Notes for Editors

The Finance Bill 2022, which runs to 93 sections and over 200 pages, implements the taxation changes announced on Budget Day as well as introducing some necessary administrative and technical changes to the tax code.

The Bill provides for the Income tax changes, the Temporary Business Energy Support Scheme (TBESS), the rent tax credit and the Defective Concrete Products Levy, which were announced on Budget Day. It also contains a number of additional taxation measures that were not announced on Budget Day.

Measures announced on Budget Day

Income Tax Package

The Finance Bill will give effect to the Budget measures to increase the standard rate band by €3,200 and the €75 increase in each of the personal tax credit, employee tax credit and earned income tax credit. Furthermore, the home carer tax credit will also be increased by €100.

The Finance Bill provides for an increase of €3,200 in the income tax standard rate band with effect from 1 January 2023. As a result the entry point to the higher rate of income tax will therefore rise to:

- Single, widowed or surviving civil partner from €36,800 to €40,000;
- Single, widowed or surviving civil partners, qualifying for the Single Person Child Carer Credit from €40,800 to €44,000;
- Married couples or civil partners (one income) from €45,800 to €49,000;
- Married couples or civil partners (two incomes) from €45,800 to €49,000 (with an increase of €31,000 max[1]).

The Finance Bill will also provide for an increase in the following tax credits from 1 January 2023:

- An increase of €75 in the Personal Tax Credit from €1,700 to €1,775.
- An increase of €75 in the Employee Tax Credit from €1,700 to €1,775.
- An increase of €75 in the Earned Income Tax Credit from €1,700 to €1,775.
- An increase of €100 in the Home Carer Tax Credit from €1,600 to €1,700.

USC Changes

The USC 2% rate band ceiling will be increased from €21,295 to €22,920 to take account of the increase in the national minimum wage applicable in 2023 and will ensure that the 2% rate remains the highest rate of USC that is charged on the income of full-time workers on the minimum wage.

[1] The increase in the rate band is capped at the lower of €31,000 or the income of the lower earner.

In addition, the reduced rate of USC for full medical card holders under 70 years of age whose individual annual income does not exceed €60,000 per annum is extended for a further year until the end of the 2023 tax year.

Tax Exemption for Covid-19 Related Lay-Off Payments

The Covid-19 Related Lay-Off Payment is intended to "plug the gap" for employees who lost the opportunity to build reckonable service due to lay-offs caused by the Covid-19 restrictions. Statutory redundancy payments are exempt from income tax and therefore these payments will also be exempt from income tax.

Week 53 Provisions

The Finance Bill extends the week 53 provisions to the Sea-going Naval Personnel Credit from 1 January 2023, such that the value of that tax credit will be proportionately increased where a week 53 scenario arises.

It also clarifies the manner in which the week 53 provisions apply to the Home Carer Tax Credit income threshold of €7,200, when determining if the 'home carer' qualifies for a full or partial tax credit, so that the income threshold will be proportionately increased in a week 53 scenario. As such, it establishes on a statutory footing a practice currently operated by Revenue on an administrative basis and will not reflect any change in tax treatment applicable to home carers.

Rent Tax Credit

Section 12 introduces a new €500 tax credit for renters, with each tax-paying tenant in a particular property being eligible for the credit in their own right. The credit is aimed at, and will be only available to, renters who do not receive State housing supports such as the Housing Assistance Payment or Rental Accommodation Scheme. Only one credit may be claimed per person per year, however it is proposed that the value of the credit will be doubled in the case of jointly-assessed married couples and civil partners. Certain formalities will be need to be complied with in order to claim the credit e.g. the tenant would be obliged to provide details of the property and landlord and to provide a receipt for rent paid if required by Revenue to do so. In addition, certain conditions will apply e.g. registration with the Residential Tenancies Board, where appropriate.

In relation to the rent-a-room scheme, it should be recalled that this is an informal accommodation arrangement where the renter is in the home of the home owner. The latter may receive up to €14,000 p.a. without having a liability in tax, USC or PRSI. The proposed rent tax credit is aimed at the renter; however, certain formalities will be need to be complied with in order to claim the credit. This will include providing certain details to Revenue when claiming the relief e.g. name and address of the home owner, Local Property Tax reference number for the property.

The credit will also apply in the case other non-RTB registered tenures, including certain licence type arrangements where the landlord consents to the licence arrangement.

The credit will be available to parents who pay rent on behalf of their student children who are in third-level education. Where a student is under 23 on 1 January of the year of their first point of entry into an approved course, the parent(s) will be able to claim the tax credit for the duration of that course. This will only apply in the case of RTB registered tenancies.

The credit may be claimed “in year” in the years 2023 to 2025. In addition, it may be claimed for 2022 early in 2023.

It is proposed that a sunset date of 31 December 2025 will apply.

Foreign Earnings Deduction (FED)

The FED provides relief from income tax on up to €35,000 of their salary for employees tax-resident in Ireland who travel out of State to temporarily carry out duties of their office or employment in certain qualifying countries. Section 13 of the Bill extends the Foreign Earnings Deduction for a further three years to the end of 2025.

Special Assignee Relief Programme (SARP)

Section 825C of the Taxes Consolidation Act, 1997 provides for income tax relief on a portion of income earned by certain employees assigned from abroad to work in the State by their relevant employer, or to work for an associated company in the State of that relevant employer, during any of the tax years 2012 to 2022.

Section 14 of the Finance Bill provides for an extension to the measure for a further three years to 31 December 2025. In addition, in the interests of improving the economic efficiency of the scheme, the Bill provides that, for new entrants, there be an increase in the income threshold to avail of the scheme from €75,000 to €100,000. Existing claimants will not be impacted by the change. A technical measure is also included to provide that SARP applications will be required to include the employee’s PPSN.

Production, maintenance and repair of uilleann pipes, early Irish harps and Irish lever harps

Section 20 provides for an income tax disregard of €20,000 on the portion of a sole trader's profits made from the manufacture, maintenance and repair of sets of uilleann pipes and Irish harps (both early Irish harps and Irish lever harps). This would mean relief per person of €4,000 if their income is taxed wholly within the 20% rate band and €8,000 if their income falls within the 40% rate band.

Living City Initiative (LCI)

The LCI offers income tax relief for qualifying expenditure incurred in refurbishing/converting qualifying buildings which are located within pre-determined 'Special Regeneration Areas' in Dublin, Cork, Galway, Kilkenny, Limerick and Waterford.

Section 21 extends the scheme for a further five year period to 31 December 2027. In addition, the relief available to owner-occupiers will be accelerated such that it can 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 rather than the current 10% each year for ten years. It is also proposed to allow carry-forward of any excess relief available to owner-occupiers where it cannot be absorbed in year, up to a maximum of ten years after the expenditure is incurred.

Pre-letting expenses for landlords

Section 97A of the Taxes Consolidation Act, 1997 provides for a limited deduction against rental income for pre-letting expenditure incurred on a residential premises that have been vacant for more than twelve months.

The purpose of section 25 of the Finance Bill is to encourage owners of vacant residential property to bring that property into the rental market. It will double the eligible expenditure limit for deductible pre-letting expenses for landlords of vacant properties from €5,000 to €10,000 and halve the period for which a property must be vacant prior to letting from twelve to six months.

Small Benefit Exemption

Section 6 of the Bill provides for the increase in the Small Benefit exemption to €1,000 and the increase in the number of permissible vouchers from one to two.

This was the subject of a Financial Resolution on Budget Night and takes effect in the current tax year.

The conditions of the exemption are as follows -

- the incentive is provided in the form of a voucher or other non-cash item;
- where the incentive provided is in the form of a voucher, this voucher must only be for the purchase of goods or services and must not be capable of being exchanged in part or in full for cash;
- the value of the incentive does not exceed €500; and
- the incentive does not form part of a salary sacrifice arrangement.

Where all of the conditions are not satisfied, the exemption does not apply and the benefit is subject to tax in the usual way, in accordance with section 112 TCA 1997.

Following the start of the COVID-19 pandemic, Revenue has in certain circumstances concessionally waived the requirement that only one voucher issues per year for the 2020, 2021 and 2022 tax years and has permitted an employer to issue two vouchers to the cumulative maximum value of €500 where the employer wanted to recognise the efforts of employees working during the COVID-19 crisis.

Rents payable to non-residents

Section 81 of the Bill makes changes to the provision of the TCA dealing with taxation of rental income received by a non-Irish resident person in respect of property located in the State. A person (for example, a tenant) paying rent directly to a non-Irish resident person, is required to deduct a sum equal to income tax at the standard rate (currently 20%) and remit that amount to Revenue using a R185 form. The first part of the amendment to section 1041 TCA provides that this person will also be required to give certain information as required by Revenue concerning the landlord and the rental income on which tax is being withheld.

The second part of the amendment relates to "collection agents", (resident persons acting on behalf of the non-Irish resident person) who are chargeable and assessable for the income of the non-Irish resident person by virtue of section 1034 TCA. The amendment to section 1041 also relieves "collection agents" of the obligation of being chargeable and assessable for the income of a non-resident landlord, if the collection agent deducts withholding tax from rental payments and remits that tax to Revenue, and gives Revenue certain information related to the payments.

The amendment is subject to a Ministerial Commencement Order.

Vacant Homes Tax

The Bill (section 84) provides the legislative basis for a new Vacant Homes Tax (VHT). The key objective of this tax is to increase the supply of homes for rent or purchase by encouraging the owners of vacant residential properties to bring those properties back into use.

- The rate will be equal to three times the property's existing base Local Property Tax (LPT) rate (and will apply in addition to a property's LPT charge). The rate is unaffected by the local adjustment factor.
- VHT will apply to buildings which are residential properties for the purposes of LPT. This means that it will not apply to derelict properties or properties unsuitable for use as a dwelling, which are not captured under the LPT system.
- A charge to the tax will apply to properties which are occupied for less than 30 days in a 12 month period, running from 1 November to 31 October.
- The first chargeable period for VHT will commence on 1 November 2022, ending on 31 October 2023. Owners of vacant properties will be required to self-assess liability to the tax and file a return in November 2023. Payment in respect of this chargeable period will fall due on 1 January 2024.
- There will be a number of exemptions from the tax:
    - where the owner/occupier of a property has recently died, and while their estate is in probate, ending once administration of the estate has been completed;
    - where the property was actively marketed for sale or for rent;
    - where the occupation or sale of the property was restricted by court order;
    - where the property is undergoing significant structural, repair or refurbishment works;

    - where the property was vacant as a result of the former occupant's illness or long-term care; and
    - where the property is owned by a North-South implementation body within the meaning of the British-Irish Agreement Act 1999.
- The tax will not apply to properties if they were sold during a chargeable period, and any property that was subject to a *bona fide* tenancy lasting at least 30 days during the chargeable period will not be liable for VHT.
- Revenue will administer and collect the tax. Provisions to encourage compliance and identify non-compliance are included in the legislation.
- The Bill provides for Revenue to establish a register of vacant homes and their associated chargeable persons, as well as the exchange of information between Revenue and other bodies such as local authorities for the purposes of administering the tax and maintaining this register.

The yield from the tax and the amount payable by property owners will depend on the self-assessed returns submitted by property owners, the number of properties declared as liable and the number of property owners entitled to claim an exemption.

VAT

Flat Rate Farmers compensation Scheme

The farmer's flat rate scheme compensates unregistered farmers for the VAT incurred in their farming inputs. Based on macro-economic data received from the CSO and Revenue, a decrease from 5.5% to 5% is warranted for the year 2023 to avoid over-compensation, which is not allowed under the VAT Directive.

Extension of 9% VAT rate for Gas and Electricity

The 9% VAT rate reduction for gas and electricity will be extended for an additional 4 months, until 28 February 2023.

The previous VAT rate for gas and electricity was 13.5 per cent. This rate was reduced to 9 per cent from 1 May to 31 October 2022.

VAT on Newspapers

The VAT on newspapers will be reduced from 9% to zero from 1 January 2023.

This is in line with the Government's commitment to support an independent press and the Future of Media Commission's recommendation that a zero VAT rate for newspapers and digital publications be considered.

Newspapers and periodicals were previously brought to 9% in 2011 in recognition of the important role they play within society and the challenges facing the industry at that time. The 9% rate was extended to digital editions in 2019.

Zero rate of VAT applied to Automated External Defibrillators (AEDs)

From 1 January 2023 the VAT on automated external defibrillators will be reduced to zero.

These are devices that in an emergency can deliver an electric current to the heart for treatment of life threatening cardiac symptoms.

Changes to the VAT Directive agreed this year have allowed Member States to apply a zero rate of VAT to defibrillators.

Zero rate of VAT applied to newer period products

A zero rate of VAT already applies to most period products. However a very small number of products have a 13.5% rate applied (such as menstrual cups, menstrual sponges and menstrual pants).

Changes to the VAT Directive agreed this year now allow for a zero rate to apply to all period products from 1 January.

Zero rate of VAT applied to non-oral medicine for Hormone Replacement Therapy and Nicotine Replacement Therapy

From 1 January 2023 the VAT rate on non-oral medication for Hormone Replacement Therapy and Nicotine Replacement Therapy will be reduced to zero.

Recent changes in the VAT Directive allow for an extension of the zero rate to non-oral medication. The Department of Health identified HRT and NRT as priorities where a reduced VAT rate will immediately help patients deal with costs arising from their medication.

Stamp Duty

Residential Development Refund Scheme

Section 58 of Finance Bill 2022 provides for the extension of the residential development refund scheme. The date at which projects wishing to avail of this scheme must commence construction is extended from 31 December 2022 to 31 December 2025. Introduced in 2017, it is a refund scheme for a portion of the Stamp Duty paid on the acquisition of non-residential land where that land is subsequently developed for residential purposes. The net minimum stamp duty payable after a refund is 2%. This scheme was previously extended by two years in Budget 2021.

The scheme has a number of conditions, which primarily relate to the portion of the land that must be used for housing and the time taken to commence and complete the construction of the residential units concerned. The purpose of this scheme is to promote the construction of high-density housing in inner and outer urban settings where “brownfield” sites might otherwise be deemed uneconomical to develop owing

to the 7.5% stamp duty rate that would normally apply on such property. It also applies to one-off rural housing, but a refund cannot be claimed for curtilage which exceeds 0.4047 hectares (1 acre).

Further extension of the Bank Levy

Section 63 of the Finance Bill 2022 provides for a further 12 month extension of the Bank Levy.

The Finance (No.2) Act 2013 introduced the Financial Institutions Levy for the three-year period 2014 to 2016 with the purpose of enabling the banking sector to contribute to economic recovery. Finance Act 2016 extended the levy to 2021. The annual yield of this levy had been approximately €150 million.

Finance Act 2021 extended the levy for one further year, while excluding Ulster Bank and KBC as they are in the process of ceasing operations in the State. These exclusions reduced the expected annual yield from the levy to €87 million.

As was announced in Budget 2023 the bank levy will be extended for a further year and will again apply only to those banks that will continue to operate in the Irish market going forward, and they will once more only be required to pay the same amount of levy that they paid in 2021. This means that the levy is again expected to generate in the region of €87 million in 2023.

Defective Concrete Products Levy

Section 86 of the Bill provides for the new Defective Concrete Products Levy.

The introduction of the Defective Concrete Products Levy arises from a Government decision of November 2021 that a levy should be imposed on the construction sector to contribute towards meeting the substantial cost of the Mica Redress Scheme.

The legislation applies a levy on the first supply of a defined list of certain concrete products calculated at 5% of the open market value of the products. The concrete products within the scope of the levy are concrete that is ready to pour (aka ready-mix) and concrete blocks.

The levy will come into effect on 1 September 2023 so as to allow time for all stakeholders to prepare for its introduction.

Temporary Business Energy Support Scheme (TBESS)

Sections 87-90 provide for TBESS, which is a scheme designed to support businesses that have experienced a significant increase in their electricity and natural gas costs. The scheme is subject to State Aid approval under the European Commission's Temporary Crisis Framework (the "TCF").

On Budget Day it was announced that the scheme will apply to tax compliant businesses carrying out a Case I trade. The Finance Bill provides that it will also apply to those carrying out a Case II profession. The scheme will also apply to 'new businesses' and eligibility for relief in such cases will be calculated using a deemed unit price provided by Sustainable Energy Authority of Ireland (based on data provided by suppliers and the Commission for Regulation of Utilities).

A monthly cap of €10,000 per trade or profession will be applied. However in certain circumstances qualifying businesses that operate across more than one location and that have multiple meter point reference numbers may qualify for increased relief. In such cases the monthly cap of €10,000 may be increased to a maximum of €30,000.

The scheme will be administered by the Revenue Commissioners and a claim must be made within 4 months of the end of the relevant claim period. Payments cannot be made under the scheme until State aid approval has been received.

Finally, as announced on Budget Day it is intended that the scheme will operate in respect of energy costs relating to the period 1 September 2022 to 28 February 2023. However, pending revision of the TCF, which is expected to occur by the end of October, it was not possible to provide for an end date to the scheme beyond 31 December 2022. It is hoped to amend the legislation at Committee Stage to include the 28 February end date. The legislation also allows the scheme to be extended by Ministerial Order subject to certain conditions to a date not later than 30 April 2023.

Corporation Tax

Research and Development (R&D) Tax Credit

Section 23 amends sections 766, 766A and 766B of the Research and Development (R&D) tax credit regime and introduces two new sections, section 766C and section 766D, into Chapter 2 of Part 29 of the Taxes Consolidation Act 1997. These changes are being made to reflect international tax changes. These are timing changes and do not affect the quantum of credit that a company is entitled to claim. This section also repeals the non-commenced provisions relating to micro and small sized companies, which it is not possible to commence for State aid reasons.

The amendments introduced are as follows:

- The R&D tax credit will be available in a new three-year fixed payment schedule.

- There will be an option to call for payment of the eligible R&D tax credit or to request for it to be offset against other tax liabilities.
- Existing caps on the payable element of the credit are being removed.
- The first €25,000 of a claim on R&D expenditure will now be payable in full.
- Pre-trading expenditure incurred on qualifying R&D activities can be claimed as a payable R&D credit over a three-year period from the year that the company commences to trade.
- Transitional measures will be in place for one year.

Section 24 is a consequential technical amendment, following from the new payment mechanisms for the R&D tax credit introduced in section 23. Section 24 amends section 472D of the Taxes Consolidation Act 1997 which contains the key employee relief provisions for the R&D tax credit. This section updates cross-references in section 472D to the main R&D tax credit provisions to also include reference to the new section 766C, which will contain the new payment mechanisms for the R&D tax credit.

Knowledge Development Box

Section 33 of the Bill amends the Knowledge Development Box (KDB) to extend the relief available to companies for a further four years, to include accounting periods beginning before 1 January 2027. The section also provides for a new effective rate of 10% for profits within scope of the KDB, subject to a commencement order to be issued by the Minister for Finance. It is intended that this amendment will be commenced from a date which will be determined by reference to international progress on implementation of the Pillar Two Subject to Tax Rule.

Section 481 (Film Relief)

Section 481 of the TCA provides relief in the form of a corporation tax credit related to the cost of production of certain audiovisual productions. The scheme is intended to act as a stimulus to the creation of an indigenous film industry in the State, creating quality employment opportunities and supporting the expression of the Irish culture. In recognition of the long production cycle for audio-visual productions, Section 481 is being extended from its current end date of 31 December 2024 to 31 December 2028. This extension is subject to State aid approval.

Section 481A (Tax Credit for Digital Games)

Finance Act 2021 provided for the introduction of tax credit for the digital gaming sector. The relief applies to qualifying expenditure incurred on the design, production and testing of certain digital games. Following engagement by Department of Finance officials with the European Commission as part of the State aid notification process, it has been determined that a number of minor technical amendments to the legislation are required, to ensure the credit is compliant with State aid rules.

Excise

Tobacco

Budget 2023 provided for a 50 cent increase to tobacco products tax on a pack of 20 cigarettes, with a pro-rata increase on other tobacco products. This has raised the price of cigarettes in the most popular price category to €15.80 per pack of 20 cigarettes. These measures support the public heath objective of a tobacco-free Ireland (less than 5% of the population smoking) by 2025 and meet the commitment in the Programme for Government: Our Shared Future to increase the excise duty on tobacco in the years ahead to further discourage smoking.

Alcohol

An alcohol excise relief scheme is being provided for small producers of cider and perry. A 50% excise relief will be available on up to 8,000 hectolitres of cider produced by microproducers with an annual production threshold of up to 10,000 hectolitres.

The qualifying production threshold for microbreweries is being increased to allow the industry more scope to expand into other markets. The current production ceiling of 50,000 hectolitres will increase to 75,000 hectolitres.

The excise fees for an application for a special exemption order are being reduced by 50% in support of the night time economy. The excise fee of €110 per application is reduced to €55.

Mineral Oil Tax & Carbon Tax

The Bill provides for the extension of the existing Mineral Oil Tax reductions of 21 cent per litre on petrol, 16 cent on diesel and 5 cent on Marked Gas Oil. These reductions were first introduced in March 2022 and were due to be reversed from 12 October 2022. The reversal of these reductions will now be implemented from 1 March 2023

Certain measures not included in the Bill as published

Due to the nature and extent of issues for which provision is being made in the Finance Bill, and the very complex nature of certain drafting requirements, and the need to align certain provisions with EU legislation, the draft legislative provisions relating to a number of issues are being held over and will be introduced at Committee Stage of the Bill.

These include the provisions relating to the Key Employee Engagement Programme; the introduction of the provision for Accelerated Capital Allowances for the construction of slurry storage; and the extension of a number of agricultural tax

measures due to expire at end December 2022 which are dependent on the outcome of negotiations at a European Level on the Agricultural Block Exemption Regulation (ABER).

Agri-tax measures

In his Budget speech the Minister for Finance announced his intention to extend a number of agri-tax measures which are due to expire by end December 2022. The measures in question are as follows -

- Young Trained Farmer (YTF) Stamp Duty Relief (three years to end 2025)
- Farm Consolidation (Stamp Duty) Relief (three years to end 2025)
- Farm Restructuring (CGT) relief (three years to end 2025)
- Young Trained Farmer Stock Relief (two years to end 2024)
- Registered Farm Partnership Stock Relief (two years to end 2024).

The extension of each of these reliefs is dependent on the outcome of negotiations at a European Level on the Agricultural Block Exemption Regulation (ABER).

KEEP and share-based remuneration

As indicated at Budget time, the clear intention remains to legislate through amendments introduced at Committee Stage so as to provide for the buy-back of KEEP shares by the company from the relevant employee and to raise the lifetime company limit for KEEP shares from €3 million to €6 million.

As also mentioned at Budget time, changes to broaden out the relief to allow for group structures and more flexible arrangements as regards employees are also being brought into effect. This will be done in the context of the Committee Stage.

In addition, it is intended to introduce two technical amendments related to share-based remuneration so as to:

- align the rate of interest that arises on late payments of Relevant Tax on Share Options with that which arises on unpaid income tax, and
- include form RTSO1 in Schedule 29 of the Taxes Consolidation Act 1997 thereby addressing an omission and enabling Revenue to apply a penalty in cases of non-compliance.

Measures not announced on Budget Day

<u>Income Tax</u>

Cargo bikes

Section 118(5G) of the Taxes Consolidation Act 1997 provides an employee with an exemption from BIK (Income Tax, PRSI and USC) on the first €1,250/€1,500 of expenditure incurred by an employer in connection with the provision of a bicycle/pedelec and/or safety equipment to an employee or director, where all of the conditions contained within the provision are satisfied.

The Finance Bill provides for an increase in the threshold for cargo bikes and e-cargo bikes (i.e.pedelec configuration) under the cycle to work scheme to €3,000. The change will apply from 1 January 2023.

Returns by Employers on Reportable Benefits

The Bill provides for the automatic reporting to Revenue by employers in respect of three specific measures, collectively referred to as "reportable benefits". Such reportable benefits are made without the deduction of tax. The reportable benefits are:

- the remote working daily allowance of €3.20,
- the payment of travel and subsistence expenses, and
- the small benefit exemption.

The measure will be subject to a Ministerial Commencement Order.

Pensions Tax Amendments

The Bill will provide for a number of pension related amendments. Firstly, implementing a recommendation of the report of the Interdepartmental Pensions Reform and Taxation Group, the Finance Bill will provide that employer contributions on behalf of an employee to Personal Retirement Savings Account (PRSA) are no longer considered benefit in kind for the employee. This brings the tax relief available to employees for employer contributions to a PRSA in line with that available for occupational pension schemes. Secondly, the Bill introduces a new chapter of the TCA to provide for the tax treatment of contributions and out-payments from a new pension product – the Pan European Pension Product (PEPP). This aligns with the tax treatment of PRSAs. Finally the Bill provides for an Irish tax resident to receive a tax free lump sum of up to €200,000 from a foreign pension, in line with that available for Irish pension holders.

Appeal procedures

Finance Bill 2022 will introduce legislative amendments to the timelines for parties requesting a 'case stated' for the purposes of an appeal of a Tax Appeals Commission (TAC) determination to the High Court. In particular, it is proposed that the 21 day period for a party to request a 'case stated' be extended to 42 days, and the time to respond to a draft 'case stated' be increased to 42 days.

Stamp Duty

Changes to Section 31E "Stamp duty on certain acquisitions of residential property" of the Stamp Duties Consolidation Act 1999 (the application of a 10% stamp duty to the acquisition of 10 or more houses in any 12-month period)

A number of sections in Finance Bill 2022 relate making changes to Section 31E of SDCA 1999.

Section 31E of the Stamp Duty Consolidation Act 1999, which applies a 10% stamp duty charge to the multiple purchase of properties (10 or more) was introduced through a Financial Resolution on 19 May 2021. It was subsequently confirmed in legislation through sections 13 to 15 of the Finance (Covid 19 and Miscellaneous Provisions) Act 2021.

The legislation will be amended to:

- Provide a refund of stamp duty paid above the standard rate for homes which are acquired for the purposes of providing accommodation in the community for people with intellectual/physical disabilities, or for children in care. This refund will be subject to such homes being approved by the relevant regulatory authority under either the Health Act 2007 or the Child Care Act 2001.
- Provide an exemption from the 10% stamp duty charge for home reversion agreements where these are provided by a Home Reversion Firm which is authorised by the Central Bank of Ireland. These are products where a consumer agrees to sell a share of their home instead of borrowing against the value of their home.

Modernisation of Levy on Authorised Insurers and Banking Levies

Finance Act 2021 provided for the modernisation of certain insurance and banking levies, including processes for filing and payment. Amendments are contained in Finance Bill 2022 to allow for electronic filing for these levies.

Following IT system developments, amendments included in *section 62* of Finance Bill 2022 provide for health insurance companies to file and pay the health levy electronically from periods beginning 1st January 2023.

Section 61 of Finance Bill 2022 provides for the modernisation of banking-related stamp duties with the development of a new electronic system for filing returns for stamp duty on cheques and cards.

Neither section provides for any matters that would result in changes to the scope or level of the levies concerned.

Corporation Tax

Charges on capital sums received for the sale of patent rights

Section 22 amends the treatment of capital sums received for the sale of patent rights. These amendments provide relief for intra-group transfers of patent rights in a similar manner to the relief which is available to intra-group transfers of patents. Relief is provided by deeming that the sale of patent rights intra-group occurs at such an amount that neither a gain nor a loss arises to the selling company and the purchaser is treated as acquiring the patent rights for that same amount. This section also provides for a technical amendment confirming that the outright sale of a patent or a patent pending is not a sale of patent rights. This confirms that the sale of a patent is chargeable to CGT, whereas the sale of patent rights for a capital sum is subject to tax as income.

Tax Exemptions

Section 26 of Finance Bill 2022 will amend Schedule 4 and Schedule 15 of the Taxes Consolidation Act 1997 to include the National Standards Authority of Ireland (NSAI). These Schedules provide exemptions to specified State-sponsored or non-commercial bodies. The NSAI is a not-for-profit body and is being made exempt from taxation in order to avoid circular payments in to and out of the Exchequer.

Amendment of section 743 of the TCA 1997 (material interest in offshore funds)

Section 743(1)(b) of the Taxes Consolidation Act 1997 provides that an interest in a unit trust scheme, the trustees of which are not resident in the State, will be considered to be an interest in an offshore fund. The Bill amends section 743 to clarify that an authorised unit trust, the general administration of which is carried on in Ireland, will not be treated as an offshore fund solely on the basis that its trustee is an Irish branch of a company resident in another EU or EEA Member State.

Reporting by exempt unit trusts, common contractual funds and investment limited partnerships

Common Consolidated Funds, Exempt Unit Trusts and Investment Limited Partnerships are different types of investment fund vehicles. The Bill provides that additional reporting requirements be introduced for these vehicles, to ensure the provision of information to the Revenue Commissioners on matters such as asset values, connected party transactions and material transactions entered into by the fund.

Section 79: Foreign Currency Movements

Section 31 of Finance Bill 2022 amends section 79(1)(a) of the Taxes Consolidation Act 1997 by inserting a new definition for a “relevant monetary item” in order to amend the treatment of gains or losses resulting from foreign exchange movements in certain circumstances relating to trading activities. Section 79 provides that foreign exchange movements on ‘relevant monetary items’ will, for corporation tax purposes, be treated as part of profits or losses of a company’s trade rather than subject to capital gains

tax. This amendment expands the definition of “relevant monetary item” to include trade debtors and trading bank accounts.

Technical amendment to ATAD Interest Limitation Rule
Section 32 of Finance Bill 2022 introduces a number of minor technical amendments to the interest limitation rule, introduced in Finance Act 2021, which completed Ireland’s transposition of the Anti-Tax Avoidance Directives (ATADs). The rule places a limit on deductible interest expenses of 30% of earnings before interest, tax, depreciation and amortisation (EBITDA) for companies within scope of the measure. The amendments are required to ensure that the interest limitation and associated preliminary tax rules operate as intended.

International Taxation

Transfer Pricing

The Bill will update the definition of transfer pricing guidelines to reference the OECD's most recent guidelines published in January 2022. These guidelines replace the 2017 guidelines previously legislated for. The update will provide Revenue and stakeholders with certainty in relation to transfer pricing rules and ensure Ireland's tax system keeps in step with international best practice.

Defensive measures towards non-cooperative jurisdictions for tax purposes

The EU list of non-cooperative jurisdictions for tax purposes is a common list agreed by all Member States that includes jurisdictions that do not comply with good tax governance standards. EU Member States apply legislative defensive measures against listed jurisdictions. The Bill updates the list of jurisdictions to whom the enhanced CFC (controlled foreign company) measures apply, based on the list recently agreed by the EcoFin Council.

Double Taxation Agreements

Ratification of the two new signed Protocols to the Double Tax Agreements between Ireland and Isle and Man and Guernsey is also provided for in the Bill. The Protocols incorporate anti-BEPS measures to the treaties. The ratification of these treaties was previously discussed in the Committee on Finance, Public Expenditure and Reform, and Taoiseach, in June and subsequently approved by Dáil Éireann.

Extending tax transparency rules to digital platforms

The Bill will continue the transposition of the seventh EU Directive on Administrative Cooperation (DAC7), which commenced in Finance Act 2021. DAC 7 extends the automatic exchange of information (AEOI) to apply to digital platforms.

The Bill will update the section related to reporting obligations for digital platform operators to ensure effective domestic implementation. To ensure the end 2022 transposition is met a Committee Stage amendment will also be brought forward to

transpose the balance of DAC 7 for elements that do not relate to digital platform operators, including a number of amendments necessary to allow Revenue access to the central register of ownership of bank and payment accounts and safe-deposit boxes.

A new section has also been inserted to provide for the transposition of the OECD Model Rules for reporting by digital platform operators. The Model Rules are similar to the reporting obligations introduced in the EU in DAC 7, but are applicable to operators outside of the EU and this transposition will ensure that digital platforms both within and external to the EU will have standardised reporting obligations.

Excise

Betting Duty- treatment of free bets (Amendment of section 67(2) of Finance Act 2002)

This clarifies the existing betting duty provisions as regards the treatment of free and bonus bets. This means that where a person places a free bet, it is taxable at the value of the bet.

Next steps

Finance Bill 2021 Dáil Second Stage is expected to begin on Tuesday 25 October 2022.

Timing of the Finance Bill:

Under the regulations known as the "Two-Pack" which were formally adopted on 30 May 2013, a common budgetary timeline was introduced for all Euro Area member states. In light of these requirements, the Government decided, from 2013 onwards, to bring Budget Day forward from the first week in December to on or before 15 October. Budget 2023 was presented and published on Tuesday 27 September this year.

The Government also decided that the Finance Bill should complete its passage through the Oireachtas by 31 December each year. This means also that, as this Finance Bill is published in 2021, it is called "Finance Bill 2022" even though it relates to Budget 2023.

The full text of the Bill and the Explanatory Memorandum will be published today Thursday 20 October.

Ends