in Finance Act 2021.

The regime will provide a 32% corporation tax credit to companies which incur expenditure on the design, production and testing of a digital game and is linked to the portion of such qualifying expenditure which is expended on the development of the digital game in Ireland or within the European Economic Area ('EEA'). A limit of €25m of expenditure applies to the regime and a claim may not be made where the qualifying expenditure amount is less than €100k. A company may not make a DGTC claim on expenditure which has already received relief through film relief, the R&D tax credit, certain other reliefs or where the expenditure is grant aided.

The credit may be paid out to companies in certain circumstances by Revenue where the DGTC exceeds the corporation tax liability of the company.

In order to claim the DGTC, the company is required to:

- be resident in Ireland or resident in another EEA State but carries on a trade in Ireland through a branch or agency,
- carry on a trade of developing digital games that are wholly or principally to be made available to the public on a commercial basis with a view to the realisation of profit,
- file corporation tax returns with the Revenue Commissioners, and
- not be an undertaking which would be regarded as an undertaking in difficulty.

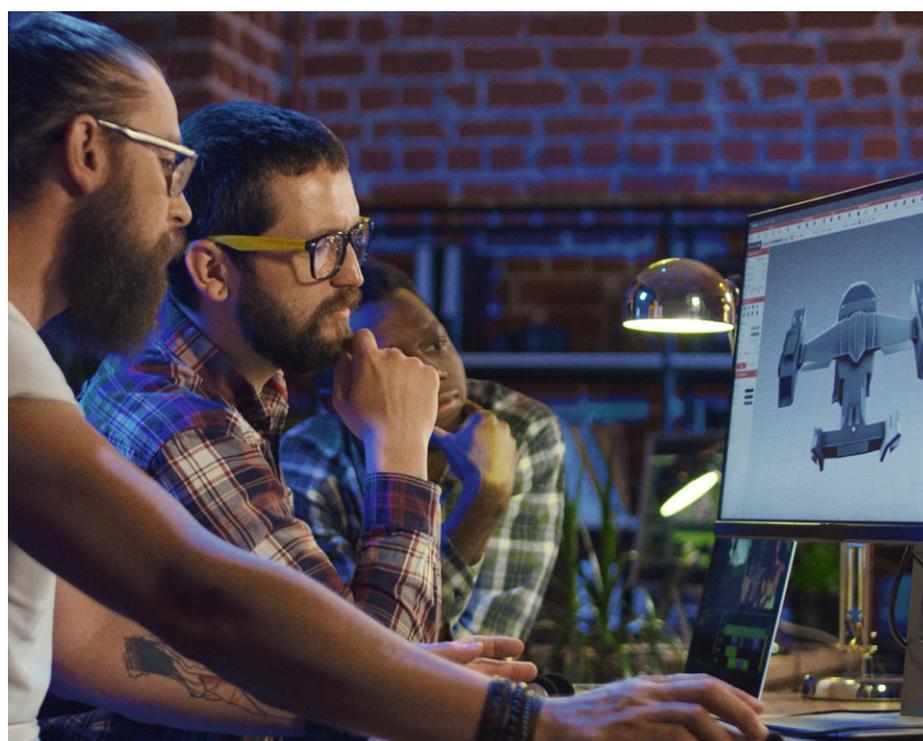
A digital game is one which:

- integrates digital technology,
- incorporates not less than three of the following classes of information, in digital form:
  - i. text;
  - ii. sound;
  - iii. still images;
  - iv. animated images,
- is capable of being published on an electronic medium, and
- is controlled by software enabling the person playing the game to interact fully with the dynamics of the game, including by providing feedback to the person, enabling control over elements of the game by the person and allowing the person to adapt elements of the game.

In order to be eligible for the DGTC, the digital game must:

- be developed on a commercial basis with a view to the realisation of profit,
- be wholly or mainly to be made available to the public,
- be an exempted work (within the meaning of the Video Recordings Act 1989), and
- not be produced solely or mainly as part of a promotional campaign or advertising for a specific product or undertaking, or as a game of skill or chance for a prize comprising money or money's worth.

A certification process applies which requires a company to make an application in respect of the digital game that it is developing. An interim certificate may be applied for where a company is incurring expenditure





**Damien Flanagan**  
Partner

on developing a digital game which is likely to be eligible for the regime (once finalised) to allow the company make an interim DGTC (at the same rate of 32%) on qualifying expenditure which is incurred during an accounting period.

As part of the application process, the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media will consider the contribution which the development of the digital game is expected to make to the promotion and expression of Irish and European culture. This would include (amongst other things):

- i. the cultural content of the game such as its setting, principal characters, language,
- ii. any cultural creativity employed in the development of the game such as materials written or creating in

Ireland or Europe or music created by a composer who is a national of or ordinarily resident in Ireland or another EEA state,

- iii. the proportion of the development team who are nationals of or ordinarily resident in Ireland or another EEA state

The DGTC shares certain similarities with the film corporation tax credit provided for in the directly preceding section 481 in the Taxes Consolidation Act ('TCA') 1997 such as the same headline rate and the certification process.

In addition, there are some aspects of the R&D tax credit regime which also feature in the new DGTC. For example, there is a similar 12-month limit from the end of the accounting period which the

expenditure was incurred. There is also a requirement for documentation to be retained by the company in support of the development and distribution of the digital game.

Elsewhere in the section, there are a number of anti-avoidance provisions with respect to a company's structure and certain financial arrangements a company may have in place with jurisdictions outside of the European Union ('EU') or any territory which has a Double Tax Agreement with Ireland.

The regime is initially set to run until 31 December 2025.





**Olivia Lynch**  
Partner



**Cillein Barry**  
Partner



## Capital Allowances

### Accelerated capital allowances for energy-efficient equipment

Accelerated capital allowances ('ACAs') are available to companies who incur capex on specified items of energy-efficient equipment which are used for the purposes of a trade. Instead of receiving standard Wear & Tear Allowances ('WTAs') over eight 8 years, allowances are granted upfront in year 1, at 100% of the cost of the relevant energy-efficient equipment.

Recognising the importance of energy

efficiency, the Act extends the ACA regime to gas vehicles and refuelling equipment to the end of 2024. The scheme was also extended to include hydrogen powered vehicles and refuelling equipment.

Further recognising the need for Ireland to reduce harmful emissions, the Act provides an amendment to the pre-existing ACA regime, whereby energy efficient equipment, as defined by the Sustainable Energy Authority of Ireland ('SEAI'), directly operated by fossil fuels will no longer qualify for the ACA regime, with effect from 1 January 2022

'Fossil fuel' is defined as 'coal, oil, natural gas, peat or any derivative thereof intended for use in the production of energy by combustion'.

It is not yet clear how this amendment will work in practice and there is risk of it being unduly restrictive. This will need to be given careful consideration as to its impact. This policy is aligned with wider government policy to reduce Ireland's greenhouse gas emissions and achieve net zero carbon emissions by 2050.

# Property & Construction



**Jim Clery**  
Partner

Housing is a core challenge the country needs to overcome now and in the immediate future. As part of the Housing for All Plan announced in September 2021, the Government outlined its determination to build more homes in order to address the current housing shortage and to introduce measures to alleviate the fact that housing has become increasingly unaffordable.

In light of the Government's plan to deliver an average of 33,000 new homes per annum out to 2030, it is expected that the Government will introduce measures which have the primary objective of increasing the supply of residential property in the market, rather than raising revenue for the Government. With that stated objective, a new Zoned Land Tax has been introduced as part of the Finance Act. It is expected that further developments and measures will be introduced by the Government in line with its ambitious Housing for All Plan over the coming years.

## Zoned Land Tax

To encourage the use of land for building homes, thereby increasing the supply of residential accommodation to the market, a new Zoned Land Tax (replacing the Vacant Site Levy) has been introduced as part of the Finance Act. The replacement of the Vacant Site Levy is perhaps unsurprising, given the difficulties that have been encountered by Local Authorities in the administration of the levy and its low yield since it was introduced in January 2017.

At a high level, the new Zoned Land Tax will apply to land which is serviced and zoned for residential development in circumstances where the land has not been used for the development of housing. This can also include land that is zoned for mixed use, unless one of the exclusions applies. The new tax will apply to the market value of the zoned residential land at an initial rate of 3%.

There are no minimum size exclusions for small plots of land. However, several exclusions are provided for including:

- Existing dwellings and curtilage;
- Land in use as a premises in which a trade or profession is being carried on, that is liable to commercial rates, and where it is reasonable to consider that it is being used to provide services to residents of adjacent residential areas;
- Land subject to the derelict site levy; and
- Land where it is reasonable to consider that it is required for, or is integral to, occupation by key social, community or government infrastructure and facilities such as transport, energy, telecommunications, waste and water, and certain recreational uses.

For residential land zoned before 1 January 2022 there is a two-year lead time and the new tax will apply in 2024. Where the residential land is zoned after 2022, the tax will apply in the third year after it comes within scope. The new tax will be paid on a self-assessment basis and each person liable to the tax will be required to register and file a return with the Revenue Commissioners. The definition of a liable person is broad and where there are joint owners, the parties can be jointly and severally liable.

The due date for returns in respect of each period will be 23 May each year. The valuation date for the purposes of establishing the market value will be 1 February for the year in which the new tax first applies to the land. There is a requirement to revalue the land for each successive three-year period thereafter.

## Deferrals

Provisions are made for deferrals of the new tax in certain limited circumstances including but not limited to scenarios where:

- there is an appeal relating to inclusion of the site on the map and the appeal

has not yet been determined;

- a judicial review/appeal to An Bord Pleanála is brought by a third party to relation to the planning permission that was granted on a relevant site and has not yet been determined; or
- planning permission has been granted in respect of the residential land and a commencement notice, in respect of the residential development, has been lodged with the relevant Local Authority.

If a commencement order has been lodged and the development is ultimately completed in line with the original planning permission, then the tax should not fall due. Where all, or part of, the development is not completed within this timeframe, then all or a portion of the new tax would fall due.

A formal claim is required to be made in relation to the deferrals.

## Mapping

Local Authorities have been charged with preparing and publishing an annual map to identify the land within scope of the new tax. The process of drafting the initial maps for 2024 is prescriptive and will involve two iterations of draft maps, before the final version is due to be published no later than 1 December 2023. There are tight timelines set out in the legislation for both the Local Authorities to prepare the maps and for parties to make submissions and appeals to have their status amended by their Local Authority. Following the initial mapping process, a new map is required to be published by 31 January each year by the Local Authority, with similar submission and appeal processes.

## Interest and penalties

Interest at the rate of circa 8% per annum (0.0219% per day) shall apply to the late payment of the Zoned Land Tax and penal surcharges can apply ranging from 10 to 30 percent in relation to undervaluing the



**Carmel Logan**  
Partner



**Tim Lynch**  
Partner

relevant site or filing late returns. The new tax and any interest and surcharge which is due to the Revenue Commissioners will be a charge on the land to which it relates.

### Requirement to register and deductibility

The legislation requires the owners of land that falls within the new rules to register with Revenue as the owner of such land. If an owner does not register themselves with Revenue and the amount of tax and interest due to Revenue exceeds 110% of the market value of the land, the legislation provides that Revenue and the Minister for Public Expenditure and Reform, can via a formal process, apply to the High Court to have the land become the property of the State.

The Finance Act specifically provides that no deduction is allowed for the payment of the tax from any profits or income chargeable to income tax, corporation tax or capital gains tax.

### Non-resident corporate landlords

New measures will be introduced to bring non-resident companies that receive rents from Irish property assets within the charge to Irish corporation tax. As a result, rental profits arising to such companies will be subject to tax at a rate of 25%. Previously, non-resident corporate landlords would have been subject to income tax at the standard rate of 20% on their rental income. The new measures seek to ensure that non-resident corporate landlords will be subject to the new interest limitation rules from 1 January 2022 (further detail on these new rules is outlined on page 24 et seq.).

The effective rate of tax on gains made on the disposal of Irish property by non-resident companies will remain at 33%.

The legislation provides for both rental

losses and capital allowances carried forward by non-resident companies to transition from the income tax system to the corporation tax system without any restriction. Where a non-resident corporate landlord had previously claimed capital allowances on an asset prior to the introduction of the new rules, and on or after 1 January 2022 disposes of that asset, the resulting balance allowance or charge arising will be reduced accordingly, so that it is deductible or taxable at an effective rate of 20%.

### Irish stamp duty changes

The Finance Act contains a number of small amendments and clarifications in relation to the operation of the 10% stamp duty rate on the acquisition of 10 or more residential units in any 12-month period (introduced in May 2021). In conjunction with the 10% stamp duty rate, a rebate scheme was introduced to allow for a refund of stamp duty where such residential units were leased to local authorities or an approved housing body for the provision of social housing within 24 months. The most significant change provides clarification of Revenue's view that a refund of stamp duty for social housing lettings only applies to new lettings put in place following the acquisition of the property, rather than leases existing at the date of acquisition.

Additional changes clarify that certain exemptions (for example, the acquisition of apartment blocks) also apply to indirect transfers (e.g. share sales) of residential units within the scope of the new rules. These measures should take effect from the passing of the Finance Act.

### Help-to-Buy Scheme

As anticipated following the Housing for All Plan, the Help-to-Buy Scheme for first time buyers will be extended in its current enhanced form for a further year to the end of 2022.

The current enhanced scheme provides

for a refund of the lower of:

- 10% (previously 5%) of the cost of a new house,
- €30,000 (previously €20,000), or
- the income tax paid by the buyer for the previous four tax years.

To qualify for the relief, the value of the house must be no more than €500,000 and the mortgage on the property must amount to at least 70% of the value of the property.

This extension aligns in broad terms with the Housing for All Plan and it is expected that other measures to aid first time buyers in accessing the housing market will be introduced over the coming years (for example, the Shared Equity Scheme).

This extension is welcomed for prospective first-time buyers, many of whom continue to be locked out of the property market due to substantial delays in the supply of new housing.

### Pre-letting residential expenses

In a move to continue to encourage the current owners of vacant residential property to bring such property to the rental market, the rules which allow a deduction for certain 'pre-letting' expenses have been extended for a further three years in the Finance Act. The relief was previously available for qualifying expenditure incurred up to the end of 2021 and has now been extended for qualifying expenditure incurred up to the end of 2024.

The rules allow for 'pre-letting' expenses of a revenue nature (for example, routine repairs and maintenance costs) incurred on a property which has been vacant for a period of 12 months or more. The relief is subject to a cap of €5,000 per property and subject to a clawback if the person who incurred the expenses ceases to let the property as a residential premises within four years.

# Financial Services



**Kevin Cohen**  
Partner



## Bank Levy

The Finance Act includes provisions to extend the bank levy for one further year to the end of 2022, while maintaining the base year of 2019 and the rate of duty chargeable on the DIRT paid by financial institutions in respect of that year. The bank levy was due to expire at the end 2021. The annual yield from the bank levy has until now typically been set at approximately €150 million.

For the year 2022, no charge will arise in respect of DIRT paid by Ulster Bank Ireland DAC and KBC Bank Ireland Plc in 2019 as they are exiting the market in 2022. The decision to exclude the two banks is to minimise the potential for disruption to bank customers that could arise from a possible accelerated exit if they were made subject to the levy in 2022.

The remaining banks who continue to be in scope of the levy will not pay any more in 2022 than they did in 2021. This means that the levy to be collected in 2022 will be approximately €87 million in total.

In the Budget speech, the minister

confirmed that the future of the levy will be assessed over the course of the coming year.

## Banking levies modernisation

The Finance Act provides for the introduction of a streamlined and modernised system for the collection of stamp duties on financial credit cards and cheques. The key changes which are subject to the issue of a ministerial order include:

- The stamp duty charge that currently applies on bills of exchange (i.e. cheques, drafts, and money orders) is removed and is replaced with its own new annual levy on bills of exchange. Under the new levy, stamp duty at the rate of €0.50 will be payable in respect of each bill of exchange that is processed in each calendar year. It is open to the promoter to elect to base their return on the number of relevant bills of exchange issued rather than processed.
- The requirement to pay preliminary duty on (i) cash, combined and debit cards, and (ii) credit and charge cards is to be removed.

- The period in respect of which credit cards and charge cards are chargeable to stamp duty is changed from the 12-month period ending 1 April to the calendar year. The due date is changed to 31 January following the end of the year, thereby aligning it with the chargeable period for all financial cards and cheques.
- To facilitate the transition to this new calendar year based chargeable period, the legislation provides for a short chargeable period running from 2 April 2023 to 31 December 2023 and a reduced charge of €22.50 per credit card account or charge card issued to an account during that shortened period (pro-rated down from the full year €30 rate which ordinarily applies).
- Apart from the timing apportioned charge noted above all other rates apply to financial cards and cheques remain unchanged.
- The Finance Act also provides a legislative footing for the requirement to use electronic means to deliver the statements related to the above stamp duties to the Revenue Commissioners and pay the required stamp duties.



**Joe O'Mara**  
Partner

## Insurance levies

The Act puts on a statutory footing the requirement to deliver stamp duty returns and to pay levies in respect of life and non-life policies of insurance by electronic means.

The Act also amends the way in which the stamp duty charge of €1 applies to non-life policies. The stamp duty liability will now be payable within 25 days of the end of a quarter on all relevant policies issued by the insurer in that quarter. The Act deletes a number of other provisions which are no longer required as a result of this change.

The application of these provisions is subject to the issuance of a ministerial commencement order.

## Banking and insurance levies compliance

The Act brings stamp duty levies on financial cards, cheques and certain insurance policies within the remit of the general stamp duty compliance provisions. It also introduces a new surcharge provision where statements in relation to these levies are delivered late.

These amendments will have effect from 1 January 2022.

## Retention of records for stamp duty purposes

The Act makes some minor changes to the provisions which set out the obligations regarding the retention of records to ensure that they are in line with the updated electronic records obligations mentioned above.

## Income tax change – aviation sector

The Act amends the taxation of international flight crew as a means of supporting the recovery of the aviation

sector. Existing legislation provides that income earned by individuals employed aboard an aircraft that is operated by an enterprise whose effective place of management is in Ireland is within the scope of Irish income tax. The Act amends existing legislation to exclude non-Irish tax resident flight crew, where the individual is tax resident in a country with which Ireland has a Double Tax Treaty and where the individual is subject to tax on this income in their country of tax residence or another Double Tax Treaty country. These changes come into effect from 1 January 2022.

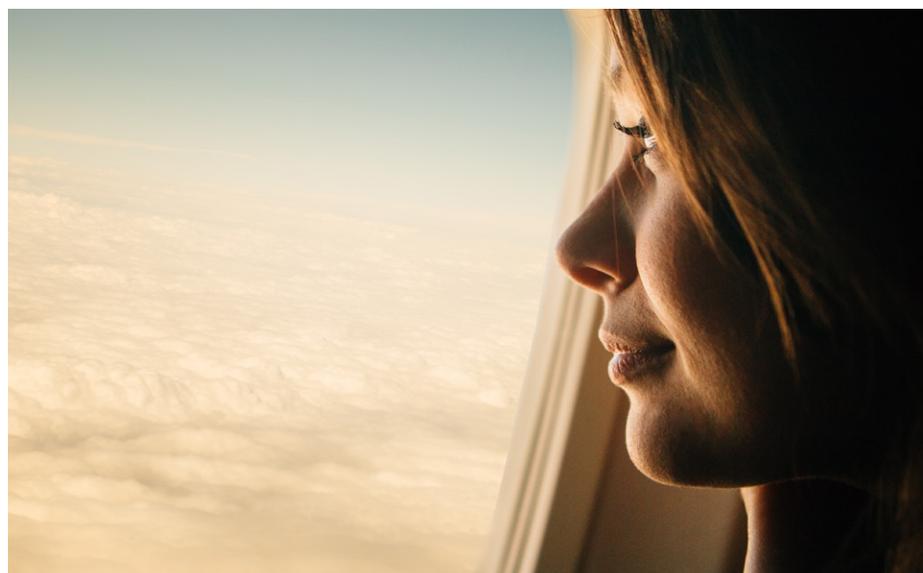
## Double taxation charge on deposit interest earned by trusts

The Finance Act removes a double tax charge on deposit interest earned by a trust. Currently, a trust earning interest on a deposit from which Deposit Interest Retention Tax ('DIRT') has been deducted at source (currently 33%) is also technically liable to pay income tax at the standard rate (currently 20%) on that interest.

The change provides that the interest will only be taxed at the DIRT rate with a credit for the DIRT already deducted. This is in line with how individuals are taxed with respect to this deposit interest and removes the double layer of taxation.

## Interest payable on certain loans

Anti-avoidance measures were previously introduced in Finance Act 2011 to deny a trading deduction for interest payable on intra-group borrowings used to purchase assets from a connected company. The rules do not apply to the purchase of certain intangible assets and trading stock (as defined). Additional measures within the provisions exist which seek to prevent attempts to circumvent the denial of the interest deduction by using back-to-back arrangements or circular arrangements with unconnected persons. The Finance Act extends the scope of the provisions to also apply to interest payable on any form of refinancing of a loan which was originally within scope of the interest restrictions.



# Indirect & Environmental Taxes



**David Duffy**  
Partner



## Value-Added Tax

### Non-refundable deposits

The Act includes legislative changes intended to bring to an end reclaims of VAT on non-refundable booking deposit retained by businesses in the event of a customer cancellation. The changes are due to take effect from 1 January 2022. Currently, if (for example) a hotel received a non-refundable deposit from a customer for a booking who subsequently cancels that booking, the hotel could reclaim the VAT previously charged on the deposit retained by the hotel. These measures were introduced following a European Court of Justice judgment in 2007 confirming in that case that VAT was not due on retained deposits where no supply is made to the customer. However, more recent ECJ caselaw had reached a different conclusion, whereby airfares charged to customers who did not show up to avail of their flight were nonetheless deemed to be chargeable to VAT. The Court held in the latter case that the customer

had received the right to access the service which is a taxable supply for VAT purposes. This change in the Act is intended to reflect this more recent caselaw. Businesses which ordinarily charge non-refundable booking deposits or other forms of cancellation charges to customers should review their VAT treatment of these charges in advance of the forthcoming change. The changes do not impact the VAT treatment of deposits which are refunded to customers.

### VAT groups

The Act includes a number of technical changes to the VAT grouping provisions. 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 date of issue of the Revenue cancellation notice. The Act 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 or if there are significant changes to the financial, economic and

organisational links between the VAT group members. In addition, provision is also made for penalties to arise for non-compliance with this notification requirement.

### Covid-19 measures

The Act includes confirmation of various Covid-19 support measures in the form of zero-rating or exemption for certain goods and services closely connected with combatting the pandemic. This includes goods and services supplied to the European Commission or an agency or body set up under EU law in the execution of tasks conferred on it by EU law in order to respond to the Covid-19 pandemic, except where the goods or services are onward supplied for consideration. The zero-rate of VAT applicable to Covid-19 vaccines and services closely linked to those vaccines, as well as Covid-19 in vitro diagnostic medical devices and services closely linked to those devices is extended to 31 December 2022.



**Glenn Reynolds**  
Partner

### Other VAT measures

The Act contains a number of other technical measures including confirmation of the announcement in the Budget that the flat rate addition payable to farmers who are not registered for VAT will decrease from 5.6% to 5.5% with effect from 1 January 2022. There are also updates to legislation in relation to the penalty regime for deliberately or carelessly making incorrect VAT returns which will take effect from the date of passing of the Finance Act 2021. A provision is also included for Revenue to clawback any VAT repaid under a Ministerial refund order where the conditions for that claim are no longer met.

### Excise duties

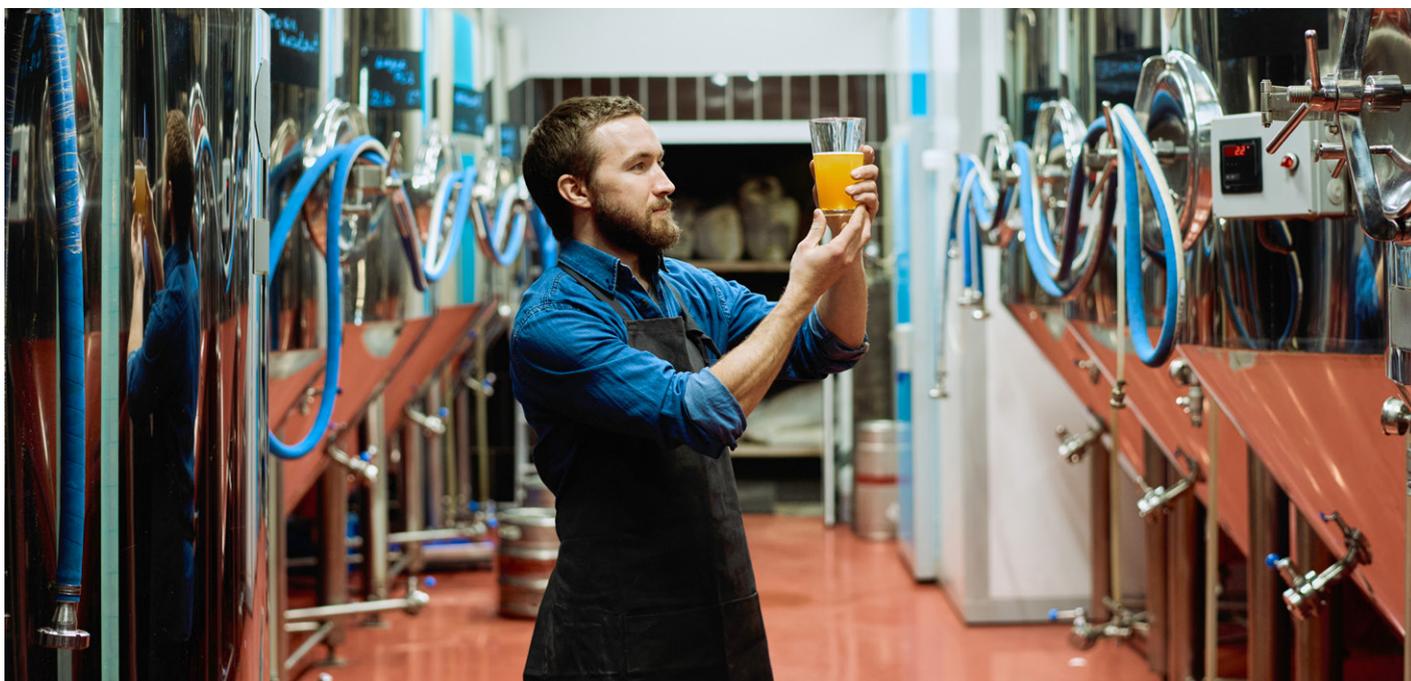
There are a number of excise-related measures in the Act, including:

- Confirmation of the Budget announcement of an increase

in excise duty on a packet of 20 cigarettes by 50 cent (including VAT) with a pro-rata increase on other tobacco products. This increase took effect on Budget Day.

- Confirmation that Northern Irish road transport operators continue to qualify for the Diesel Excise Rebate Scheme in Ireland.
- Amendments to the provisions that provide exemption from excise duty for denatured alcohol.
- The 50% excise duty relief on beer produced by small breweries in Ireland is extended to beer imported from third (non-EU) countries.
- Continuation for the second consecutive year of the waiver of excise duty on the renewal of certain intoxicating liquor licences for licencing year 2021/2022, as previously flagged by the Government in July as part of a support package for pubs, bars and nightclubs in response to the impact of Covid-19 on their businesses.

- Extending the use of the EU movement monitoring computerised system to duty-paid excisable products that are subsequently moved to another Member State.
- Confirmation of the measures announced in the Budget to revise the 20-band VRT table for Category A vehicles, which includes cars and SUVs, to increase the applicable rates with effect from 1 January 2022. For vehicles falling within bands 9-12 there will be a 1% increase of the current rate, a 2% increase for vehicles falling within bands 13-15, and for vehicles falling within bands 16-20 the increase will be 4%.
- Extension of the €5,000 VRT relief for Battery Electric Vehicles in categories A and B from 31 December 2021 to 31 December 2023.



# Transfer Pricing



**Conor O'Sullivan**  
Partner



## Domestic Exclusion from Transfer Pricing

Certain non-trading domestic transactions are potentially excluded from scope of Irish transfer pricing rules. This domestic exclusion was first introduced in Finance Act 2019. The exemption applies to domestic transactions between associated persons who are both chargeable to tax in the State on the profits or gains or losses arising from the transaction.

Differing views emerged between practitioners, taxpayers and Revenue on the scope of the exclusion. Revenue indicated that their view was that the exclusions did not apply to transactions, such as interest-free loans or the rent-free use of property, where no consideration passed between the parties – in other words, consideration had to pass for the transfer pricing exclusion to apply.

In an effort to address the confusion, the relevant section was completely re-written as part of Finance Act 2020. However, the proposed amendments potentially brought many wholly domestic transactions within the scope of transfer pricing.

On the back of feedback and concerns expressed by taxpayers and practitioners, a decision was made to defer implementing the new section introduced in Finance Act 2020 by making its application subject to a ministerial commencement order which was never made.

Finance Bill 2021 intends to clarify the position and the intent signaled by the draft legislation is most welcome. The revised position under the proposed legislation is as follows:

- While all trading transactions remain subject to transfer pricing, the proposed law provides for a broad

application of the domestic exemption to a wider net of domestic non-trading transactions than previously proposed;

- The exclusion only applies where both parties are chargeable to Irish tax in respect of the transaction, or would be so chargeable if consideration was charged. In the case of individuals liable to income tax, the individual must also be tax resident in Ireland;
- There is no requirement that consideration must actually be charged. The exclusion applies where the consideration is directly chargeable to tax under Schedule D (other than under Case I or II of Schedule D in the case of the supplier) or would be so taken into account if any consideration was receivable by the supplier or payable by the acquirer in respect of the arrangement;
- The supply cannot be made by the supplier in the course of a trade or



**Neil Casey**  
Partner

profession that is chargeable to Irish tax. Trading transactions involving supplies made by an Irish taxpayer in the course of a trade remain within the scope of transfer pricing. This means, for example, that a loan made by a trading company which is not made as part of its trade may potentially avail of the exclusion;

- A supply received in the course of a trade can qualify for the exclusion, for example, an interest-free loan made by a shareholder to an Irish company for the purposes of its trade may be within the scope of the exclusion;
- The exclusion should apply to all non-trading transactions made by any person within the charge to tax under Schedule D (but which are not made as part of a trade or profession);
- Taxpayers intending to rely on the domestic exclusion will continue to be obliged to prepare documentation to support the basis for availing of the domestic exclusion;
- Expanded anti-avoidance provisions have been proposed which would restrict the application of the domestic exclusion in certain cases.

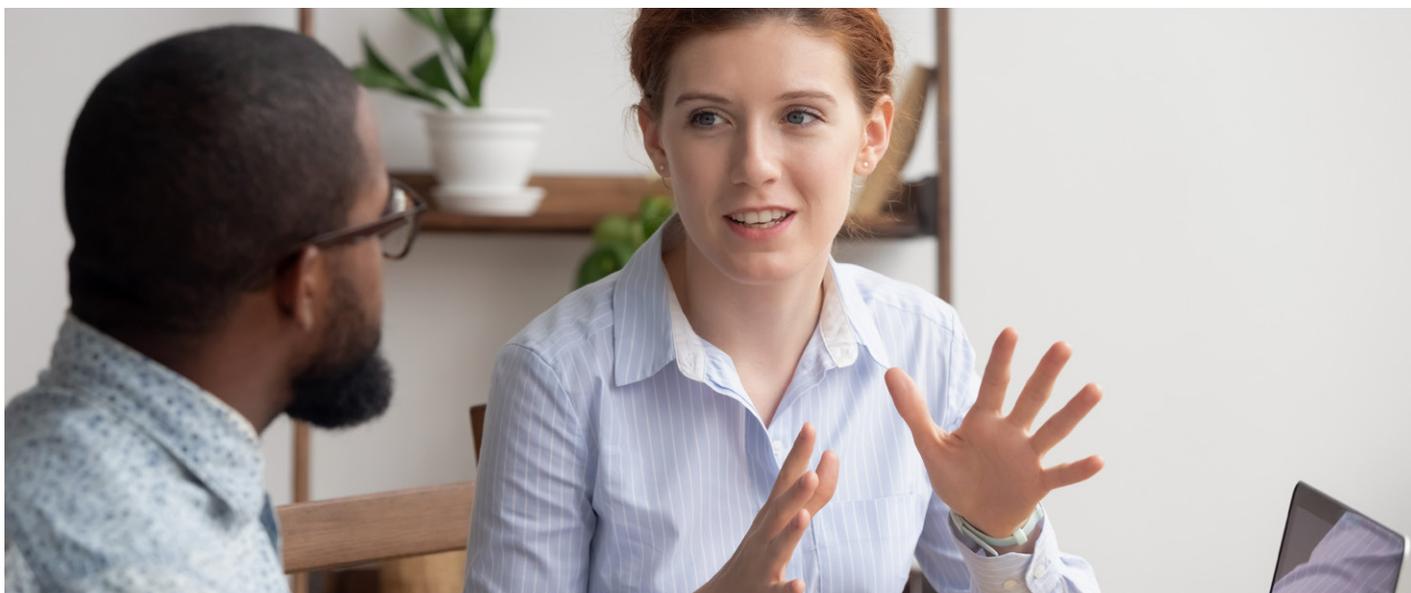
In particular:

- The exclusion shall only apply to an arrangement where the arrangement is entered into for bona fide commercial reasons;
- The exclusion shall not apply to an arrangement where the main purpose, or one of the main purposes, of the arrangement is the avoidance of tax;
- The exclusion shall not apply in the case of an arrangement where an 'amount' is taken into account as an expenditure or expense, or in determining allowances for capital expenditure, or is otherwise deducted, allowed or relieved for the purposes of domestic or foreign tax purposes, where that 'amount' is greater than the actual consideration payable by the acquirer under the arrangement.

The amended rules will apply for chargeable periods commencing on or after 1 January 2022. Uncertainty remains about how to apply the domestic exclusion prior to this date.

### Attribution of Profits to a Branch

The Finance Act includes the insertion of a new section which provides for the application of an OECD-developed mechanism, the Authorised OECD Approach ('AOA'), in attributing income to an Irish branch of a non-resident company. The AOA is the internationally recognised transfer pricing framework for attributing profits to branches. It references established guidance set out in the OECD 2010 Report on the Attribution of Profits to Permanent Establishments that was published on 22 July 2010. The introduction of these rules had been signalled earlier this year through the public consultation on the matter released by the Department of Finance. It is proposed that the new AOA provisions will apply for accounting periods commencing on or after 1 January 2022. Consistent with the general Irish transfer pricing rules, the implementation date of the AOA for small and medium enterprises is subject to a Ministerial Commencement Order.



The Act also refers to adoption of any additional guidance on the attribution of profits to permanent establishments published by the OECD after the passing of Finance Act 2021 subject to the passing of a ministerial order.

Under the AOA, a two-step approach is applied for the purposes of determining the income attributable to a permanent establishment, as follows:

- Step 1 - hypothesising the permanent establishment as a separate and independent enterprise; and
- Step 2 - determining the profits of the hypothesised separate and independent enterprise based upon a comparability analysis (through application of OECD transfer pricing principles and methods).

The Act also introduces a requirement for relevant taxpayers to prepare supporting documentation to demonstrate compliance with the AOA with respect to the computation of income attributable to Irish branches. The documentation requirements are prescriptive and substantively comparable to the local file documentation requirements under general Irish transfer pricing rules.

The AOA supporting documentation should be prepared no later than the due date of the tax return for the accounting period in question and must be available upon a request by the Revenue in writing. Such records must be provided to the Revenue within 30 days from the date of the request.

The documentation requirements do not apply to a company that is a small enterprise or a medium enterprise where the relevant income attributable to the branch of the medium enterprise (in accordance with the AOA) for that accounting period is less than €250,000.

The penalty provisions under the proposed legislation are consistent with the general Irish transfer pricing rules. In addition, protection from tax-gear penalties is legislated for where a taxpayer prepares and provides the appropriate records to the Revenue within the specified timeframe and can demonstrate that the records are complete and accurate, and reflect reasonable efforts to comply with the legislation.



# Revenue powers and administrative matters



**Colm Rogers**  
Partner

## Obligation to keep records

The Finance Act includes a legislative amendment which clarifies the records and linking documents to be retained by taxpayers. Such documentation needs to be retained for a six-year period to support tax return entries.

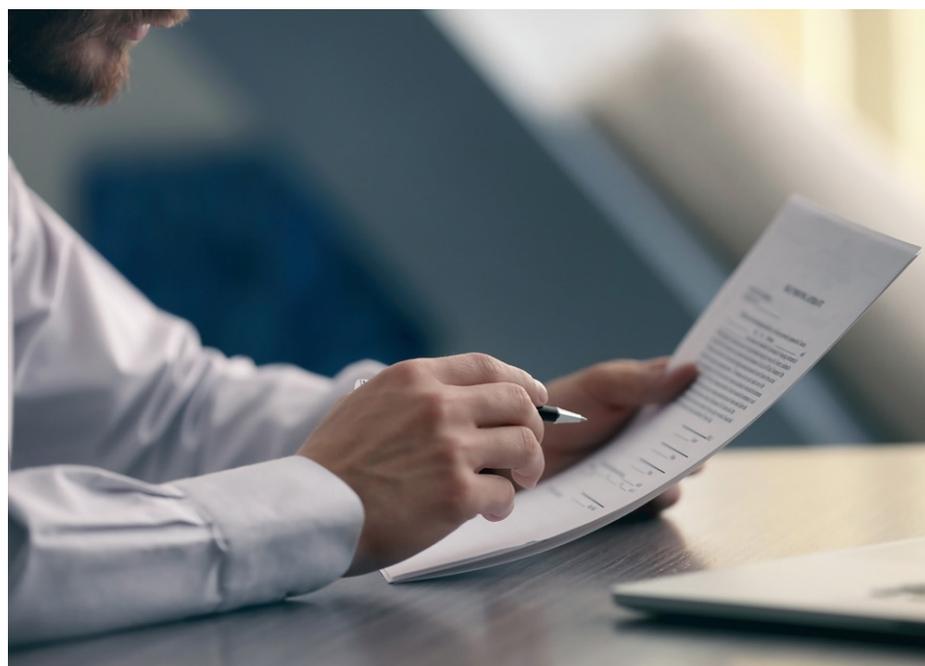
## Appeal procedure relating to Tax Appeal Commissioner decisions

Where a party is dissatisfied with a determination made by the Tax Appeal Commissioners on a point of law, that party may make an application requesting the Tax Appeal Commissioners to state and sign a case for the opinion of the High Court. To improve the administration of the case stated procedure, the Finance Act includes measures to amend the time allowed to draft the case stated and for the parties involved to make representations in relation to this draft.

## Changes to penalty regime

The Finance Act provides for the replacement of the current legislative provisions concerning penalties for deliberately or carelessly submitting incorrect returns. While the replacement provisions are largely consistent with those which they will replace, the following differences are worth noting:

- The pre-existing Revenue practice of not imposing a penalty for technical adjustments, innocent errors and certain cases where total tax defaults are below €6,000 will be put on a legislative footing,
- The prohibition on a reduction of penalties where a disclosure is made to Revenue with respect to 'offshore matters' has been removed.



## Changes to publication regime

The Finance Act provides for the replacement of the current legislative provisions concerning the publication of certain tax defaulters. The changes incorporated into the new legislation include the following:

- A settlement will not be published when the tax underpayment or refund incorrectly claimed is less than €50,000. At present, a lower threshold applies whereby a settlement may be publishable where the combined tax, interest and penalty exceeds €35,000.
- Settlements may be published in cases where refunds have been incorrectly claimed.
- The publication amount will not include any part of a settlement that does not attract a fine or other monetary penalty.

The changes apply to the publication of tax defaulters from 1 January 2022.

## Mandatory disclosure (DAC 6) – Revenue powers

The Finance Act incorporates legislative changes to complement the pre-existing Irish tax legislation which transposed certain EU Directives concerning the mandatory disclosure of certain reportable cross-border arrangements (commonly referred to as 'DAC6' reporting). In particular, the Act provides Revenue with powers of enquiry, including access to a place of business, into the completeness and accuracy of a DAC6 return filed by an intermediary or taxpayer in respect of a reportable cross-border arrangement. Pursuant to these additional powers, Revenue may also access certain data collected for anti-money laundering and terrorist financing reasons where they believe that the cross-border arrangement in question may have a specific hallmark concerning the automatic exchange of information and beneficial ownership.

# Interest Limitation Rule



**Gareth Bryan**  
Partner

The Finance Act includes legislation to enact the interest limitation rule (ILR) mandated by the EU's anti-tax avoidance directive (ATAD). The ILR will cap deductions for 'exceeding borrowing costs' at 30% of a corporate taxpayer's earnings before interest, tax, depreciation, and amortisation (EBITDA) as measured under tax principles. The ILR will affect all Irish companies and corporate groups that have debt funding. Various exemptions and reliefs may mitigate its impact (particularly for smaller companies/groups); however, their availability will need to be assessed.

The ILR is part of a global trend to counteract the perceived misuse of debt financing as a way to erode the tax base of higher-tax countries. All EU member states are obliged to introduce these rules and many other countries have enacted similar rules (such as the UK and the US). As with all EU directives, detailed implementation of measures is determined locally so there can be important differences between member states, with a number of countries going beyond the minimum standards required by ATAD. Ireland has fully complied with those minimum standards and has, for the most part, adopted the various exemptions and reliefs permitted by ATAD. The legislation contained in the Finance Act is, in general, pragmatic in its approach, which is to be welcomed.

## Interest & its equivalents

The ILR will apply to a company's 'exceeding borrowing costs', i.e. its interest (and equivalent) borrowing costs as reduced by its interest (and equivalent) income. Thus, a financing company which borrows and lends (at a profit) generally would not have 'exceeding borrowing costs' and so, in practice, would not be subject to the ILR.

The ILR applies both to interest and amounts economically equivalent to interest. The Finance Act sets out that

these interest equivalents will include (but are not limited to) discounts on the issue of securities, amounts under derivative or hedging arrangements connected with the raising of finance, foreign exchange movements on interest (or interest equivalents), as well as debt raising costs including guarantee fees, arrangement fees, and commitment fees.

## Financial assets & liabilities

Provision is made for the coupon or return arising on financial assets or financial liabilities (under international accounting standards) which principally comprises interest or other interest equivalents to be included as an interest equivalent to the extent that it would be reasonable to consider that such amount is economically equivalent to interest. This is necessary because the

accounting treatment of these returns may not follow the legal (and hence tax) form. For example, loan instruments purchased at a discount to their face value may have part of that discount included in (and described as) interest in the company's income statement (with no differentiation made between actual interest and the discount element). Likewise, in some situations loan instruments might be fair-valued in the company's accounts without a split between what pertains to interest and to principal. It would be enormously burdensome for a company with a large portfolio of such instruments to split these entries into legal interest and legal principal components.

## Lease rentals

The finance element of finance lease payments is also to be treated as





**Alan Bromell**  
Partner



equivalent to interest. In addition, for companies carrying on a leasing trade, a slice of their operating lease income and expense will be treated as equivalent to interest. This treatment reflects the facts that professional lessors are, in practice, providing asset finance to their customers (albeit while retaining residual value risk).

### Calculating EBITDA

The calculation of EBITDA starts with taxpayer's 'relevant profits'. This is the company's taxable profits adjusted to reflect the impact of value-based claims for current year losses and trade charges – such amounts are claimed as credits against the company's tax liability and so would not otherwise be reflected in its taxable profits. In addition, any losses

carried forward or back from other tax years are ignored, as are group relief claims (other than those surrendering relief for 'interest as charge').

The company's 'exceeding borrowing costs' (i.e. interest expense in excess of interest income (including equivalents)), capital allowances (including balancing allowances and charges) and other tax-deductible amortisations are added back to its relevant profits to yield its EBITDA.

In order to equalise the position in respect of income and gains which are taxable at different rates, all of the components of this calculation are modified where they include amounts taxed otherwise than at the 12.5% rate of corporation tax. Such amounts are increased so that, if a 12.5% rate were applied to them, the same amount of

tax would be due. For example, income taxed at the 25% rate of corporation tax is effectively doubled in the calculations (as are the expenses deducted against that income).

### Applying the restriction

Where exceeding borrowing costs are more than 30% of EBITDA, the taxpayer disallows that amount of a tax deduction. However, there is a full exemption from the ILR where a taxpayer's 'exceeding borrowing costs' do not exceed €3 million. However, once this de minimis threshold is breached, the entire amount of the 'exceeding borrowing costs' is subject to restriction (not just the amounts in excess of the limit).



**Nancy Fallon**  
Partner

### Carry forward

Disallowed amounts are carried forward and are tax deductible in future years where the taxpayer has sufficient capacity to claim the deduction (this would be the case where the company has not exceeded its 30% threshold in that later year). However, where the disallowed amount would have otherwise created or increased tax losses for the taxpayer, it is treated as a loss incurred in that period and, consequently, its use is subject to the same restrictions that apply to carried forward tax losses.

### Unused capacity

When 'exceeding borrowing costs' are below the 30% threshold, the unused amount is carried forward as 'limitation spare capacity'. Where a taxpayer has financing income in excess of borrowing costs, this excess is carried forward as 'interest spare capacity'. In future years where the taxpayer exceeds its 30% threshold, it can use this additional unused capacity to increase the amount of interest (or disallowed amounts carried forward) in that year. If carried forward capacity is not used within a 60-month period, it will lapse.

### Interest groups

Companies may elect to join an 'interest group' which will result in the ILR calculations being done at a group level. This has the benefit of allowing for interest/interest equivalents and spare capacity to be pooled between group members. However, the €3 million de minimis limit applies to the group as a whole (and is not separately afforded to each member).

The ILR calculations of an interest group are to comprise the results of all of the members. We understand that this will give taxpayers the choice to either aggregate the various components of the ILR calculations for each member



or to apply a consolidation approach (which will, in effect, result in intra-group transactions being eliminated and, consequently, disregarded).

The group may choose how to allocate disallowed amounts between its members to the extent the company has deductible interest expense to disallow. Similarly, the spare capacity of a group may be allocated at will.

### Group membership

A company can elect to join an interest group with other companies that are within the charge to corporation tax and which are part of the same 'worldwide group' (being a group, the results of the members of which are included in an accounting consolidation prepared under IFRS, or generally accepted accounting practice ('GAAP') of Australia, Canada, China, Hong Kong, Ireland, India, Japan, New Zealand, South Korea, Singapore or the USA). In addition, companies which are not part of such a group but are part of a corporation tax loss group, can elect into an interest group. Once a company elects into a group, it cannot elect out for three years.

### Legacy debt

The legislation includes an exemption in respect of 'legacy debt'. To qualify, the terms must have been agreed before 17 June 2016. If the principal was not drawn down by that date, it will only qualify if there is a legal obligation on the lender to advance that amount upon the occurrence of pre-determined deliverable or project phase. Where the exemption applies, the amount of interest on the legacy debt is deducted in calculating the amount of the 'exceeding borrowing costs' which is subject to the restriction.

### Long-term infrastructure projects

Provision is also made for an exemption for interest on debt used to fund qualifying long-term infrastructure projects. These are projects to provide, upgrade, operate or maintain a 'large-scale asset' where the project operator is established in, and tax resident in, an EU member state, the large-scale asset concerned is in an EU member state, and the income arising and the deductible interest relating to the project arise in an EU member state.



**Brian Brennan**  
Partner

The legislation designates a number of qualifying 'large scale assets' such as certain energy generation assets (including certain coal, oil, gas, thermal, and renewable energy assets), certain road schemes, strategic housing developments, and certain public-private-partnership schemes. The minister may also issue regulations nominating other qualifying assets.

### Standalone entities

There is a total exemption from the ILR for certain 'standalone entities', being entities that have no foreign branches, are not included in a financial statements group consolidation, and have no 'associated enterprises' (essentially persons with a 25%+ equity relationship or voting rights).

### Worldwide group reliefs

There are also two reliefs from the ILR linked to the results of a worldwide group (described above – essentially an accounting consolidation group) of which the taxpayer is part. These reliefs aim to allow for deductions for third-party debt from outside the worldwide group provided that it is not disproportionately allocated to the relevant taxpayer. The taxpayer (be it a single company or an interest group) may elect to apply one or other of the reliefs in a given tax year. However, where an interest group includes a member that is not part of the worldwide group (i.e. a member of a corporation tax loss group which is not consolidated into the worldwide group), it cannot use either of these reliefs.

#### Equity ratio

The first relief, known as the equity ratio, compares the relevant taxpayer's ratio of equity-to-assets to that of the worldwide group. This calculation is performed using accounting results (but the taxpayer's calculations must be done using the same GAAP as the worldwide

group). Under this relief, where the taxpayer's ratio of equity-to-assets is 98% or more of the worldwide group's ratio, ILR is disapplied. Essentially, this test measures the extent to which the taxpayer's assets are funded with equity, and, as a corollary, by debt. Where the proportionate level of equity funding of the taxpayer is as high as (or higher than) the group's equity funding, no restriction is applied because the level of debt in the company is not greater than the group's third-party debt. Leeway of 2% is permitted, hence the 98% threshold.

Where an interest group wishes to apply the equity ratio, it is required to do so using a set of consolidated results for the interest group prepared using the same GAAP as the worldwide group. Where that consolidation would otherwise include subsidiaries that are not members of the interest group, they are to be excluded.

#### Group ratio

The second relief, known as the group ratio, calculates the worldwide group's exceeding borrowing costs as a percentage of its EBITDA (using the worldwide group's consolidated financial statements). Where the group's percentage is higher than 30%, then the relevant taxpayer is permitted to use this higher percentage in its own calculations.

### Conclusion

While the other strands of ATAD (most of which have already been implemented) affect many groups, the ILR will likely have a significantly wider impact given the widespread use of debt finance in all industries and sectors, both foreign and domestic. Indeed, other than the proposed change to the standard rate of corporation tax, this may well be one of the most significant changes to the Irish corporation tax regime of recent years.

Careful consideration must be given to its impact and matters such as whether to form a local interest group and the ability to access the various exemptions and reliefs.

The Finance Act includes legislation to enact the interest limitation rule (ILR) mandated by the EU's anti-tax avoidance directive (ATAD). The ILR will cap deductions for 'exceeding borrowing costs' at 30% of a corporate taxpayer's earnings before interest, tax, depreciation, and amortisation (EBITDA) as measured under tax principles. The ILR will affect all Irish companies and corporate groups that have debt funding. Various exemptions and reliefs may mitigate its impact (particularly for smaller companies / groups); however, their availability will need to be assessed.

The ILR is part of a global trend to counteract the perceived misuse of debt financing as a way to erode the tax base of higher-tax countries. All EU member states are obliged to introduce these rules and many other countries have enacted similar rules (such as the UK and the US). As with all EU directives, detailed implementation of measures is determined locally so there can be important differences between member states, with a number of countries going beyond the minimum standards required by ATAD. Ireland has fully complied with those minimum standards and has, for the most part, adopted the various exemptions and reliefs permitted by ATAD. The legislation contained in the Finance Act is, in general, pragmatic in its approach, which is to be welcomed.

# Hybrids & Reverse Hybrids



**Gareth Bryan**  
Partner



## Anti-Hybrid Rules

The Finance Act includes a number of amendments to the anti-hybrid rules. They are mainly technical amendments, however they do include a change to broaden the scope of 'entities' to which the rules apply to include some legal structures that do not have separate legal personality (such as partnerships).

In addition, existing relieving provisions are to be broadened to allow for the fact that certain countries apply taxes on a worldwide basis (and consequently tax the profits of entities which might not pay tax on their own account). At present these rules only apply where a foreign company is taxed on this basis. It is proposed that individuals who are so taxed should also be covered.

## Reverse Hybrid Mismatches

The Finance Act contains legislation enacting, with effect from 1 January 2022, the reverse hybrid mismatch rules required by the EU Anti-Tax Avoidance Directive. These measures seek to counteract potential arbitrages between the taxation systems of two countries which could result in profits being untaxed in either jurisdiction. The measures will apply to a vehicle that is established in Ireland but which is ordinarily not chargeable to Irish tax because Ireland's tax laws treat its profits and gains as accruing directly to the vehicle's participants (e.g. partners in the case of a partnership) while the tax laws of the country where those participants are resident treat the

profits and gains as arising or accruing to the vehicle (and not the participants/investors).

The types of Irish entities that could be affected include partnerships, limited partnerships, investment limited partnerships ('ILPs'), and common contractual funds ('CCFs'). An example of where this could occur would be an Irish partnership with US investors which elects to be treated as a foreign corporation for US tax purposes.

### Application

The rules will only apply where a non-resident investor (along with its associated enterprises) has a 50%+ direct or indirect ownership interest in the Irish vehicle in respect of ownership



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Partner

rights, voting power or a right to profits.

For the rules to apply, the Irish vehicle must not be subject to tax on its profits in any jurisdiction. The rules will impose corporation tax as if the entity were an Irish tax resident company. However, it is only the portion of the profits in respect of which the mismatch arises that is subject to tax. For example, if only 60% of the profits can be attributed to a reverse hybrid mismatch, only 60% of the profits are taxed.

The vehicle will be empowered to redeem part of the capital of the investors giving rise to the reverse hybrid mismatch equal to the tax liability arising. This means that the tax cost arising is economically borne by the investors giving rise to the liability and is not socialised between all of the investors.

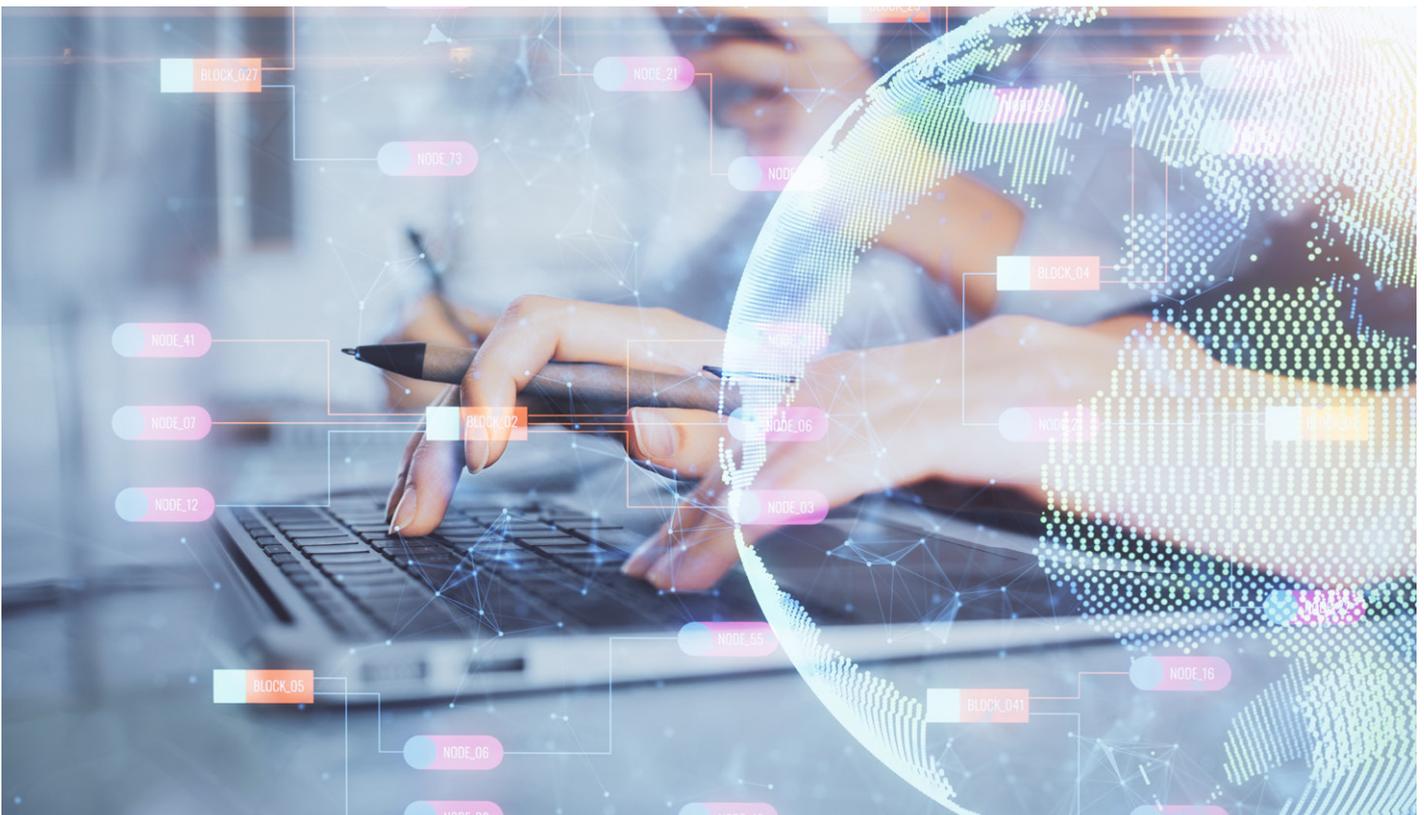
The rules do not apply where the relevant investors are tax exempt or are based in a jurisdiction that does not impose any taxes or does not impose taxes on foreign sourced income and gains. This avoids an imposition of tax where the relevant investors would not have been subject to tax in their jurisdiction of residence even if the hybrid mismatch had not arisen.

#### Collective Investment Schemes

A qualifying collective investment scheme ('CIS') will be exempted from the rules. CISs are defined as CCFs as well as ILPs and other Irish partnerships where their affairs are managed by an alternative investment fund manager. To qualify for the exemption, the CIS must be widely held and hold a diversified portfolio of assets.

#### Treaty resident investors

Where the participator is resident in an Irish treaty partner country, any corporation tax which is to be charged under these rules must take account of the provisions under the relevant treaty i.e. if taxing rights are allocated to the investor's jurisdiction under the treaty then Ireland will not impose corporation tax in such circumstances.



# Reporting requirement for digital platform operators



**James Kelly**  
Partner



The Finance Act provides for the transposition of Article 1(8) of Council Directive (EU) 2021/514, amending the Directive on Administrative Cooperation, referred to as DAC7. DAC7 introduces a new requirement for digital platform operators to register with the Revenue as a platform operator, collect and verify information related to sellers of goods and services using their platform, and to report the information to their competent tax authority on an annual basis. Where relevant, this information will then be shared with other EU member states. The provisions will come into effect following the passing of a ministerial order. It is expected that they will apply from 1 January 2023, in line with the requirements of DAC7.

The activities of a seller that are reportable by platform operators (i.e. 'relevant activities') are comprised of the rental of immovable property, personal services, the sale of goods and the rental of any mode of transport carried out for consideration.

Digital platform operators will be required to collect and report information to identify the seller, and provide an overview of amounts paid to sellers in respect of their relevant activities, as well as platform fees and commissions withheld by the platform operator from the seller. Additional details will need to be collected and reported for transactions involving the rental of immovable property. The platform operator will need to verify the

information received and report this to the Revenue on an annual basis. A copy of the information contained in the return to the Revenue in respect of a seller must also be provided to that seller.

A platform is defined broadly as any software which allows sellers to be connected to other users for the purpose of carrying out a relevant activity. Software that exclusively allows for the processing of payments, the listing or advertising of goods or services, or the redirection or transfer of users to another platform is not subject to these new requirements.

A platform operator who fails to report the above information to the Revenue may be liable to a penalty of €19,045,

with a further penalty of €2,535 for each day on which the failure to make a return continues.

#### Practical considerations

The introduction of DAC7 will have a significant impact on platform operators, particularly in relation to how they interact with their sellers.

The Finance Act introduces requirements for platform operators to identify when a seller is reportable as well as providing for additional powers for Revenue officers to examine procedures put in place by platform operators to meet their obligations under this provision. Where sellers do not provide the required information to platform operators, there is a requirement for the account of that seller to be closed by the platform operator.

Platform operators should now consider how the changes will impact them. This may include:

- Performing a gap analysis of current onboarding processes and the data that is currently collected from sellers by the platform versus what will need to be obtained to comply with the new reporting requirements.
- Assessing how existing systems, processes and interaction with sellers can cater for these new requirements, whether there will be a need to update existing seller records, and general education of sellers on the implications of the new reporting requirements.
- Determining what assurance or validation of data collected and reported will need to take place (e.g. how the VAT number / Tax

Identification Number will be validated, whether third party tools will be used to validate the quality of data collected, etc.).

- Regulations to be issued at a later stage are expected to set out further detail on the requirement for platform operators to register and report under these new provisions.



# Tax Rates and Credits 2022

Personal income tax rates (changed)		
	At 20%, first	At 40%
Single person (increased)	€36,800	Balance
Married couple/civil partnership (one income) (increased)	€45,800	Balance
Married couple/civil partnership (two incomes) (increased)*	€73,600	Balance
One parent/widowed parent/surviving civil partner (increased)	€40,800	Balance
* €45,800 with an increase of €27,800 maximum		
Personal tax credits (changed)		
Single person (increased)		€1,700
Married couple/civil partnership (increased)		€3,400
Single person child carer credit		€1,650
Additional credit for certain widowed persons/surviving civil partner (increased)		€1,700
Employee credit (increased)		€1,700
Earned income credit (increased)*		€1,700
Home carer credit		€1,600
* Applies to self employed income and certain PAYE employments not subject to the PAYE credit		
Capital gains tax (unchanged)		
Rate		33%
Entrepreneur relief (reduced rate)*		10%
Annual exemption		€1,270
* Relief remains capped at lifetime limit of €1m chargeable gains		
Help to Buy Scheme		
Income tax rebate, capped at €30,000, for first time buyers of a principal private residence. The relief is 10% of the house value. No relief for houses valued greater than €500,000. Claimants must take out a mortgage of at least 70% of the purchase price. The scheme only applies to new builds, self builds or a converted building not previously used as a dwelling and not to second hand properties. The scheme has been extended until 31 December 2022.		
Local Property Tax (varying rates) (changed) based on the following bands:		
Bands €	Charge	
1 - 200,000	€90	
200,000 - 262,500	€225	
262,501 - 350,000	€315	
350,001 - 437,500	€405	
437,501 - 525,000	€495	
525,001 - 612,500	€585	
612,501 - 700,000	€675	
700,001 - 787,500	€765	
787,501 - 875,000	€855	
875,001 - 962,500	€945	
962,501 - 1,050,000	€1,035	
1,050,001 - 1,137,500	€1,189	
1,137,501 - 1,225,000	€1,408	
1,225,001 - 1,312,500	€1,627	
1,312,501 - 1,400,000	€1,846	
1,400,001 - 1,487,500	€2,064	
1,487,501 - 1,575,000	€2,283	
1,575,001 - 1,662,500	€2,502	
1,662,501 - 1,750,000	€2,721	
1,750,000 +	€2,721, +0.3% on value over €1.75m	
Value Added Tax (changed)		
Standard rate/lower rate		23%/13.5%
Hospitality and tourism*, newspapers, electronically supplied publications and sporting facilities		9%
Flat rate for unregistered farmers (rate decreased)		5.5%
Cash receipts basis threshold		€2m
* 9% rate applying to hospitality and tourism sector extended to 31 August 2022		

PRSI contribution (changed), Universal Social Charge (changed)		
	%	Income
Employer	11.05%	No limit
	8.8%	If income is €410 p/w or less
Employee* (class A1)	PRSI	4% No limit*
	Universal Social Charge	0.5% (unchanged) €0 to €12,012**
		2.0% (unchanged) €12,013 to €21,295***
		4.5% (unchanged) €21,296 to €70,044****
		8% (unchanged) > €70,044
* Employees earning €352 or less p/w are exempt from PRSI. In any week in which an employee is subject to full-rate PRSI, all earnings are subject to PRSI. Unearned income for employees in excess of €3,174 p.a. is subject to PRSI. Sliding scale PRSI credit of max. €12 per week where weekly income between €352 and €424		
** Individuals with total income up to €13,000 are not subject to the Universal Social Charge		
*** Increase in upper limit of the 2% band from €20,687 to €21,295		
**** Reduced rate (2.0%) applies for persons over 70 and/or with a full medical card, where the individual's income does not exceed €60,000		
Self-employed PRSI contribution, Universal Social Charge (changed)		
	%	Income
PRSI	4%	No limit*
Universal Social Charge	0.5% (unchanged)	€0 to €12,012**
	2.0% (unchanged)	€12,013 to €21,295***
	4.5% (unchanged)	€21,296 to €70,044****
	8% (unchanged)	€70,045 to €100,000
	11% (unchanged)	> €100,000
* Minimum annual PRSI contribution is €500		
** Individuals with total income up to €13,000 are not subject to the Universal Social Charge		
*** Increase in upper limit of the 2% band from €20,687 to €21,295		
**** Reduced rate (2.0%) applies for persons over 70 and/or with a full medical card, where the individual's income does not exceed €60,000		
Tax relief for pensions (unchanged)		
- Tax relief for pensions remains at the marginal income tax rate		
- The Defined Benefit pension valuation factor is an age related factor that will vary with the individual's age at the point at which the pension rights are drawn down		
- Except where a Personal Fund Threshold applies, the Standard Fund Threshold is €2m		
Tax relief for remote working		
Income tax deduction amounting to 30% of the cost of vouched expenses for heat, electricity and broadband in respect of those days spent working from home.		
Capital acquisitions tax (unchanged)		
Rate		33%
Thresholds		
Group A		€335,000
Group B		€32,500
Group C		€16,250
Corporation Tax rates (unchanged)		
Standard rate		12.5%
Knowledge Development Box rate		6.25%
Land (not fully developed) and non-trading income rate		25%
Exit tax*		12.5%
* Applies to unrealised gains arising where a company migrates or transfers assets offshore, such that they leave the scope of Irish taxation		
Stamp duty - commercial and other property (unchanged)		
7.5%* on commercial (non residential) properties and other forms of property not otherwise exempt from duty.		
* There is a refund scheme available to reduce the rate of stamp duty to 2% on certain residential development property transfers		
Stamp duty - residential property (changed)		
1% on properties valued up to €1,000,000		
2% on balance of consideration in excess of €1,000,000		
10% on the cumulative purchase of 10 or more residential houses in a 12 month period		
Deposit Interest Retention Tax (unchanged)		
DIRT	33%*	
* 41% rate remains for exit taxes on financial products		
Dividend Withholding Tax (unchanged)		
Rate		25%*
* A modified DWT regime which was to be introduced from 1 January 2021 was deferred. Under the modified regime it is proposed to use real-time data collected under the modernised PAYE system to apply a personalised rate of DWT to each individual taxpayer		



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