FINANCE BILL 2016

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Part 1 - Measures announced in the Budget

Income Tax

Sections 2 to 4 - Income Tax and USC

The Finance Bill will provide for the Income Tax and USC changes announced on Budget day. Section 2 of the Bill contains the USC changes and Sections 3 and 4 of the Bill deal with the increases in the Earned Income Credit and the Home Carer Credit respectively.

Other Income Tax

Section 15 - Interest Deductibility for Residential Landlords

The deduction available for qualifying interest payments on monies borrowed to purchase, improve or repair residential rental property is being increased from 75% to 100% over the next 5 years. The deduction will be increased by 5 percentage points each year, with the first increase from 75% to 80% to take effect from 1 January 2017. This measure will apply to both new and existing mortgages.

Section 8 - Help to Buy

As part of the *Rebuilding Ireland: Action Plan for Housing and Homelessness,* the Government announced a Help to Buy scheme aimed at assisting first time buyers of new homes to fund the deposit as required under the Central Bank macro-prudential rules.

The scheme consists of a rebate of income tax paid over the previous four years up to 5% of the purchase price of up to €400,000. Where new homes are valued between €400,000 and €600,000 the maximum relief (i.e. €20,000) will continue to be available. Where the value of a new home exceeds €600,000, no relief will be available. The home must be a new build and applicants must take out a mortgage of at least 70% of the purchase price.

This incentive is scheduled to run until the end of 2019. It will be open to applicants who have signed contracts to purchase their home on or after the 19 July 2016, the date on which *Rebuilding Ireland* was launched.

Section 7 - Home Renovation Incentive

The HRI provides tax relief for homeowners and landlords by way of an income tax credit at 13.5% of qualifying expenditure incurred on repair, renovation or improvement work carried out on a residence. This Incentive was due to expire at the end of this year, but the Bill extends it for a further two years until the end of 2018.

Section 12 - Rent a Room

The Bill provides for an increase to the ceiling for tax free income under the Rent-a-Room scheme from €12,000 to €14,000. This change would, for example, allow a homeowner to rent out two separate single rooms in Dublin at current average prices but still remain within the scope of the scheme. The incentive aims to encourage homeowners to rent out vacant rooms, thereby providing additional residential accommodation.

Section 14 - Living City Initiative
The Bill amends the Living City Initiative to encourage an increase in the take-up of the scheme. The changes include the removal of the restriction on the maximum floor size of properties that can qualify, removal of the requirement for the residential element of the Initiative that the property must have been previously used as a dwelling, and changes to the minimum amount of expenditure needed to qualify. It also extends the availability of the initiative to landlords in respect of the renovation of rental accommodation in the special regeneration areas.

Section 10 - Foreign Earnings Deduction
The Foreign Earnings Deduction is being extended until the end of 2020. The incentive is designed to assist businesses to diversify into non-traditional export markets for Irish goods and services. Columbia and Pakistan are being added to the list of qualifying countries. The minimum period required to be spent abroad is reducing from 40 to 30 days to ensure that the scheme is accessible to smaller businesses.

Section 9 - Special Assignee Relief Programme
In order to provide certainty for the FDI sector, the Bill extends SARP until the end of 2020. The programme was due to expire at the end of 2017 but in the context of the uncertainty that surrounds Brexit, this extension is being announced now.

Section 11 - Start Your Own Business Relief
The Start Your Own Business tax relief assists long term unemployed individuals to start a business by giving them an exemption from income tax on profits of up to €40,000 for two years. The Bill provides for an extension to the scheme for new applicants for an additional two years until the end of 2018.

Section 5 - Fishers Tax Credit
The Bill provides for a new tax credit for fishers to assist the viability of the fishing sector. Fishers who spend at least 80 days fishing at sea in a tax year will be entitled to claim an additional income tax credit of €1,270 per annum.

Section 17 - Income Averaging Step out for Farmers
The Income Averaging regime allows a farmer's taxable profit to be averaged out over a 5-year period. The Bill provides for an amendment to the regime to allow farmers to "step out" of income averaging in a single year of low income. This may be availed of by farmers this year when they come to pay their preliminary tax at the end of this month.

Section 16 - Accelerated Capital Allowances for energy efficient equipment
The scheme of accelerated capital allowances for energy efficient equipment was introduced in 2008 for companies. It is being extended to make it available to farmers and all sole traders in the Bill.

Capital Gains Tax

Section 25 - Amendment of CGT Entrepreneur Relief
The existing Capital Gains Tax relief introduced last year applying a favourable rate to disposals of qualifying business assets by individual entrepreneurs and business people is being modified by reducing the 20% rate to 10% for qualifying disposals, with no change to the current lifetime limit of €1 million. No other aspect of the relief is being changed.

Section 28 - Extension of Farm Restructuring Relief
Farm restructuring relief applies to a sale, purchase or exchange of agricultural land in the relevant period from the 1st of January 2013 to the 31st of December 2016 where Teagasc has certified that the sale and purchase or the exchange of agricultural land was made for farm restructuring purposes. This period is being extended to the 31st of December 2019.

Section 29 - Payments Related to Raised Bog Restoration Scheme
The Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs is introducing an incentive scheme to encourage cooperation with restoration efforts related to protected raised bogs. These payments will be made exempt from CGT to help maximise engagement from landowners and rights-holders.

Capital Acquisitions Tax

Section 50 & 51 - Changes to CAT Tax-Free Thresholds
Capital Acquisitions Tax is paid on amounts beyond certain tax-free thresholds depending on the relationship of the beneficiary to the disponer. The Group A threshold, for transfers from parents to their children, is being increased from €280,000 to €310,000 with effect from Budget night. At the same time the Group B threshold, for other transfers within the family, is being increased from €30,150 to €32,500, and the Group C threshold, for other transfers, is being increased from €15,075 to €16,250.

Value-Added Tax

Section 46 - Farmers' Flat-Rate Addition
The farmers' flat-rate addition is being increased from 5.2% to 5.4% with effect from 1 January 2017. The flat-rate scheme compensates unregistered farmers for VAT incurred on their farming inputs. The flat-rate addition is reviewed annually in accordance with the EU VAT Directive and the increase to 5.4% in 2017 achieves full compensation for farmers.

Corporation Tax

Section 21 - Section 110 TCA 1997
Section 21 of the Bill amends section 110 TCA 1997. The proposed amendment to section 110 applies to profits arising from the holding of financial assets that derive their value from Irish land and will apply to accounting periods commencing on or after 06 September 2016. This measure has the effect that for the purposes of section 110 TCA 1997 the use of profit participating loans will be restricted where they are used by qualifying companies relating to Irish property transactions. To ensure that bona-fide securitisations are not restricted by the amendment, the legislation provides that defined Collateral Loan Obligation transactions, defined Commercial Mortgage Backed Securities/Residential Mortgage Backed Securities transactions and defined loan origination businesses are excluded from the amendment. Exemptions are also provided in relation to payments made to individuals within the charge to income tax or companies within the charge to corporations tax; Irish or EEA pension funds, or EEA citizens or companies who will pay tax on receipt of the interest, without any deduction for profit participating interest, provided that the payment of the coupon to the EEA citizen or company is not for tax avoidance purposes.

Tax Administration and Revenue Powers

Section 54 – Penalties For Deliberately or Incorrectly Making Incorrect Returns, Etc.
With effect from 1 May next the opportunity to make a voluntary disclosure in relation to a tax default will be withdrawn from taxpayers whose liabilities involve offshore income or assets. Any such person failing to make a disclosure before that date will no longer have access to the penalty mitigation arrangements and protection from publication in the quarterly defaulters' list currently available where a qualifying disclosure is made and may leave themselves open to criminal prosecution.

Indirect Taxes

Excise

Section 43 - Vehicle Registration Tax (VRT)
The VRT relief available for the purchase of plug-in electric vehicles, and electric motorcycles is being extended to 31 December 2021. The reliefs for hybrid electric vehicles and plug-in hybrid electric vehicles are being extended to 31 December 2018.

Section 36 - Alcohol Products Tax
The qualifying ceiling for microbreweries to avail of 50% relief in excise duty is being increased from a production level of 30,000 hectolitres to 40,000 hectolitres.

Section 35 - Tobacco Products Tax
This section provides for the Budget day announcement of an increase in the excise duty on a packet of 20 cigarettes in the most popular price category by 50 cent (including VAT), with a pro-rata increase on other tobacco products. This increase applied from midnight on 11 October 2016.

DIRT

Section 20 - Dirt Rate
DIRT, at the rate of 41%, is deducted at source by deposit takers (e.g. banks, building societies, Credit Unions, Post Office Savings Bank, etc.) from interest paid or credited on deposits of Irish residents. This rate will be reduced by 2% in each of the next 4 years until it reaches 33%.

Bank Levy

Section 49 - Extension of Bank Levy
In budget 2016 the Minister announced he would extend the Bank Levy beyond 2016 to 2021. Following this announcement a review took place of the methodology used to calculate the levy including a public consultation. The levy was previously calculated on DIRT payments made in 2011. From 2017 the levy will be based on DIRT payments made in a base year which will change every two years.

- 2015 will be the base year for 2017 and 2018,
- 2017 will be the base year for 2019 and 2020
- 2019 will be the base year for 2021.

From 2017 the levy will be calculated at a rate of 59% of DIRT paid by liable financial institutions in the applicable base year as shown above, this is in order to maintain the annual yield at approximately €150 million. The rate of the levy will be reviewed with every change of base year. The Minister is proposing to reduce the rate of DIRT by 2% per annum over the next four years, bringing it from its current rate of 41% to 33% in 2020; these reductions will need to be factored into the calculation of the bank levy rates in those years. Between 2017 and 2021 the levy is expected to raise €750 million.

Part 2 - Further Measures included in the Finance Bill

<u>Other Income Tax</u>

Section 6 - Sportspersons' Relief
Sportspersons' relief was introduced in Finance Act 2002 to allow tax relief for certain sportspersons at the time of their retirement. The Bill makes a technical amendment such that contributions to Pension Retirement Savings Accounts (PRSAs) can qualify for tax relief in the same manner as contributions to other pension products.

Section 19 - Employment and Investment Incentive (EII)
The Bill provides for a technical correction and amendments to the EII to ensure that the Revenue Commissioners may continue to publish information relating to the companies who raise investments under the Incentive. It also removes EII from the list of specified reliefs for the purposes of the High Earners Restriction.

<u>Capital Gains Tax</u>

Section 26 - Bona Fide Test for Tax Treatment of Non-Resident Trusts
Section 579 and 579A TCA are anti-avoidance provisions designed to prevent individuals avoiding CGT through the use of non-resident trusts. This amendment will modify the section to allow for trusts set up for bona fide commercial reasons, in response to concerns expressed by the EU Commission that the section as it currently stands contravenes EU law in regard to the free movement of capital. This amendment may need to be modified during

Sections 18 & 27 Tax treatment of compensation payments under fishing vessel decommissioning scheme
The Department of Agriculture, Food and the Marine has allocated €16 million in funding under the European Maritime and Fisheries Fund for a vessel decommissioning scheme to remove excess capacity from the Irish fishing fleet. This is intended to meet the Common Fisheries Policy requirement to balance a national fishing fleet with the fishing opportunities available to that fleet. As part of the policy to encourage decommissioning, an amendment is being introduced which will extend the terms of CGT retirement relief for those receiving compensation under this scheme and will also lengthen the time over which they can pay balancing charges for capital allowances on vessels. This is designed to increase uptake of the scheme and is in line with the tax treatment of the last scheme in 2008. This amendment is subject to a commencement order to be signed by both the Minister for Finance and the Minister for Agriculture, Food and the Marine when the scheme commences.

Corporation Tax

Section 22 - Irish real estate funds (IREFs)
Section 22 of the Bill provides for a new taxation method for fund structures holding Irish real estate. IREFs are investment undertakings (excluding UCITS) where 25 per cent of the value of that undertaking is made up of Irish real estate assets. IREFs must deduct a 20 per cent withholding tax on certain property distributions to non-resident investors. The withholding tax will not apply to certain categories of investors such as pension funds, life assurance companies and other collective investment undertakings. The legislation ensures that the Irish tax base is protected where Irish property transactions are taking place within collective investment vehicles.

Section 24 - Third Directive on Administrative Cooperation
The third Directive on Administrative Cooperation requires Revenue to exchange information on advance cross-border rulings and advance pricing arrangements (APAs) with other Member States. A more limited set of this information is also to be communicated to the European Commission. In addition, the Directive has a look-back element that requires the competent authority of each Member State to exchange information on certain past rulings that it has issued. Legislation is required in order to fully implement the information sharing requirements of the Directive.

Section 23 - Fourth Directive on Administrative Cooperation
Finance Act 2015 enacted the OECD's model for the filing of country-by-country reports for large multinationals. Subsequently, the fourth Directive on Administrative Cooperation (DAC 4), which requires all Member States to implement country-by-country reporting, was agreed at the EU level. A legislative amendment is required to bring the Irish legislation in line with the Directive.

Tax Administration and Revenue Powers

Section 55 – Amendment of Section 1086 of Principal Act (Publication of Names of Tax Defaulters)
Changes are proposed to Section 1086 TCA 1997 (Chapter 6 Part 47 re Publication of names of tax defaulters) to:

- provide for distinguishing, in the published defaulters list, between defaulters who pay and those who do not pay;
- remove unintended ambiguity in cases where there is a partial disclosure of a tax default;
- remove an outdated reference; and
- make permissive rather than mandatory the Ministerial order raising the limit for publication in line with increases in the Consumer Price index.

Section 53 – Tax Treatment of Married Persons and Civil Partners
A new PAYE online service is currently being developed by the Revenue Commissioners that will replace the existing PAYE Anytime service. One of the enhancements will be the ability for a taxpayer to complete a back year review online for any one of the four previous tax years. In order to provide this functionality, it is necessary to amend the legislation governing the joint assessment of married couples to allow a spouse to elect to be assessed to tax for a single previous year.

Indirect Taxes

Excise

Sections 40 to 42 - Carbon Tax
The fuel inputs used in Highly Efficient Combined Heat and Power plants are being fully exempted from carbon tax. This measure will be subject to a commencement order.

Sections 37 to 39 - Amendment to Vehicle Gas Provisions
An amendment is being made to allow for the commencement of a provision to use natural gas as a transport fuel.

Section 34 - General Excise Laws
Provision is being made providing certainty on the grounds under which Revenue officers may take samples while exercising a search warrant.

Sections 30 to 33 - Strengthen Excise Duty Suspension Laws
Provision is being made clarifying the grounds under which Revenue may refuse or revoke authorisation for registered consignors and consignees.

Value-Added Tax

Section 45 - VAT Deductible Apportionment
Where a business carries out both taxable and non-taxable activities, and makes purchases relevant to both, they can claim proportionate VAT deductibility in relation to those inputs that are used for both activities. Ireland currently provides for the method of calculation to be based initially on use, with provision also made for an apportionment based on turnover. This amendment provides turnover as the primary method, thus aligning the apportionment provisions in Irish VAT law more closely with those in the EU VAT Directive. In practice, this amendment will not impact on business because the turnover method is the normal method used currently.

Section 46 - Restriction of the VAT Flat-rate Scheme for Unregistered Farmers
Provision is being made for the Minister for Finance to restrict the application of the flat-rate VAT scheme for unregistered farmers in certain circumstances. Where the Minister is satisfied, following a review by Revenue, that business models or structures employed within a particular agricultural sector, give rise to systematic excess payment of the flat-rate addition within the sector, the Minister may, by order, prohibit the payment of the flat-rate addition in relation to specified agricultural produce or services. The purpose of the amendment is to ensure that excessive VAT recovery within a sector can be prevented and farmers who are impacted by such an order will have the option to register for VAT and recover VAT incurred on inputs under normal VAT rules.

Stamp Duty

Section 48 - Stamp Duty Exemption for the National Concert Hall

The National Concert Hall was converted from a company limited by guarantee to a statutory body under the National Cultural Institutions (National Concert Hall) Act 2015. The Finance Bill will provide the new statutory body with an exemption from Stamp Duty on the conveyance, transfer or lease of land to the National Concert Hall in connection with its functions. In its previous status as a company limited by guarantee it held a similar exemption.

Pensions

Section 13 - Personal Retirement Savings Accounts (PRSAS) and Tax Planning

The Finance Bill will close-off certain tax-planning opportunities by amending the legislation to ensure that all PRSA benefits are deemed to commence on the PRSA owner's 75th birthday i.e. deemed to become vested PRSAs on that date (regardless of whether the benefits commence on that date or at all) and that such a deemed vesting of a PRSA comes within the imputed distribution regime and is treated as a BCE for Standard Fund Threshold purposes. In addition, where PRSA owners have, to date, maintained their PRSA(s) intact beyond their 75th birthday, these will be deemed to vest on the date of passing of Finance Bill 2016.