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Taxing Times

Finance Act 2022 & Current Tax Developments

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Tom Woods
Partner

Introduction

The Government published Finance Bill 2022 on 20 October 2022. The bill contains the taxation measures announced in the Minister for Finance's Budget speech on 27 September 2022 as well as several measures not previously announced. As the Report stage is complete, we refer to the bill in this issue of Taxing Times as Finance Act 2022.

Finance Act 2022 was introduced by the minister following what was described as a 'Cost of Living' Budget. It underlines the Government's commitment to help individuals, families and businesses to deal with the challenge of rising prices.

Some of the measures included in the Act to assist individuals and families deal with inflationary pressures include:

- An increase of the standard rate cut off point by €3,200 to €40,000
- An increase in the 2 per cent USC rate band from €21,295 to €22,920
- Increases to personal, employee, earned income and home carer tax credits

One of the key policies announced in the Budget was the Temporary Business Energy Support Scheme (TBESS). The Act outlines further detail relating to the scheme, which will be available to trading and professional businesses who are experiencing significant increases in their energy costs.

In his speech on Budget Day, the minister emphasised the importance of tackling the housing crisis and climate change. The Act confirms the measures announced in the Budget in respect of these areas. They include the following:

- The extension of the Help-to-Buy scheme to the end of 2024
- The introduction of a rental tax credit of €500 per annum
- The enhancement of the pre-letting expenses regime for landlords
- The introduction of a vacant homes tax
- An increase in carbon tax on petrol and diesel

There are also a number of climate/housing related measures included in the Act which were not announced in the Budget. These include bringing cargo bikes within the scope of the cycle to work scheme, extending the Living City Initiative to the end of 2027 and changes to the effective stamp duty rates applicable to affordable/social housing in certain circumstances.

The Act includes a number of changes impacting certain businesses, including a new system for payment or offset of the research and development tax credit, changes to the operation of certain reliefs for investment in corporate trades and amendments to the Knowledge Development Box (KDB) regime.

A number of measures relating to pensions are included in the Act, including changes to the tax treatment of certain lump sums drawn down from foreign pensions and rules for the tax treatment of pan-European Personal Pension Products (PEPP).

Finally, the Act contains a number of other changes to reflect recent international developments and to protect and enhance Revenue powers and administration.

In the press release accompanying the bill, the minister indicated that a number of further measures would be introduced at the Committeee Stage of the bill. These included provisions relating to the Key Employee Engagement Programme (KEEP), the introduction of an accelerated capital allowances scheme for farmers for the construction of modern slurry storage facilities and the extension of a number of agricultural tax measures due to expire at the end of 2022. Introducing further measures to deal with inflationary pressures (e.g. indexation of base costs and relevant tax thresholds etc) appears to be a missed opportunity.

With the focus on cost of living measures in the Budget, there were a limited number of tax measures included in the Act which were directed at maintaining our attractiveness to inward investment and entrepreneurs. It is hoped that these policy goals will attract renewed focus in future Budgets.

Tom Woods

Tom Woods
Head of Tax & Legal Services

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Personal Tax

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Universal social charge

Finance Act 2022 provides for the various changes to universal social charge thresholds for 2023 announced in the Budget. All changes take effect from 1January 2023.

The changes have been made to reflect the increased minimum wage of €11.30 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 2023.

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 2023 table at the end of this publication.

Tax bands and tax credits

Amendments are provided to increase in an individual's standard rate tax band from €36,800 to €40,000. This €3,200 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 also provides for the increases in the personal tax credit, employee tax credit and earned income tax credit from €1,700 to €1,775 respectively. The home carer credit has also been increased from €1,600 to €1,700.

The availability of a tax credit of €1,500 for sea-going Naval Personnel has also been extended until 31 December 2023.

All increases apply from 1 January 2023 and full details of the revised bands and credits are available in the Tax Rates and Credits 2023 table at the end of this publication.

Rent tax credit

As the minister announced in the Budget, the Act provides a tax credit in respect of rental payments. This credit will be available for the years 2022 to 2025 inclusive. The credit per claimant is capped at €500.

Jointly assessed couples will be entitled to a maximum credit of €1,000 (i.e. €500 each).

Subject to meeting the required condition, rental payments in respect of an individual's main residence, or a residence to facilitate work or college qualify for relief.

In addition, the credit may also be available to parents who pay rent on behalf of their student child. The child must have entered a college course qualifying for tax relief on tuition fees before reaching the age of 23 in order to be eligible.

The relief will be given on foot of a claim being made to Revenue by the individual, such claim to include full details in relation to the rental arrangements and landlord's details.

Relief for Investment in Corporate Trades

The Act makes three amendments to the rules governing the Relief for Investments in Corporate Trades.

Those reliefs include the Employment Investment Incentive ('EII'), Start-Up Relief for Entrepreneurs ('SURE') and Start-Up Capital Incentive ('SCI').

Under the existing rules, an individual cannot qualify for relief for investment in a company if that individual or an associate of that individual is connected with the company. There are specific rules which define when an individual or their associate is connected with the company for these purposes.

The definition of 'associate' includes a partner of the individual. The Act introduces an amendment to ensure that individuals who are partners only because they are invested together in a qualifying investment fund (i.e. a fund set up to invest in EII companies) will not be viewed as partners for the purpose of these rules. This exception does not extend to partnerships arising in any other circumstances.

The other two amendments were technical amendments required as a consequence of changes made in prior Finance Acts to the manner in which relief is claimed.

Pan-European Personal Pension Product (PEPP)

The Finance Act introduces a new acronym into the field of personal pensions, the PEPP, or Pan-European Personal Pension Product. This is being introduced on the back of an EU Regulation for a personal pension product that is recognised throughout and is transportable across the EU. In particular, individuals will be able to continue to contribute to their PEPP even if they move residence between EU jurisdictions. Other features include the concepts of flexibility and transferability as regards the product provider and affordability from a cost perspective. For example, the provider of the PEPP to an Irish individual would not need to be located in Ireland and will be governed by the EU Regulation. The structure of the PEPP in Ireland is very similar to that of the Personal Retirement Savings Account (PRSA). The Act also provides that an employer can make contributions to a PEPP or a PRSA, now on a consistent basis with employer contributions to occupational schemes. It will be interesting to see how the PEPP develops as part of the overall menu of products available to pension savers in Ireland.

Foreign pension lump sums

The Act aims to bring the taxation of lump sums received on retirement from non-Irish pension schemes in line with the treatment of such payments from domestic pension schemes. This will mean lump sums received from a foreign pension can qualify for the lifetime tax exemption of €200,000, with the balance of any lump sums received up to €500,000 taxable at the standard rate of 20% and amounts thereafter subject to tax at the individuals' marginal tax rate. The relief has a lifetime limit and is aggregated with lump sums from domestic schemes.

Exemption in respect of incorrect birth registration payment

The Act sets out a new exemption from income tax for a payment (commonly known as the Ex-Gratia Payment in Respect of an Incorrect Birth Registration) made by the Minister for Children, Equality, Disability, Integration

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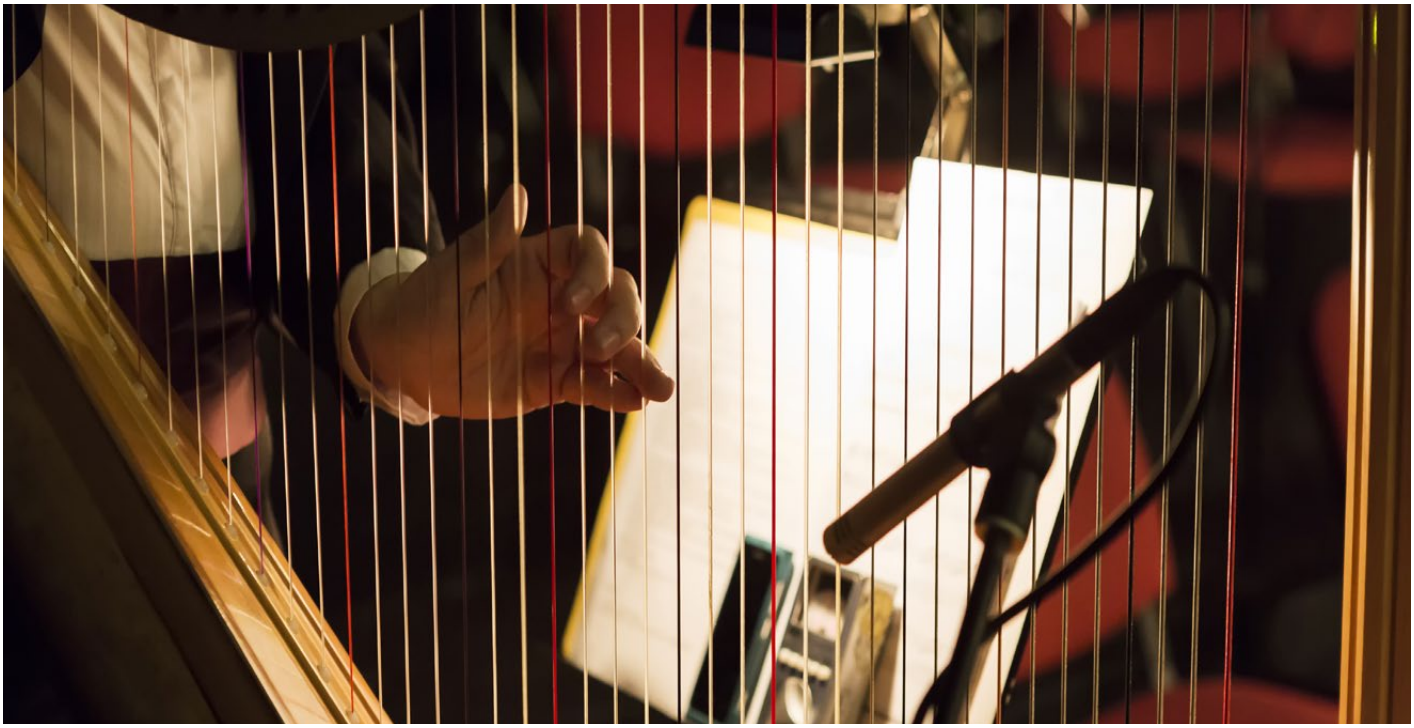

and Youth to an individual who was the subject of an incorrect birth registration for the purposes of the Birth Information and Tracing Act 2022. This is on foot of a decision by the Government on 8 March 2022.

An Ex-Gratia Payment received by an individual who was the subject of an incorrect birth registration will be exempt from income tax up to a maximum amount of €3,000. The exemption applies to all such payments received on or after 1 January 2023 but will also apply retrospectively to treat any such payments received prior to 1 January 2023 as being exempt for the relevant year of assessment.

Relief arising in special circumstances (Week 53 scenario)

Given the variations that can occur in terms of how certain days fall in a calendar year, it is possible that in certain years employers who pay staff on a weekly or fortnightly basis could have an additional payment date in a year (i.e. a 'Week 53'). As tax credits and bands for employees are usually split on the basis of 52 weeks (or 26 weeks where paid fortnightly), an extra payment date could mean that an employee gets paid with no access to tax credits or bands without legislative relief (which is provided in the form of a flexing of tax credits and bands by one fifty second or one twenty sixth to cater for the extra payment date).

The Act includes amendments to provide such relief for the Sea-going Naval Personnel Credit from 1 January 2023 and the Home Carer Credit. The changes for the Home Carer Credit represent a formalisation of an administrative practice already operated by Revenue.

Exemption of certain profits arising from production, maintenance and repair of certain musical instruments

An exemption from income tax of certain profits arising from the production, maintenance and repair of traditional Irish musical instruments is provided for. The exemption is available to individuals who are subject to tax on profits generated from the production, maintenance and repair of early Irish harps, Irish lever harps and uilleann pipes. Profits of up to €20,000 per annum can be exempted under these measures and they will come into effect from 1 January 2023.

CAT and estate matters

CAT and recent amendments to the Succession Act 1965

Earlier this year, amendments were made to the Succession Act 1965 by the Birth Information and Tracing Act 2022 to grant a person affected by an incorrect birth registration (an 'affected person') succession rights in relation to his or her 'social' parents, siblings and extended family, in addition to his or her existing right of succession in relation to his or her birth parents, siblings and extended family. Essentially, an affected person will have the same rights of inheritance for both their social family and their birth family.

The Act provides for a number of amendments to bring Capital Acquisitions Tax legislation in line with these changes which will apply in the case of both gifts and inheritances. The definition of 'child' for CAT purposes is amended to include an affected person and insert the terms 'social father', 'social mother' and 'social parent'. These terms should be used in conjunction with the Succession Act 1965 to determine the relationship that an affected person bears to such individuals and their relatives. Finance Act 2022 also amends the computation of CAT on gifts and inheritances to provide the facility for an affected person to make an election as to the applicable relationship for CAT purposes where a that person takes a taxable benefit from his or her birth parents or from his or her social parents. Once made, that election will apply to all future gifts and inheritances received from the same disponer.

Information in relation to probate applications

The Act sets out some additional information which is to be provided to the Revenue Commissioners and the Probate Office in respect of the estate of a deceased person. The changes relates to details of the property owned by the deceased and they have been included to ensure that the scope of the information to be provided under the new probate system is aligned with what was required under the old system.

A statutory obligation for banks to provide information in relation to a deceased person's accounts to the person applying for probate in relation to the deceased's estate or to an agent acting on their behalf is also included in the Act which will be beneficial in practice.

Exemption from CAT of certain receipts

In March of this year the Government decided to introduce the COVID-19 Death in Service Ex-Gratia Scheme for Health Care Workers to recognise the dedication and fortitude shown by health care workers during the COVID 19 pandemic. Under the scheme, relatives of health care workers who passed away as a result of contracting COVID 19 during the course of their work could be entitled to an ex-gratia lump sum payment of €100,000.

To avoid any tax consequences arising from the receipt of any payment under this scheme, the Act provides for such payments to be exempt from CAT. As it is not stated otherwise, it appears that the exemption will take effect from 1 January 2023. It is not clear if any payments under the scheme have been made at this stage or if any will be made in advance of 1 January 2023. However, the Government website for the scheme clearly states that no income tax or inheritance tax will arise on a payment received within Ireland.

Employment Taxes

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Employer PAYE reporting for certain benefits

The Act provides for a proposed new employer reporting requirement aimed at recording certain tax-free benefits and expenses payments made to employees. Specifically, items covered by the small benefits exemption, remote daily working allowance of up to €3.20 per day and travel and subsistence payments are all included in the reporting requirement.

The proposed legislation confirms that Revenue will provide the prescribed format and manner in which these benefits and expenses will be reported. This will place an increased compliance burden particularly on large employers with significant workforces. However, Revenue may be willing to seek stakeholder engagement on the measure prior to implementation of the provision which is subject to ministerial commencement order.

Changes to the Small Benefit Exemption

Existing rules permit employers to provide one non-cash incentive of up to €500 per annum to an employee without giving rise to a charge to tax where certain conditions are met. This is commonly referred to as the Small Benefit Exemption. In a welcome adaptation, the Minister in his Budget speech announced enhancements to the current rules.

The amendments confirm that firstly, an employer will be permitted to provide up to two qualifying incentives per annum and secondly, the maximum tax-free amount per annum for such incentives has been increased to €1,000. This will provide employers with some further scope to reward employees in a tax-efficient manner.

The Act also confirms that these amendments will come into immediate effect in 2022 and so the enhanced benefits are accessible in the current tax year.

Key Employee Engagement Programme (KEEP)

The Key Employee Engagement Programme (KEEP) is a tax relief for share option schemes which commenced in 2018 specifically for employees and directors of certain qualifying SME companies.

The Act confirms Budget Day intentions that KEEP has been extended until 31 December 2025 and now provides for a number of positive amendments to the scheme.

Specifically, the Act inserts a new section to enable CGT treatment to apply to the buy-back of KEEP shares by the company from the relevant employee provided certain conditions are met. In addition, the lifetime company limit for KEEP shares has been raised from €3 million to €6 million.

Lastly, some key Finance Act 2019 provisions with regard to group structures and qualifying individuals have now been brought into effect. These legislative changes provide definitions for a 'qualifying company' and a 'holding company' which effectively allow companies who operate through typical group structures to qualify for KEEP. Previously the rules operated to limit the applicability of KEEP to companies holding shares in a single subsidiary.

Further, the 'qualifying individual' definition has been extended to include certain part-time and flexible working employees and for the movement of employees within qualifying group structures. In brief, KEEP has now been extended to individuals who devote at least 75% of their working time to a qualifying company or who work at least 20 hours per week for such a qualifying company.

Relevant Tax on Share Options (RTSO)

The Act confirms that the interest rate that currently applies on late payments of RTSO, will be reduced from 0.0322% to 0.0219% (per day or part of a day).

In addition, the Act gives Revenue the power to apply a penalty in cases of non-compliance with the requirement to file the return (Form RTSO1) under the existing share option legislation.

Changes to the Special Assignee Relief Program

The Special Assignee Relief Programme (SARP) was introduced in Ireland from 1 January 2012 and has been extremely successful in encouraging the relocation of key talent within organisations to Ireland. The relief is universally recognised as a key component in Ireland's competitive foreign direct investment offering.

It is Ireland's main expatriate tax relief and reduces a qualifying executives income tax rate for up to five consecutive tax years from first arrival.

The availability of SARP under current legislation was due to expire for individuals arriving after 31 December 2022. The Act confirms that SARP will be extended and will also apply for qualifying individuals arriving up to the end of 2025.

In a further amendment relevant to employees who arrive in the State from 1 January 2023, it will become a requirement to have a minimum base salary of €100,000 per annum which is an increase from the current €75,000 per annum. Potential new claimants may wish to consider the tax benefit of arriving in Ireland prior to 1 January 2023 in order to avail of the existing lower salary threshold.

Additionally, the Act provides that SARP applicants must have a PPS number issued to them. This will hasten the need for a foreign national arriving in Ireland for the first time to apply for a PPS number given the strict requirement to apply for SARP within 90 days of arrival.

Overall, the extension can be seen as a positive measure as it provides certainty and encouragement to mobile international talent with the necessary skills to relocate to Ireland and contribute positively to our economy.

Foreign Earnings Deduction (FED) relief

In a further positive development, the Act confirms the Budget Day announcement to extend the existing FED relief until 31 December 2025. This attractive income tax relief has to date facilitated greater presence of Irish resident individuals working in certain overseas locations.

The extension should hopefully continue to incentivise Irish businesses to develop and expand into new emerging markets.

Cycle to Work scheme

The Act also provides for a further enhancement to the Cycle to Work scheme.

Currently, employers can provide employees with a bicycle worth €1,500 in respect of e-bikes, and €1,250 in respect of other bikes without giving rise to a taxable benefit in kind.

The Act extends the benefit in kind exemption to cargo bicycles and e-cargo bicycles (i.e. pedelec configuration) by increasing the tax-free benefit in kind amount to €3,000. This change will take effect from 1 January 2023.

COVID-19 Related Lay-off Payment (CRLP)

The Redundancy Payments Act 1967 was amended in March 2022 to provide for a scheme for payments to employees known as the CRLP. The scheme was introduced to ensure that employees who were on temporary lay-offs due to COVID-19 related restrictions are not disadvantaged by providing for the tax free CRLP payment.

Broadly, the calculation of a payment for eligible workers will be based on existing statutory redundancy rules however, the maximum payment an employee will be entitled to is €2,268 provided they were laid off due to COVID-19 restrictions during the period from 13 March 2020 to 31 January 2022.

The Finance Act includes an update for the amendment made to the Redundancy Payments Act to extend the income tax exemption to any payments made relating to the CRLP.

Exemption from Income Tax from Death in Service Ex-Gratia payments for Health Care Workers

In March of this year the Government decided to introduce the COVID-19 Death in Service Ex-Gratia Scheme for Health Care Workers to recognise the dedication and fortitude shown by health care workers during the COVID 19 pandemic. Under the scheme, relatives of health care workers who passed away as a result of contracting COVID 19 during the course of their work could be entitled to an ex-gratia lump sum payment of €100,000.

A new section confirms that an income tax exemption will apply for payments made in 2022 and for those made on or after 1 January 2023.

This compliments a separate section of the Act which confirms any payment made under the scheme is exempt from CAT.

Business Tax

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Partner

Temporary Business Energy Support Scheme (TBESS)

The TBESS has been introduced to assist businesses over the coming months. Eligible businesses will be able to reclaim 40% of the year-on-year increase in their energy bills up to certain caps.

The scheme operates by reference to bills for the metered supply of electricity and natural gas through electricity accounts or gas connections which are identified by their own Meter Point Reference Number (MPRN) or Gas Point Reference Number (GPRN).

The scheme covers electricity and natural gas bills issued for the period from 1 September 2022 to 28 February 2023. The minister has the ability to extend the scheme up to 30 April 2023.

The scheme will be administered by the Revenue Commissioners

Who can qualify?

To qualify for the TBESS, a person (including an individual, partnership or company) must meet all of the following conditions:

- The person must carry on a trade or profession (Case I or Case II) (i.e. the person must be an 'eligible business'). Revenue approved charities who carry on a trade and Revenue approved sporting bodies who carry on a trade may also qualify. Credit institutions and financial institutions do not qualify for the scheme.
- The business must be able to demonstrate that the average unit price for electricity or natural gas on the relevant bill has increased by 50% or more as compared to the average unit price in the reference period. The reference period is generally 12 months prior to the month to which the relevant bill relates. If the business was not issued with an electricity or gas bill in the reference period (for example, if the business did not exist or did not hold an electricity account in the reference period), a deemed monthly reference unit price is to be used. The deemed monthly reference unit price rates will be made available by the Sustainable Energy Authority of Ireland and will be published in Revenue guidance.
- For each monthly claim period the business must:
  - Be tax compliant;
  - Be eligible to obtain a tax clearance certificate from the Revenue Commissioners;
  - Have carried on a trade or profession and intend to continue to do so following the end of the claim period;
  - Have registered for the TBESS through the Revenue Online System (ROS); and
  - In respect of any claim for a TBESS payment, the business must make the claim though ROS and make a declaration that the business satisfies the conditions outlined above.

The relief

A qualifying business is entitled to make a claim for payment of 40% of the increased cost in the energy or natural gas bill, whichever is applicable. The maximum monthly payment is capped at €10,000.

Where a qualifying business has more than one electricity or gas connection at different business locations (which may not be adjacent to each other or have the same electricity supply address), it may be eligible for an increased cap of €10,000 per electricity account, which is available as regards both electricity and natural gas costs, up to a maximum amount of €30,000 per claim period.

The aggregate amount of TBESS payments that may be claimed in respect of the six-month period from 1 September 2022 to 28 February 2023, when taken together with any other amount claimed in respect of aid granted under the Temporary Crises Framework, must not exceed €2 million.

This €2 million limit applies for a 'single undertaking' which requires

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consideration of certain related entities, such as subsidiaries. This €2 million limit is reduced to €250,000 for persons active in the primary production of agricultural products and to €300,000 where the person is engaged in the production, processing and marketing of fishery and aquaculture products.

How to claim

The claim must be made through ROS, no later than four months from the last day of the month to which the claim relates.

Other considerations

There are measures to ensure that deductions for energy costs are limited to the true cost of the energy bills, net of the TBESS payment (i.e. the receipt of the payment is effectively taxable).

If a claim for a TBESS payment is made and it transpires that the claim was not permitted or the amount claimed exceeds the amount the person was entitled to claim, the business is required to repay the amount to Revenue, together with interest. Undue delays in repayments of invalid claims by businesses attract further monetary sanction. Where Revenue believe that a claim is invalid or an overclaim, they may consult with the electricity or gas supplier for the purpose of verifying the relevant claim and may serve a notice on the supplier requiring information. A penalty of €1,000 applies for non-compliance with the notice.

Details of a claimant business, including name, address and total amount of TBESS payments claimed will be published on Revenue's website. Additional information such as the sector in which the business operates will be published in certain circumstances.

A business who makes a claim for a TBESS payment is required to maintain supporting records for 10 years from the date to which the claim relates. These records must be made available to Revenue on request.

The TBESS is subject to a commencement order by the minister.

Foreign exchange on trading balances

The Act explicitly confirms the tax treatment of foreign exchange gains and losses in computing the taxable profits of a trading company in certain circumstances. Where applicable, such gains and losses are not subject to capital gains tax.

The effect of the amendment is to explicitly provide that foreign exchange movements (namely gains and losses) relating to trade receivables and trade related bank deposits are to be taken into account in determining a company's taxable trading profits where they are recorded in its profit and loss account. It has long been considered that the treatment now explicitly provided for is in line with law and practice.

Capital sums received for the sale of patent rights

Current Irish tax legislation imposes a charge to corporation tax at a rate of 25% on the sale or transfer by an Irish tax resident person of 'patent rights' where the proceeds of the sale consist of a capital sum. Patent rights are defined as 'the right to do or to authorise the doing of anything which but for that right would be an infringement of a patent.' The law also imposes a corporation tax charge on the seller and a withholding tax obligation on the purchaser in circumstances where a non-Irish resident person sells patent rights related to an Irish patent.

The interaction of this section with Irish capital gains tax (CGT), has given rise to some difficulties in practice, as Irish CGT rules provide that incorporeal property including patents are also considered chargeable assets for CGT purposes. Tax legislation provides that a double charge to CGT and corporation tax should not arise on the same disposal, by allowing any consideration taken into account for corporation tax purposes to be excluded from CGT. However, standard CGT reliefs, such as those applying on intra-group transfers, do not apply to relieve the corporation tax charge.

Irish Revenue have in the past provided confirmations of their view that the outright sale of a patent, as distinct from the sale of any rights under the patent, should be subject to capital gains tax and should not give rise to a corporation tax charge.

The changes in the Act appear designed to provide clarity on the interaction of the corporation tax charge on the sale of patent rights and CGT by proposing two changes, as follows:

- The first change provides that the existing CGT relief for intra-group asset transfers will be treated as applying to the disposal of patent rights within the scope of corporation tax. As a result, neither a gain nor a loss would arise to the selling company and the purchaser would be treated as acquiring the patent rights for the same amount as the purchaser had incurred in acquiring the asset. This relief only applies to a transfer between Irish tax resident companies within the same CGT group or to transfers of Irish chargeable assets (e.g. Irish branch assets). This is a welcome relief for intra-group transfers of patent rights and puts these disposals on a similar basis to other intra-group asset disposals.
- The second change puts the principle of the previous Revenue confirmations on a legislative basis

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by confirming that the outright sale of a patent, or a patent pending, is chargeable to CGT, and is not subject to corporation tax. However, the section limits this treatment to circumstances where the ownership in the patents which the purchaser acquires would be sufficient to allow the purchaser to register their title to the patents on the Irish Register of Patents or equivalent law of a foreign jurisdiction.

The change to bring the legislation in line with previous Revenue confirmations provides some welcome clarity. However, the requirement for the purchaser to have an entitlement to register the title under patent law is likely to introduce complexity in practice. It is common (for certain forms of IP) that a company exploiting the IP may hold all beneficial rights to the patent but that bare legal title of the patent remains with the original inventor. Further clarity on how such disposals would be treated under the legislation would be welcome, particularly where foreign law must be considered. These changes are due to take effect from 1 January 2023.

Film Relief

The Act extends the final date when films can be certified as qualifying for the film corporation tax credit from 31 December 2024 to 31 December 2028. This amendment will be commenced at a future date, subject to EU State aid approval.

Controlled Foreign Company regime

Controlled Foreign Company (CFC) legislation was introduced with effect from 1 January 2019. The regime is designed to prevent the artificial diversion of profits from controlling companies to offshore entities in no or low-tax jurisdictions. This is achieved by taxing the controlling company on the undistributed income of the CFC. The legislation includes a number of exemptions including:

- Effective tax rate test: This applies where the CFC has paid local tax that amounts to at least 50% of the tax that would apply should the profits be calculated under Irish tax rules.
- Low profit margin test: This applies where the accounting profits of the CFC are less than 10% of its relevant operating costs for the period.
- Low accounting profits: This applies where the CFC has accounting profits of less than €750,000 (including less than €75,000 of non-trading income) or has accounting profits of less than €75,000.

The above three exemptions are not available where the CFC is resident in a

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'listed territory'. These listed territories are defined by reference to the EU list of non-cooperative jurisdictions for tax purposes (the 'list'). The list is updated periodically by the Council of the European Union.

Finance Act 2022 includes an amendment to refer to the latest version of the list (issued on 12th October 2022). This amendment applies for accounting periods beginning on or after 1 January 2023.

The non-cooperative jurisdictions in this version of the list are American Samoa, *Anguilla*, *The Bahamas,* Fiji, Guam, Palau, Panama, Samoa, Trinidad and Tobago, *Turks and Caicos Islands*, US Virgin Islands, Vanuatu.

The jurisdictions in italics were not included in the version of the list which applies for accounting periods commencing between 1 January 2022 and 31 December 2022.

Transfer Pricing

With effect from 1 January 2023, Finance Act 2022 amends the reference to the 2022 version of the OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations (2022 OECD Guidelines). The key difference between the 2017 version as compared to the 2022 OECD Guidelines is that the 2022 OECD Guidelines incorporate guidance on the transfer pricing aspects of financial transactions in a new chapter 10.

The Revenue Commissioners previously indicated that the OECD Guidance on financial transactions was considered best practice. The introduction of the 2022 OECD Guidelines into law means that the guidance applicable to financial transactions is now applicable under Irish transfer pricing principles and domestic and non-treaty transactions are now subject to the updated OECD guidance.

Professional Services Withholding tax

Professional Services Withholding Tax (PSWT) is required to be operated by a number of specified public bodies on payments made for the provision to them of certain types of professional services.

The list of entities required to operate PSWT is being extended to encompass i) the Approved Housing Bodies Regulatory Authority ii) the Land Development Agency iii) the Royal Irish Academy and iv) any 'designated institution of higher education' included in s53(1) of the Higher Education Authority Act 2022.

The inclusion of the Royal Irish Academy and 'designated institutions of higher education' is subject to ministerial order which may have retrospective effect up to the date of coming into force of s53(1) of the Higher Education Authority Act 2022.

Charitable donations

The list of approved bodies for participation in the scheme for tax relief in respect of charitable donations is extended to include i) the Royal Irish Academy and ii) any 'designated institution of higher education' included in s53(1) of the Higher Education Authority Act 2022.

The change is subject to ministerial order which may have retrospective effect up to the date of coming into force of s53(1) of the Higher Education Authority Act 2022.

Revenue powers, appeals and reporting

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

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those which they will replace, the following differences are worth noting:

- It provides a legislative basis for not imposing a penalty for technical adjustments, innocent errors and certain cases where the total tax defaults are below €6,000 and are careless rather than deliberate,
- It amends the calculation of a tax-geared penalty where no return has been filed. The calculation will be based on the tax paid before the date of the notice in writing from the Revenue Commissioners of an inquiry or investigation rather than before the commencement of an inquiry or investigation, and
- It amends the definition of 'qualifying disclosure' to include excise duty defaults and also amends to include excise duty defaults in the calculation where a person will not be liable to a penalty where the aggregate amount of their tax and duty defaults does not exceed €6,000 and the default is categorised as careless in nature.

Changes to time limit

The Finance Act includes a legislative amendment such that Revenue may make or amend an assessment to give effect to a Mutual Agreement Procedures (MAP) notwithstanding any time limits on taxpayers making claims for loss relief, group relief or similar reliefs. Such reliefs can now be claimed outside their usual time limits.

Appeals

Two changes are proposed to the tax appeals process to provide the parties to the appeal with greater time in certain circumstances.

Firstly, where a party is dissatisfied with a determination made by the Tax Appeal Commissioners on a point of law, they may make an application requesting case stated for the opinion of the High Court. To improve the administration of the case stated procedure, the Act will extend the time allowed for a party to request a case stated for the opinion of the High Court to 42 days.

Secondly, the timeframe for either party to submit written representations on a draft case stated prepared by the Appeal Commissioners has also been extended to 42 days.

Automatic exchange of information (DAC 7)

The Finance Act introduces automatic reporting obligations for digital platform operators.

Firstly, it includes legislation to give effect to the seventh EU Directive on Administrative Co-operation in tax matters (DAC 7). DAC 7 introduced new EU-wide automatic reporting obligations on digital platform operators in respect of certain sales made via their platform. Platform operators who have nexus in Ireland will be required to register with the Revenue Commissioners and file a return to the Revenue Commissioners by 31 January of the year immediately following the end of the reportable period. Information to be included in the return include names, addresses, tax identification number, VAT identification number of each reportable seller, total consideration paid or credited and fees or commissions paid to each reportable seller.

In addition, the Finance Act includes new legislation to give effect to the OECD's (i) Model Rules for Reporting by Platform Operators with respect to Sellers in the Sharing and Gig Economy, and (ii) Model Reporting Rules for Digital Platforms: International Exchange Framework and Optional Module for Sale of Goods. These are similar to the DAC7 provisions above but extend to digital platforms which connect users to sell goods and provide services. These provisions will not come into force until such time as the minister issues a Commencement Order.

Finally, the Finance Act introduces new legislation to implement the DAC7 provisions on the presence of foreign tax officials from another Member State in Ireland during an enquiry as well as new framework for joint audits. Under these provisions the Revenue Commissioners can issue an authorisation in writing to a foreign tax official that they have been nominated to assist with an administrative enquiry and allow them to be present in Ireland during such enquiries. These provisions come into operation from 1 January 2023.

Andrew Gallagher
Partner

Camilla Cullinane
Partner

Agreements for Double Taxation Relief

Finance Act 2022 brings into law amendments to existing agreements for relief from double taxation with Guernsey and the Isle of Man.

Agri-business measures

During the course of his Budget speech, the Minister for Finance announced his intention to extend a number of important agricultural reliefs which were set to expire at the end of this year. Unusually the amendments to the Act detail that these extensions are set to expire on 30 June 2023. It should also be noted that these extensions are subject to ministerial commencement order.

These measures include:

Stamp duty relief for young trained farmers

Stamp duty relief for the conveyance of farmland to eligible young (i.e. under the age of 35) trained farmers has been extended to 30 June 2023. In the absence of this relief, such conveyances would generally be charged to stamp duty at a rate of 7.5%.

Farm consolidation stamp duty relief

Farm consolidation relief applies a 1% stamp duty charge (instead of the normal rate of 7.5%) on the net consideration where farm holdings are consolidated by way of linked sales and purchases of land and where the acquisition and disposal take place within a 24-month period. The relief has been extended to 30 June 2023.

CGT relief for farm restructurings

Capital gains tax relief for farm restructuring allows farmers to claim tax relief on gains arising from the sale of farmland when the proceeds from the sale are reinvested in acquiring new farmland within 24 months. Full CGT relief is available where the purchase price of the new land exceeds the sales price of the old land, and partial relief is available where the sales proceeds exceed the purchase price. The relief has been extended to 30 June 2023.

Enhanced stock relief

Under existing legislation, young trained farmers and registered farm partnerships are eligible for enhanced relief at rates of 100% and 50% respectively for increases in the value of stock. These enhanced reliefs have been extended to 30 June 2023.

Accelerated capital allowances for the construction of slurry storage facilities

In an effort to assist the agri-business sector in further adopting environmentally positive farming practices, the minister has introduced an accelerated capital allowance scheme for the construction of new slurry storage facilities. The proposed scheme would allow farmers to write off the capital cost incurred constructing these facilities over two years rather than the usual seven years. The new scheme commences from 1 January 2023 and includes any qualifying expenditure incurred on the construction of slurry storage facilities between 1 January 2023 and 30 June 2023. The maximum value that can be claimed under this scheme is €500,000.

Property & Construction

Jim Clery
Partner

As stated by Minister Donohoe in his Budget speech, housing is the central challenge facing the country over the next number of years. In this regard, measures have been introduced or extended to help reduce certain costs facing the sector and its participants. The proposed changes have been designed to promote the viability of homebuilding, reduce the cost of renting and increase the costs of holding passive or unused housing assets. However, the measures lack a coherent effort to reduce the tax disincentives facing Irish landlords who are a vital part of the supply of housing accommodation to tenants. It continues to be hoped that this will be addressed in the near future. The measures announced in the Budget and included in the Finance Act are as set out below.

Measures to assist renters and home buyers

Rent tax credit

In order to alleviate financial pressures on renters, the minister introduced a new rent tax credit valued at €500 per person per year. Full details are included in the Personal Tax section.

Help-to-Buy Scheme

The Help-to-Buy scheme has been a significant support to first time buyers since its introduction in Budget 2017, with 35,000 people benefitting under the scheme. The scheme was due to end in 2022 but now it will be extended in its current form to the end of 2024. This two-year extension will be welcome for prospective first-time buyers and indeed registered builders who will continue to be able to bring marginal supply onto the market.

In addition, the definition of 'qualifying residence' has been extended to include certain dwellings that are purchased by a first-time purchaser in accordance with an 'affordable dwelling purchase arrangement' and a 'direct sales agreement' as defined within the Affordable Housing Act 2021.

The scheme has been enhanced and extended on a number of occasions since its original form in Budget 2017, and the current scheme provides for a refund of the lower of:

- 10% of the cost of a new house,
- €30,000, or
- the income tax and DIRT 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.

An independent review of the scheme had been commissioned by the Government earlier in 2022 and on Budget Day the minister published the report. The report includes a number of recommendations which will be considered in the coming years.

Measures to assist landlords and property developers

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 minister on Budget Day announced that the rules which allow a deduction for certain 'pre-letting' expenses will be enhanced.

The relief allows for a deduction of certain 'pre-letting' expenses, which would not otherwise be allowable, incurred on a property that has been vacant for a period of time and which is subsequently let as a residential premises on or before 31 December 2024.

The relief was previously available for qualifying expenditure on property which had been vacant for 12 months, up to a cap of €5,000 per property. In the Act, the relief has been enhanced with effect from 1 January 2023 and will be available for qualifying expenditure on property which had been vacant for 6 months, up to a cap of €10,000 per property. The relief will continue to be clawed back if the person who incurred the expenses ceases to let the property as a residential premises within four years.

Relief for retrofitting expenditure

In order to encourage the continued participation of small-scale landlords in the rental market, the minister has introduced a measure that will allow a rental tax deduction for expenditure incurred by landlords in relation to certain retrofitting works on rented residential premises. The scheme provides for a tax deduction for qualifying expenditure of up to €10,000 per property, for a maximum of 2 rental properties. The scheme will run for 3 years, beginning 1 January 2023 and ending on 31 December 2025.

To qualify for this relief, a landlord must have received a home energy grant from the Sustainable Energy Authority Ireland ('SEA'). The rental tax deduction is allowed in addition to the SEAI grant received, on the condition that the landlord has claimed the grant in respect of the same retrofitting works.

Where qualifying expenditure is incurred in a year of assessment, a deduction is allowable in the following year.

There are a number of conditions that must be satisfied to qualify for the relief, such as the requirement for the landlord to be tax compliant and registered with the Residential Tenancy Board. In addition, the works must have been carried out by a qualifying contractor during the period, with the objective of improving the energy efficiency of that residential property.

In order to avoid a clawback of the relief, the premises must be rented throughout the period in which the qualifying works are carried out and must continue to be rented for a further 2 years, noting there are provisions which allow for the relief to continue to apply in certain limited circumstances where this is not the case (for example, where a tenancy ceases and the residential property is re-let or actively marketed for rent).

Stamp Duty Refund Scheme for residential land

The Stamp Duty Refund Scheme for residential land was introduced in Finance Act 2017. It provides for a refund mechanism to reduce the net effective stamp duty rate for qualifying residential developments to 2% where higher stamp duty had been paid on the acquisition of the land.

The scheme was due to expire for new construction commencing after 31 December 2022, but has now been extended by three years to 31 December 2025.

The scheme was designed to incentivise residential development. However, the conditions to avail of this refund scheme are onerous and subject to relatively tight time limits for both commencing and completing the development of the residential project.

While the three-year extension is welcomed, in order to avail of the relief, construction must start within 30 months of the acquisition of the site. This continues to be a significant challenge on many projects given the fallout from Covid-19 over the last few years, and the impact of significant planning delays which can hamper the ability to start on-site within that window.

Refund Scheme for 10% penal stamp duty in respect of certain home purchases

Last year saw the introduction of a penal 10% stamp duty rate for purchases of a collection of 10 or more residential houses. A number of projects specifically intended to meet government policy on housing have become inadvertently impacted by this measure. The Act, in several places, contains measures to provide an exemption or refund of all or part of this penal stamp duty in certain circumstances.

An exemption or full refund of duty for purchases of homes in the following circumstances:

1. An exemption has been included in the Act for purchases of interests in houses made under a home reversion agreement, within the meaning of Part V Central Bank Act 1997,

Carmel Logan
Partner

2. A full refund of duty applies to purchases by any entity which, within the following 12 months, directly sells the house to an eligible applicant under the Affordable Housing Act 2021 under approved arrangements with a housing authority.

Subject to the passing of a Commencement Order, a partial refund of duty (back to the original 1% or 2% residential stamp duty rate) can apply in any of the following circumstances:

1. Where, within 24 months, the house is leased to a housing authority or Approved Housing Body under a lease of not less than 10 years, or
2. Where, within 6 months the house is designated a cost rental unit under Part 3 of the Affordable Housing Act 2021, or
3. Where, within 18 months the house is registered as a designated centre under Part 8 of the Health Act 2007, or
4. Where, within 18 months the house is registered as a children's residential centre under Part VIII of the Child Care Act 1991.

The penal stamp duty rate also applies to the transfer of shares in entities owning homes and regrettably the relief, so far, does not seem to cover share transactions.

Reclaims must be made within 4 years of meeting the conditions above and the reliefs have other significant conditions which should be carefully evaluated before a project can assume eligibility for a refund. The Act contains provisions for pro rata repayment of refunds where leases are terminated before the required 10- year occupation period or registrations are not maintained as appropriate for the 10-year period.

The Act also contains measures to aggregate partial interests in houses on a fractional basis when applying the test of whether 10 or more units have been purchased.

Wider property sector measures

Vacant Homes Tax

The minister on Budget Day announced his intention to introduce a new Vacant Homes Tax ('VHT') from 2023 with the stated aim of maximising the use of existing housing stock to increase the supply of homes available for rent or purchase to meet demand. The new tax is not expected or intended to be a significant revenue raising measure, with projected yield of €3m for a full year.

The Act sets out the details of the new tax which will apply to properties which are residential properties for the purposes of

Colm Rogers
Partner

Local Property Tax (LPT) and which are in use as a dwelling for less than 30 days in a 12-month period.

Each chargeable period has a duration of 12 months and commences on 1 November each year. In the Act, the first chargeable period commences on 1 November 2022, and so the first chargeable period will end in November 2023.

The VHT will be charged at a rate equal to three times the base amount of LPT payable in respect of the residential property (i.e. before any application of the 'local adjustment factor') for the year in which the chargeable period ends.

The person chargeable to VHT in respect of a chargeable period is the person who owns the residential property on the first day following the end of that chargeable period. Similar to LPT, there are provisions to deal with scenarios where there are multiple owners, including outlining who should be responsible for filing the required return.

Properties which are subject to a bona fide tenancy which is registered with the Residential Tenancies Board and which lasts at least 30 days during the chargeable period are exempt from VHT for that chargeable period.

In addition, there are a number of other exemptions which will apply to ensure that owners are not unfairly taxed where the property may be vacant for a genuine reason. These exemptions include properties:

- Where no LPT was payable in respect of the year in which the chargeable period ends,
- Which are sold during the chargeable period,
- Where the property is actively marketed for sale or rent in certain circumstances,
- Which are vacant due to the chargeable person's illness or long-term care, where prior to this the chargeable person occupied the property as their sole or main residence,
- Which are vacant during the chargeable period as a result of significant refurbishment work carried out over a period of not less than 6 months in the chargeable period, and various other conditions are satisfied,
- Where the sale or occupation of the property is prohibited by a court order,
- Where the chargeable person in respect of the property dies in the chargeable period or in 12 months prior to the commencement of the chargeable period, and the property was the sole or main residence of that person immediately prior to their death,
- Where a grant to administer the estate of a deceased chargeable person issues in the chargeable period and for any chargeable period following such a grant, where the administration of the estate has not yet completed (provided the property was the sole or main residence of that chargeable person), and
- Which are owned by a North-South implementation body within the meaning of the British-Irish Agreement Act 1999.

The tax will operate on a self-assessment basis and will be administered by Revenue. The filing date for VHT returns will be 7 November after the end of the chargeable period and the payment date will be the following 1 January. Penalties, interest and a late filing surcharge shall apply in the case of non-compliance.

The legislation provides that Revenue shall establish a register of vacant homes which includes details of the associated chargeable persons and allows for an exchange of information between Revenue and certain other bodies to maintain this register and administer the tax.

The legislation also sets out an indicative list of items that could be used to prove to Revenue that the property has been in use for more than 30 days in any given chargeable period, including utility records, records of waste collected or evidence of short-term letting.

Tim Lynch
Partner

The Act also denies a deduction for VHT for the purposes of income tax, corporate tax and capital gains tax and provides details of mechanisms for appeals against assessments which are consistent with those provided for elsewhere in the legislation.

The provisions will become effective from the date of the passing of the Act.

Residential Zoned Land Tax

Finance Act 2021 introduced a new Residential Zoned Land Tax (RZLT) which will apply to land which is serviced and zoned for residential development (including mixed-use land which includes an element of residential), in circumstances where the land has not been used for the development of housing. A 3% rate of tax will be applied to the market value of the zoned residential land, with the first RZLT charge payable in 2024.

Local authorities have been charged with preparing and publishing maps to identify the land within scope of the new tax. The first such draft maps are due for publication on 1 November 2022.

Administrative changes

Following the minister's announcement on Budget Day, the Act includes a number of amendments to the operation of the RZLT. These include:

- A provision that allows a local authority to request proof of ownership of land where a landowner requests a change in zoning on a draft map;
- The imposition of a fixed penalty of €3,000 where there is a requirement to register for RZLT and there is a failure to do so;
- Giving the local authority the ability to update the 'final map' for determinations of applications made under certain parts of the Planning and Development Act 2000 to deal with scenarios where unauthorised development was carried out/the land was being used for an unauthorised use;
- Changes to the provisions requiring claims for exemptions/deferrals to be made and to the provisions that govern the interaction of the RZLT provisions on a death, to deal with the new exemptions/deferrals outlined below; and
- Updating the legislation to outline that RZLT is not deductible against USC or the domicile levy. (The legislation already specified RZLT was not deductible against income tax, corporate tax and capital gains tax).

In addition the above, the Act changes to the legislation dealing with developments that are not fully complete prior to the

expiry of planning permission. At present, the rules provide:

- A deferral of RZLT should be available while residential development of a site is ongoing;
- No RZLT should be ultimately payable where residential development is fully completed prior to expiry of planning permission; and
- If a development is not fully complete prior to the expiry of planning permission, then a tapered relief may be available.

The Act introduces a requirement for the site owner to amend all RZLT returns in which a deferral was claimed if development is not fully complete at expiry of planning permission. In addition, interest would apply to the amount of deferred RZLT now payable. Previously, no such interest on deferred amounts was payable.

Changes to exemptions and deferrals

The Act introduces two new exemptions/deferrals.

The first deals with scenarios where:

- unauthorised development has been carried out/the land is subject to an unauthorised use,
- all other conditions for exclusion from RZLT have been met, and
- an application has been made to retrospectively rectify the unauthorised development/unauthorised use under certain provisions of the Planning and Development Act 2000.

The Act contains a number of related amendments to the legislation to deal with whether or not the application for retention or substitute consent is successful and where the applications are appealed or subject to judicial review. Ultimately where the application for retrospective authorisation of the development is

successful, the RZLT should not be due. Where the application for retrospective authorisation is not successful, the RZLT will be due, plus interest where the RZLT has not been paid on time.

The second exemption deals with a scenario where a lease is in place and it is reasonable to consider that the lease precludes the owner from carrying out development on the site, or part thereof. In order to be a 'relevant contract', the lease or agreement for lease must:

- be for a term of equal to or less than 35 years;
- be evidenced in writing; and
- have been entered into prior to 1 January 2022.

In addition, it must be reasonable to consider that the relevant contract precludes the owner of the relevant site from carrying out development on or to the site, or part thereof.

A claim for this exemption must be made. The exemption is not available where the parties to the lease include the owner of the site and other parties which are connected to the owner. Where the 'relevant contract' only applies to part of the site, then an apportionment of the RZLT is required, based on the area of the site in square metres. There are also special rules where development is precluded for only a portion of the term. The legislation also contains anti-avoidance provisions denying the exemption, where it would be reasonable to consider that the 'relevant contract' was not entered into for bona fide commercial reasons.

The number of exemptions and deferrals available under the RZLT is extremely limited, and in many cases RZLT will arise where a site is developed in line with industry norms, and where the delays to commencement on site are outside the control of the developer (e.g. planning delays or access issues). It had been hoped that the number of exemptions / deferrals available would have been increased given feedback from the industry over the last year. However, as can be seen from above, the new exemptions/deferrals introduced, whilst welcome, are limited.

Olivia Lynch
Partner

Defective Concrete Products Levy

On foot of a Government decision in late 2021, the minister introduced a new levy on certain concrete products in the Act to fund the cost to the exchequer associated with the Defective Concrete Blocks (Mica) Redress Scheme which was introduced earlier in 2022 to help homeowners who have been affected by defective products used in the building of their homes.

The Act provides that the levy will apply to concrete that is ready to pour and concrete products which are required to comply with certain harmonised EU standards.

The new legislation applies the levy on the first supply in Ireland of in-scope concrete products, calculated at 5% of the open market value of the products. The levy will come into effect from 1 September 2023.

On Budget Day the minister had indicated that a higher rate and earlier effective date would apply in relation to the levy. However, we understand subsequent feedback from industry participants has prompted a reduction in rate and a longer lead-in time to allow more time for all stakeholders to prepare for its introduction. While the reduction in rate is welcome, the levy will, of course, increase construction costs in a sector which is already challenged.

The levy will operate on a self-assessment basis. The chargeable person will be a person in the State making a first supply of an in-scope concrete product. Examples of a first supply for the purposes of the new provisions include sale and transfers of concrete products in the course of business carried on in the State, the assignment of concrete products to a business and the disposal of a concrete product free of charge.

A chargeable person must register with Revenue for the levy before a first supply, after the commencement of the legislation, and will be liable to pay the levy and file an appropriate return electronically with Revenue within certain timelines. The legislation provides for penalties and interest to be applied in the cases of non-compliance.
The legislation also contains anti-avoidance provisions where arrangements are entered into between connected persons and it would be reasonable to consider one of the main purposes was to avoid the application of the new rules by having the first supply before 1 September 2023.

Property structures & other property tax matters

Consistent with the recommendation set out in the Commission on Taxation and Welfare report, the minister has committed to commencing a review

of the Real Estate Investment Trust (REIT) and Irish Real Estate Fund (IREF) regimes with regard to institutional investment in the Irish property market. This review will consider those structures and how best they can continue to support housing policy objectives. In our view, the review should include consultation with all stakeholders to ensure these regimes are fit for purpose going forward. The minister noted that institutional investment has played a key role in the provision of housing in Ireland in recent years and we believe that this is often underappreciated by commentators.

In addition, the minister welcomed the Commission's proposals on changes to the Local Property Tax and the introduction of a Site Value Tax. However, he noted these longer-term reforms are wide-ranging and require careful consideration and consultation across Government.

Living City Initiative

Finance Act 2022 provides for the extension of the Living City Initiative to 31 December 2027. The Living City Initiative is a scheme of property tax incentives which applies to certain 'special regeneration areas' in Dublin, Cork, Limerick, Galway, Waterford and Kilkenny. The scheme provides for tax relief for qualifying expenditure incurred on both residential and certain commercial refurbishment and conversion work.

The Act also provides for the acceleration of tax relief for owner-occupiers so that it can be claimed over 7 years instead of 10 years, in respect of qualifying expenditure incurred on or after 1 January 2023. The relief may be claimed as a deduction from total income of 15% of the total eligible expenditure in each of the first six years and 10% for the seventh year. The carry forward of relief for owner-occupiers will also be allowed where it cannot be absorbed in the year, as long as the property remains the main residence. Any carry forward relief needs to be utilised within 9 years after the year in which the claim is first made.

Non-resident Landlords

Under existing legislation certain procedures apply to rental income paid to a non-Irish resident person.

Generally the person making the rental payment to the non-resident landlord (e.g. the tenant) is required to deduct tax at source from the payment. The Act provides that the person making the payment will also be required to provide certain information to Revenue concerning the non-resident landlord, the property (including Eircode and the Local Property Tax reference number), the gross payment and tax withheld.

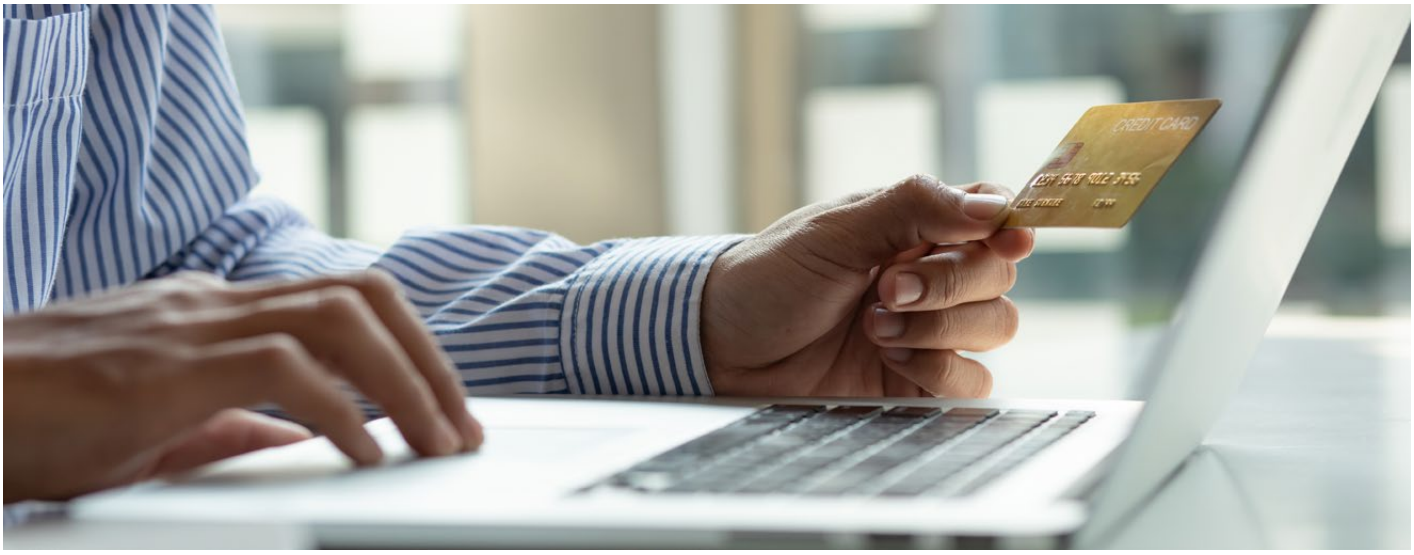
In certain cases, resident persons acting on behalf of the non-resident landlord (i.e. 'collection agents') are assessable to Irish tax on the income of the non-resident landlord. The Act provides that the 'collection agents' will not be chargeable to tax on the income of the non-resident landlord if they:

- deduct withholding tax from payments made by the agent to the landlord and pay the tax to Revenue; and
- provide certain information to Revenue relating to the non-resident landlord, the property (including Eircode and the Local Property Tax reference number), the gross payment and tax withheld.

The proposed amendments are subject to a commencement order.

Financial Services

Gareth Bryan
Partner



Bank Levy

Provisions to extend the bank levy for a further year to the end of 2023 are included in the Act, 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 originally designed to produce a fixed annual yield of €150m, but only €87m will be raised in 2022 in light of the exclusion of Ulster Bank and KBC Bank, further to their exit from the market. The same yield is projected for 2023.

The minister also indicated his intention to consider the long-term future of the levy following the publication of the report of the Retail Banking Review.

Banking levies modernisation

Finance Act 2021 provided for the introduction of a streamlined and modernised system of collection of stamp duties on financial credit cards and cheques but subject to Ministerial Order. Finance Act 2022 includes specific commencement dates (1 January 2023 or 1 January 2024) in respect of the Finance Act 2021 measures.

Adjustments to the definitions of 'credit institution' and 'financial institution' within the Stamp Duty Acts, so as to align those with corresponding changes under EU legislation are also included.

Modernisation of health insurer levies

The Act introduces a streamlined and modernised system for the collection of annual levies on authorised health insurers in the context of risk equalisation in the health insurance industry.

The use of electronic means to deliver statements to the Revenue Commissioners is now put on a statutory footing. In addition, the levy is now made subject to the compliance provisions that normally apply to stamp duties, being:

- the imposition of a surcharge where a statement is delivered late; and
- the application of penalties where incorrect statements are submitted either carelessly or deliberately, or where no statement has been submitted.

Interest in offshore funds

Irish investors with a material interest in an offshore fund may be subject to special taxation regime in respect of their income and gains. Under existing offshore fund rules an interest in certain Irish registered unit trusts will be considered an interest in an offshore fund where the trustees are not resident in Ireland. The Finance Act includes an amendment whereby Irish unit trusts will not be treated as an offshore fund even if the trustees are resident in another EU or EEA Member State so long as the trustees provide their trustee services to the unit trust through a branch in Ireland and the general administration of the unit trust is ordinarily carried on in Ireland. This amendment is welcome as it removes a historic uncertainty about the classification of such funds as domestic or offshore.

Reporting for certain fund vehicles

The Finance Act provides for some amendments to the existing reporting

Joe O'Mara
Partner

requirements for Exempt Unit Trusts (EUT), Common Contractual Funds (CCF) and Investment Limited Partnerships (ILP). Under the current rules, EUT, CCFs and ILPs must provide an annual statement to the Irish Revenue Commissioners containing certain information about their profits. Such funds must also provide certain details in respect of their investors. Additional reporting requirements for these funds will include an obligation to provide details of their business activities and net asset value.

At present the trustees of an EUT are liable to a €3,000 penalty fail to submit an annual statement or submit an incomplete or incorrect statement. The Act extends these provisions to the management company of a CCF and the partners of an ILP.

Securities transferred by electronic means

The Finance Act updates the application of stamp duty on the trading of securities by electronic means. These provisions (which originally came into operation on 30 March 2021), have been updated to clarify that a charge to stamp duty under these specific provisions will arise in respect of the transfer of interests in securities by electronic means only. Previously, there was the potential for a charge to stamp duty to be levied in respect of the same underlying transfer of securities in multiple instances within the Stamp Duty Acts. The standard stamp duty charging mechanisms should continue to apply in respect of securities transferred by non-electronic means.

In addition, the record-keeping obligations arising in respect of such transfers of securities have been limited for the operators of such systems, where there is an agreement in place between the operator of an electronic settlement system and Revenue.

Notably, the standard obligation to maintain records will continue to apply for the persons who enter the transfer orders into the system.

There have been no changes to the exemption from stamp duty which generally applies to transfers of American depositary receipts.

Interest Limitation Rule

Finance Act 2021 legislated for the Interest Limitation Rule (ILR) mandated by the EU Anti-Tax Avoidance Directive. In broad terms, the ILR seeks to cap a company's net borrowing costs at 30% of its EBITDA (as measured under tax principals) subject to a number of reliefs and exemptions. The Act includes a number of mostly technical amendments which, we understand, are intended to ensure that the legislation operates as was intended.

Worldwide groups

Under ILR, the ability for companies to join an interest group (which would allow them to share ILR attributes with other group members) is partly dependent on whether they are included in the same worldwide (accounting) group as each other. As enacted, a company which is owned by a corporate group but whose results are not consolidated into the worldwide group financial statements (e.g., because the company is treated as an investment asset and recorded as an asset on the group balance sheet) is not counted as being part of such a worldwide group for ILR purposes. The Act includes a clarification that if the reason the company is not consolidated is that it is immaterial to the group's results, then it can nevertheless be counted as a member of that worldwide group.

Liam Lynch
Partner

In addition, ILR includes relieving measures which are determined with reference to the relative size of the company's own interest expense and debt levels compared to those of a worldwide (accounting) group of which it is a member. The Act includes a clarificatory amendment to ensure that when applying calculations contained in these reliefs, the financial statements used in respect company's own results and those of the worldwide group must be prepared under the same accounting standards and policies.

Interest equivalents

ILR applies to interest and a wide range of other interest equivalents (e.g. the financing component of certain lease payments, discounts on securities, certain costs relating to the raising of finance). As enacted, interest equivalents also include any amounts of interest-as-a-charge claimed by the company concerned from another group member. However, the legislation did not capture interest categorised as a relevant trade charge or interest-as-a-charge surrendered on a value basis. The Act includes various amendments to correct this aspect. The Act also seeks to treat as interest equivalents any part of an investment company's carried-forward expenses of management to the extent that those expenses were originally generated from amounts that qualified as interest equivalents.

Long-term infrastructure projects

ILR includes an exemption in respect of interest on debt used to finance certain long-term infrastructure projects which involve certain designated classes of large-scale assets. The Act extends the definition of large-scale assets to include certain qualifying large scale residential development projects.

Legacy debt

ILR does not apply to certain qualifying legacy debt the terms of which were agreed before 17 June 2016. The Act includes a new provision whereby if a company has a debt which consists partly of legacy debt and partly of non-legacy debt, any repayment of that debt is deemed to be made in respect of the legacy debt in priority to the non-qualifying debt. The effect of this will be to accelerate the exhaustion of the benefit of this exemption.

Intangible assets

There are rules which apply to companies whose trade entails the exploiting of certain specified intangible assets which cap the deductions they can claim for capital allowances on those assets or interest in respect of their debt funding such that they cannot (in aggregate) exceed 80% of its relevant profits (with any disallowed amounts carried forward and treated as arsing in a subsequent year).

If ILR imposes a further restriction (a disallowable amount), it is this ILR restricted amount that applies for the purposes of the 80% cap calculation. In addition, normally under ILR where there is a disallowable amount created by an

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Partner

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Partner

ILR restriction, it can be carried forward to be claimed as a deduction in future periods under the ILR rules. However, where the ILR restricted interest relates to a specified intangible asset, it is not carried forward as an ILR disallowable amount and is, instead, deductible in future years under the above-mentioned specified intangible asset rules.

The Act contains certain technical amendments to ensure that the application of this restriction and amounts which are deducted under the intangible asset regime in later years due to restrictions in prior years, properly interact with the ILR legislation.

Preliminary tax obligations

As enacted, ILR included a relieving provision in respect of preliminary tax payments which applies until the end of 2027. This provision provides a measure of relief in a situation where a company would otherwise be deemed to have underpaid preliminary tax (solely) as a result of ILR imposing a restriction on its interest deductions. In such a scenario, if the company concerned makes a further top-up payment of preliminary tax within six months after the end of the accounting period and, as a result of making that extra payment, it fully satisfies its preliminary tax payment obligations, it will be treated as not having underpaid its preliminary tax (and, consequently, will not exposed to interest on late payment).

For a number of years, a similar relief has existed where a company underpays its preliminary tax as a result of it either realising chargeable gains between its preliminary tax payment date and its year end or as a result of fair value gains or losses on financial assets / liabilities accruing during the period from the start of month when its first preliminary tax payment is due to its year end. However, the manner in which the ILR preliminary tax relief was introduced in Finance Act 2021 gave rise to a technical issue whereby if a company underpaid its preliminary tax due to a combination of an ILR restriction and either chargeable gains or fair value movements on financial assets and liabilities (as described above), the company could not claim the relief. The amendment included in the Act seeks to retroactively correct this inadvertent issue such that relief can be claimed in respect of any combination of one or more of the qualifying causes of underpayment.

Knowledge & Innovation

Ken Hardy
Partner

R&D Tax Credit

The amendments to the payable element of the R&D Tax Credit (RDTC), as set out in the Finance Act, appear to enable the RDTC to align with the new international definitions of refundable tax credits, as mentioned by the Minister for Finance in his Budget speech. This has been achieved through substantial structural changes to the way companies can access the benefits provided by the credit.

There is no doubt that ensuring the credit remains attractive to innovative multinational companies is critical but the manner in which the Finance Act seeks to achieve this appears to have a negative impact for profitable, indigenous companies, in particular. Whether this is a new tax policy, or an unintended side effect is unknown at this stage, but it is surprising given the Government's stated aim of increasing uptake of the RDTC by SMEs.

By introducing a 'fixed three instalment approach' to the refundable element of the credit, companies who previously were able to offset their credit in full against their corporation tax liability for the current period, will no longer be able to do so. All claimants will now only claim 50% of the RDTC in year 1, with the balance being paid out in years 2 and 3. This has an obvious detrimental impact for companies who have regularly received the full value of the credit in a single tax return where they had the tax capacity – a provision that has been available since the introduction of the RDTC in 2004.

In addition, the Finance Act introduces the concept of 'a valid claim' for the first time. RDTC claims have always been subject to audit or review by Revenue but also always have been made under our self-assessment regime (i.e. a company claims the RDTC in its full and true corporation tax return and after firstly using the credit to fully offset the company's corporation tax liability for the current period a cash refund may be due). Now, based on the proposed Finance Act, payments will not be released until Revenue accept that a 'valid claim' has been made. The definition of 'a valid claim' appears to be a subjective test to be applied by Revenue in relation to whether sufficient information has been provided by the taxpayer to demonstrate how they are entitled to the RDTC which has been claimed. We expect that this change, if included in the Finance Act could significantly slow the pace at which refunds are made, and indeed may increase the administrative burden on companies claiming the RDTC.

Technical changes

The most significant change included in the Finance Act is that the current method of offsetting the RDTC against corporation tax (in priority to the credit being processed via a cash refund) will no longer apply for accounting periods commencing on or after 1 January 2023. Instead, it appears that companies will be required to claim the RDTC via a new three-year fixed payment schedule, with no apparent option to offset the full R&D tax credit amount against corporation taxes paid or owing.

The existing limits with respect to the payable RDTC amount which are currently linked to the corporation tax paid by the company in the previous 10 years or the payroll taxes remitted by the company for the relevant periods, have been removed in full.

How does the new refund work?

Under the new three-year fixed payment schedule, a company's RDTC instalments would be calculated as follows:

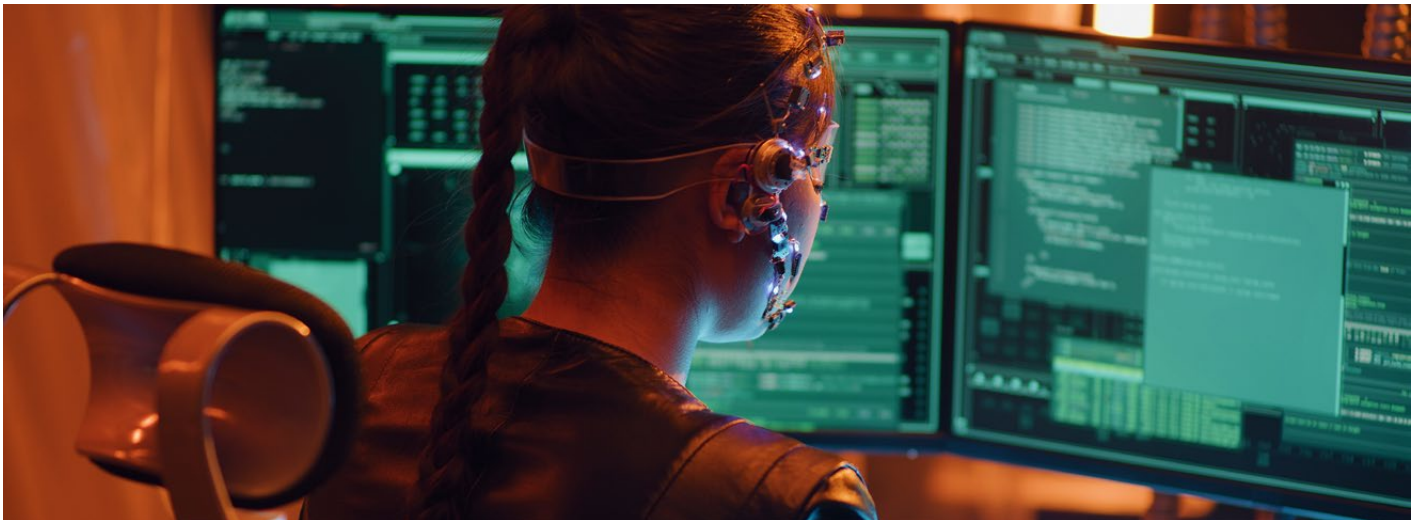
The first RDTC instalment would be based on the greater amount of either:

i. €25,000 (or if lower, the amount of credit claimed by the company), or

ii. 50% of the RDTC

The second instalment would be calculated based on three-fifths of the remaining balance of the RDTC. The third instalment would be calculated based the balance of the R&D tax credit amount claimed by the company less the first and second instalments previously claimed.

Damien Flanagan
Partner



Knowledge Development Box

As announced in the recent Budget and now confirmed in the Finance Act, the Knowledge Development Box (KDB) regime has now been extended for a further four years, to include accounting periods commencing before 1 January 2027. While we welcome the extension of the relief, as companies need a long-term view to make investment decisions around R&D, it would be preferable if the Irish KDB regime was similar to other competing jurisdictions which are not limited by sunset clauses like that included in the Finance Act. Ideally, the KDB would be a permanent fixture of the tax system.

We know that the KDB in its current format will be impacted by changes in the international tax environment, specifically under OECD Pillar Two if it is introduced. Pillar Two includes a 'Subject To Tax Rule', whereby countries may apply a withholding tax on interest, royalties and defined payments where the recipient jurisdiction applies a nominal corporate tax rate of less than 9% to the payment. Any commencement order made by the Minister for Finance will be subject to international progress on implementation of the Pillar Two Subject to Tax Rule, the rate of the additional allowance given as a trading expense is reduced from 50% to 20% of the qualifying profits, to give a new effective rate of 10% (rather than 6.25%) for profits within scope of the KDB.

Under the OECD Pillar Two rules, profits taxable under the Irish KDB regime will be included as GloBE income in line with accounting principles and will be subject to the minimum effective tax rate. Despite the deemed tax deduction under Irish domestic rules resulting in the KDB profits effectively being taxable at the proposed new rate of 10%, these profits will be within scope of GloBE and will be subject to the minimum effective tax rate of 15%. This may give rise to additional top-up tax payable on these profits, thus almost entirely negating the benefit of the KDB regime for in scope multinational companies. We have recommended that the KDB regime should be further amended to fall within the definition of a 'qualified refundable tax credit' under Pillar Two rules. This would help ensure that the KDB remains viable as an incentive.

For indigenous and other companies that will not be impacted by the proposed minimum effective corporation tax rate of 15% (because they are below the turnover requirements), and will retain a corporation tax rate of 12.5%, the increased tax rate for the KDB of 10% will significantly reduce the benefit and attractiveness of the KDB. Given the low number of taxpayers that currently avail of the KDB, this change is unlikely to help with the uptake of the relief.

Digital Games Tax Credit

Some technical amendments were made to the Digital Gaming Tax Credit section of the legislation. This includes amendments to the definition of a 'digital games development company' and to the definition of 'qualifying expenditure'.

Clarification was made in relation to companies' resident in an European Economic Area State (other than Ireland) who must carry on a business in Ireland through a branch or agency, that this requirement only applies at the time of making a claim for the Digital Games Tax Credit. Similarly, the requirement that the company has filed a corporation tax return only applies at the time of making the claim.

Indirect Taxes

David Duffy
Partner

VAT

The Act includes measures affecting the VAT exemption for certain activities, principally in the financial and medical sectors, the VAT rates for certain goods and services, as well as administrative points in relation to VAT registrations and the sharing of information by Revenue with tax authorities of other EU Member States.

VAT exemption for management of non-Irish EU Funds

The Act includes legislative changes which would bring the management of certain funds, namely (i) undertakings for collective investment in transferable securities (UCITS) and (ii) alternative investment funds (AIFs), authorised by EU Member States outside of Ireland, within the scope of the Irish VAT exemption for management of specified investment funds. The principal impact of this change would be that fund managers in Ireland engaged in the management of such funds would no longer be entitled to VAT recovery on costs relating to this activity.

Provision is also made for the removal of the VAT exemption for 'agency services' related to the management of specified investment funds. These changes are due to take effect from the date of passing of the Finance Act.

VAT exemption for management of Section 110 companies

The withdrawal of the VAT exemption for services comprising the management of qualifying companies within the scope of Section 110 of the Tax Consolidation Act 1997 and which hold qualifying assets comprising of plant and machinery is included in the Act. The VAT exemption for the management of Section 110 companies holding other forms of qualifying assets, including financial assets and commodities, is not impacted by the proposed change. The change is due to come into effect on 1 March 2023.

VAT exemption for professional medical care services

Finance Act 2022 includes an update to the wording for the VAT exemption of professional medical care services, by specifying that the services must be supplied by members of a designated profession or registered medical practitioners, midwifes or nurses. This is due to replace the current wording which specifies that the exemption applies to professional medical care services recognised as such by the Department of Health and Children but does not specify who must provide the services. This may lead to a narrowing of the VAT exemption for certain medical services. This change is due to take effect from the date of passing of the Finance Act.

VAT exemption for cost-sharing groups

Updates to the VAT exemption for supplies between members of certain independent groups of persons engaged in VAT exempt activities (also known as cost-sharing groups) is included in the Act. The provision is due to be updated to allow group members who carry out both taxable and VAT exempt activities to come within the scope of the exemption. There are a number of other

conditions to be met to come within the scope of this exemption, which are not impacted by the change. The change is due to take effect from the date of passing of the Finance Act.

VAT Rate Changes

Finance Act 2022 includes several VAT rate changes or clarifications, most of which were announced by the minister in his Budget 2023 speech. These include:

- The temporary VAT rate of 9% for supplies of gas and electricity will be extended until 28 February 2023. The VAT rate for these supplies is due to revert to 13.5% on 1 March 2023.
- The VAT rate applying to the sale of newspapers and electronically supplied newspapers (e-papers) will reduce from 9% to 0% with effect from 1 January 2023. This reduction will not apply to newspapers or e-papers which are wholly or predominantly devoted to advertising, or which wholly or predominantly consist of audible music or video content. Periodicals which are not newspapers or e-papers will remain at the 9% rate.
- The VAT rate applying to the supply of automated external defibrillators, non-oral hormone replacement therapy and non-oral nicotine replacement therapy will be reduced from the standard rate of 23% to the 0% rate with effect from 1 January 2023.
- The VAT rate applying to menstrual cups, menstrual pants and menstrual sponges will reduce from 13.5% to 0% from 1 January 2023. This will bring the VAT rate applying to those products in line with the rate already applying to sanitary towels and sanitary tampons.
- The scope of the 0% VAT rate for food and drink products will be updated to exclude 'preparations and extracts derived from milk'. Such products will be subject to the standard rate of 23%. The 0% VAT rate applying to milk and other food and drink products is not affected by the change. This measure will take effect from the passing of the Finance Act.

A measure confirming that the flat-rate addition payable to farmers who are not VAT registered will decrease from 5.5% to 5% with effect from 1 January 2023 is also included.

Administrative Matters

Finance Act 2022 includes measures to put on a legislative footing the practice introduced by Revenue in June 2019 which distinguishes between 'domestic-only' and 'intra-EU' VAT registrations. The provisions confirm that where a person registers for VAT in respect of domestic-only transactions, but subsequently engages in trade with counterparties in other EU Member States, that person must notify Revenue in writing of such activity within 30 days in order to obtain an 'intra-EU' registration. This process is currently completed by way of the person completing a form on the

Glenn Reynolds
Partner

Revenue website requesting details of the intra-EU trade. The introduction of the dual VAT registration system was intended to help expedite VAT registrations for domestic-only traders, while ensuring that sufficient controls are in place regarding the issue of intra-EU VAT numbers which may enable traders to make purchases from abroad without being charged VAT.

The Act extends Revenue powers to request information from financial institutions in Ireland on behalf of tax authorities in other Member States. The Act also allows for Revenue to levy a penalty of €4,000 on financial institutions where such a request for information is not complied with.

Excise Duties

Betting Duty

Finance Act 2022 contains a measure providing that where a bet is placed under an offer which allows the customer to pay less than the amount at stake or nil (such as a 'free bet'), the betting duty chargeable will be calculated based on the total amount of the stake rather than the amount paid by the customer (if any). This will result in the total value of any free or discounted bets being treated as taxable.

Other Excise Duty Measures

Measures are proposed to clarify the time limits for prosecution of summary offences, such that they should not apply where an offence under excise law is triable either on indictment in the Circuit Court or on a summary basis in the District Court (known as a hybrid offence). This amendment would apply to proceedings initiated after the coming into operation of this section.

The Act includes a measure to allow the extension of the existing relief from carbon tax payable for natural gas used for certain purposes to the production of horticultural produce in glasshouses of a total area not less than a quarter acre and the cultivation of mushrooms in buildings or structures of a total area not less than 3,000 square feet. The extension of this relief is subject to a Ministerial Order.

Legislative provisions which will give effect to the excise measures announced in the Budget are contained in the Act, including:

- Increase in excise duty on a packet of 20 cigarettes by 50 cents (including VAT), with pro-rata increases on other tobacco products. This increase took effect from midnight on Budget Day.
- Excise duty rate reductions of 21 cent per litre for petrol, 16 cent per litre for diesel and 5.4 cent per litre for Marked Gas Oil (MGO) will continue to apply until 28 February 2023. These temporary reductions were previously due to expire on 12 October 2022.
- Extension of the excise relief programme (already available to small independent producers of beer) to small independent producers of cider and perry and an increase to the production threshold for eligibility to claim relief from alcohol products tax on beer brewed in small breweries.
- Confirmation of the reduction in excise fees from €110 to €55 when applying for Special Exemption Orders required to permit the sale and consumption of alcohol beyond normal trading hours in venues such as late bars and nightclubs.

Tax Rates and Credits **2023**

Personal income tax rates (changed)

	At 20%, first	At 40%
Single person (increased)	€40,000	Balance
Married couple/civil partnership (one income) (increased)	€49,000	Balance
Married couple/civil partnership (two incomes) (increased)*	€80,000	Balance
One parent/widowed parent/surviving civil partner (increased)	€44,000	Balance

* €49,000 with an increase of €31,000 maximum

Personal tax credits (changed)

Single person (increased)	€1,775
Married couple/civil partnership (increased)	€3,550
Single person child carer credit	€1,650
Additional credit for certain widowed persons/surviving civil partner	€1,650
Employee credit (increased)	€1,775
Earned income credit (increased)*	€1,775
Home carer credit**	€1,700

* Applies to self employed income and certain PAYE employments not subject to the PAYE credit
** It is not possible to claim both the increased Standard Rate Cut-Off Point for married couples (two incomes) and the Home Carer Tax 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 (unchanged)

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 2024.

Electricity Credit

An electricity credit for all households totalling €600 will be paid in three instalments of €200. The first payment will be made before Christmas, with two further instalments in the New Year.

Vacant Homes Tax

Vacant Home Tax will apply to residential property occupied for less than 30 days in each 12 month period from 1 November to 31 October. A number of exemptions will apply to properties which are unoccupied for genuine reasons. Tax will be charged at a rate equal to three times the property's existing LPT.

Local Property Tax (varying rates) (unchanged) 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

- Valuation date for LPT purposes was 1 November 2021 and determined the LPT to be paid for 2022 - 2025.
- Applies to residential (not commercial) properties.
- Applies to new homes constructed on or before the valuation date of 1 November 2021, which will be brought within the scope of LPT charges from 2022 onwards.
- Various other exemptions no longer apply.
- Certain payment deferral options may be available for low income households
- From 2015 onwards, local authorities can vary the basic LPT rates on residential properties in their administrative areas. These rates can be increased or decreased by up to 15%.

Value Added Tax (changed)

Standard rate/lower rate	23%/13.5%
Hospitality and tourism*, electricity and gas*, and sporting facilities	9%
Flat rate for unregistered farmers (rate decreased)	5%
Cash receipts basis threshold	€2m

* 9% rate applying to hospitality and tourism sector and electricity and gas extended to 28 February 2023
** 0% rate in respect of newspapers, including digital editions, defibrillators, hormone replacement and nicotine replacement therapies, and certain period products introduced from 1 January 2023

PRSI contribution (unchanged), Universal Social Charge (changed)

	%	Income
Employer	11.05%	No limit
	8.8%	If income is €441 p/w or less
Employee* (class A1)		
PRSI	4%	No limit*
Universal Social Charge	0.5% (unchanged)	€0 to €12,012**
	2.0% (changed)	€12,013 to €22,920***
	4.5% (changed)	€22,921 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 €21,295 to €22,920
**** 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. This concession has been extended to the end of 2023

Self-employed PRSI contribution (unchanged), Universal Social Charge (changed)

	%	Income
PRSI	4%	No limit*
Universal Social Charge	0.5% (unchanged)	€0 to €12,012**
	2.0% (changed)	€12,013 to €22,920***
	4.5% (changed)	€22,921 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 €21,295 to €22,920
**** 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. This concession has been extended to the end of 2023

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

Rent Tax Credit

Taxpayers who are renting a property and are not receiving housing supports will qualify for a max rent tax credit of €500 per annum. This credit will be doubled in the case of married couples and civil partners. This credit can be claimed in year from 2023 to 2025 and from early in 2023 in respect of rent paid in 2022. This credit is also available for rent paid for a qualifying child attending college.

Tax relief for remote working (unchanged)

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%

* The Knowledge Development Box has been extended to accounting periods commencing before 1 January 2027. The KDB will have a new effective rate of 10% to come into effect from a date set by commencement order (expected to occur in 2023)
** 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. This has been extended to 31 December 2025

Stamp duty - residential property (unchanged)

1% on properties valued up to €1,000,000

2% on balance of consideration in excess of €1,000,000

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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