

**Tax Strategy Group
Taxation Reviews – 2015**

Introduction

1. A number of taxation reviews have been conducted during the course of 2015. This paper provides the TSG with a progress update on those reviews. A separate paper TSG 15/12 concerns the Tax and Entrepreneurship consultation.
2. The tax reviews conducted were:
 - Review of the taxation supports for the Marine sector
 - Local Property Tax review
 - Review of the Artist's Exemption tax relief
 - Single Person Child Carer Credit review
 - Review of the Potential of Taxation Measures to Encourage Development of Zoned and Serviced Land
 - Review of Corporation Tax - 3 Year Start-up Relief
 - A review of the tax treatment of expenses of travel and subsistence for employees and office holders
 - Spillover Analysis Research Project

Review of the taxation supports for the Marine sector

Background

3. In Budget 2014 the Minister for Finance announced that in conjunction with the Marine Co-ordination Group, a review of the financial and taxation supports available to the Marine Sector would be carried out to examine strategic measures that could be introduced to help Ireland as an island nation to fulfil its potential in the marine area. The Government has prioritised the marine sector as an area with potential for further growth under the Harnessing Our Ocean Wealth Strategy, with a target of doubling the value of Ireland's blue economy by 2030.
4. Phase 1 of this review involved an examination of the taxation supports available. Following a tender process, Indecon consultants were engaged to carry out the review. They provided support to the review by carrying out (i) a consultation process with key stakeholders, including with the Marine Co-ordination Group, (ii) a review of the tax supports available to the maritime sector in Ireland, (iii) analysis of the benefits available to the sector and the wider economy versus the Exchequer costs, and (iv) will make recommendations for changes which could be made to enhance or maximise the value for money to the tax payer, taking EU State Aid considerations into account.

Current Schemes

5. Tonnage Tax is an alternative way to calculate shipping profits based on the tonnage of the ships operated. Tax is payable at the Corporation Tax rate of 12.5%. Similar schemes exist in most other countries, and Ireland's regime compares favourably. While it is not possible to identify the cost of this scheme, Indecon have estimated that 42 companies availed of it in 2013 at a cost to the Exchequer of €0.26 million.

6. The Seafarer's Allowance was introduced in 1998 and is an approved EU State Aid scheme. A deduction from tax of €6,350 per annum is available for qualifying seafarers who are at sea for at least 161 days per year and where their duties are performed aboard a sea-going vessel on an international voyage. The numbers availing of the allowance are low, with 200 seafarers claiming the allowance in 2012 at a cost to the Exchequer of €0.4 million. Similar to this allowance, a refund of employer's PRSI contributions are available to certain employers. 115 seafarers availed of the scheme in 2013 at a cost of €0.4 million.
7. Capital allowances are available for capital expenditure incurred on the construction or refurbishment of buildings for the purposes of a dock undertaking. A dock undertaking is defined as a harbour, wharf pier or jetty at which vessels can load or unload merchandise or passengers, but does not include such structures used for recreation purposes. Figures are not available for the take-up of these allowances, but Indecon have estimated the cost to the Exchequer to be €1.1 million in 2013.
8. VAT rebates are available to fishermen who are not VAT registered for expenditure on items such as the purchase, maintenance and repair of vessels. Expenditure on fuel and rescue craft can also qualify for a rebate. As the thresholds for VAT registration are relatively low, the numbers availing of the rebate are small. 13 individuals availed of the rebate in 2014 at a negligible cost to the Exchequer.

Preliminary Results

9. While the report has not been finalised, Indecon have found that while the wider marine sector provided employment of 18,480 full time equivalents and a gross value added of approx. €1.4 billion in 2014, the number of tax reliefs aimed specifically at this area are few and the annual tax revenue is less than €50m (this excludes taxation from marine tourism). This could limit the amount of impact tax reliefs could have on the sector.

Next Steps

10. Indecon are currently finalising the review and completing the associated report. Any recommendations made will be considered for this and future Budgets.
11. It should be borne in mind that the European Commission have many restrictions in place in the shipping and fishing sector and any measures that might be considered would have to be evaluated to ensure they would comply with State Aid rules.

Local Property Tax review

Overview of LPT

12. The introduction of the LPT in 2013 was the largest extension of self-assessment in the history of the State, with over 1.3 million taxpayers obliged to file LPT Returns and pay the tax in respect of around 1.9 million properties. The first valuation date was 1 May 2013. The valuations declared for that date determined tax liabilities for 2013 (half year), 2014, 2015 and 2016. The next valuation date is due on 1 November 2016 which will determine tax liabilities for 2017, 2018 and 2019.
13. The LPT is producing a stable revenue yield for local authorities – although both yields (and tax rates) are modest internationally. The charging structure for LPT is progressive. The basic rate of 0.18 percent applies up to property values of €1m with a higher rate of 0.25 percent applying on the portion of value above the €1m threshold.
14. From 1 January 2015 local authorities have had discretion to vary the LPT rates by +/- 15 percent. A number of local authorities exercised this option. By end 2015 and since its inception LPT is expected to have contributed over €1 billion to the funding of local authorities.

Review

15. Dr Don Thornhill was engaged to conduct a review of the operation of the Local Property Tax (LPT), and in particular, any impacts on LPT liabilities due to recent property price developments. The Review had regard to:
 - Recent residential property price movements;
 - The overall yield from LPT and its contribution to total tax revenue on an ongoing basis; and
 - The desirability of achieving relative stability, both over the short and longer terms, in LPT payments of liable persons.
16. In addition, since the introduction of the LPT, a number of issues have arisen in relation to its efficient and effective administration, some of which are addressed in the Review.
17. The review was informed by the outcomes of a public consultation initiated by the Minister on March 20th 2015. Fifty one written submissions were received. The Revenue Commissioners were part of the group that provided support to Dr Thornhill in his work.
18. The Minister has indicated that the report will be considered in the context of the Budget, and published around Budget time. The Minister has stated that he would not envisage LPT liabilities increasing as a result of the large valuation movements in recent years. Any legislative provisions required to implement recommendations in the report would be not be for inclusion in the Finance Bill but would be progressed through amendments to the LPT Act 2012, as amended.

Review of the Artist's Exemption tax relief

Background

19. The artist's exemption exempts income earned by writers, composers, visual artists and sculptors from the publication, production or sale of their works from income tax in certain circumstances. It was introduced in 1969 with a view to supporting the artistic community and aimed to attract artists to settle in Ireland. In 2011 a cap of €40,000 was placed on the amount of income which is exempt from tax per annum. From 1 January 2015, the annual maximum threshold has been increased to €50,000.
20. In addition, those claiming the exemption that also avail of other specified reliefs continue to be subject to the high earners' restriction which, since 2010, limits the amount of tax relief that can be utilised in any one year to €80,000 before the restriction begins to apply. The exemption for artists is now a more limited scheme targeted at supporting artists on low incomes and individuals who, without the exemption, may have to earn their income elsewhere to continue in their artistic field.
21. The legislation provides that the Revenue Commissioners may make a determination that certain artistic works are original and creative works and generally recognised as having cultural or artistic merit. Earnings derived from such works are exempt from income tax from the year in which the claim was made.
22. The scheme provides that the Revenue Commissioners can make determinations in respect of artistic works in the following categories only:
1. a book or other writing;
 2. a play;
 3. a musical composition;
 4. a painting or other like picture;
 5. a sculpture
23. Revised Guidelines have been drawn up by the Arts Council and Minister for Arts, Sport and Tourism, with the consent of the Minister for Finance, for determining for the purposes of Section 195 whether a work is an original and creative work and whether it has, or is generally recognised as having, cultural or artistic merit. These new Guidelines apply to all determinations made by the Revenue Commissioners after 30 November 2013.
24. Previously, claimants for the exemption had to be resident in the State or ordinarily resident and domiciled in the State and not resident elsewhere. From 1 January 2015, the exemption is extended to non-resident artists i.e. to individuals resident in another Member State or in another EEA State in order. The reason behind this change is to ensure the scheme is compatible with EU State law.

Costs

25. Details of the costs of the artist's exemption in recent years is in the table below.

YEAR	COST	NUMBER OF CLAIMANTS
2010	9.6	2,350
2011	5.5	2,520

2012	4.8	2,490
2013	5.3	2,580

Review

26. A desk-based review of the scheme is underway, to conduct an ex-post evaluation of the scheme and take into account the key evaluation questions such as if the relief is still relevant, how much it costs, the impact of the relief and the value for money of the scheme.

Single Person Child Carer Credit

Background

27. The Single Person Child Carer Credit (SPCCC) was introduced in Budget 2014, to replace the One-Parent Family Credit (OPFC) with effect from 1 January 2014.
28. During the progress of Finance Bill 2014 through the Houses of the Oireachtas an amendment to the SPCCC was tabled, proposing that where the primary carer had insufficient income to avail in full of the SPCCC, the other parent would be able to avail of the credit, on condition that any court-ordered maintenance payments had been met.
29. A number of concerns relating to the operability of such a proposal were raised, including: possible legal impediments; the potential for administrative, operational and data protection issues to arise in the operation of such a proposal; and the budgetary implications of amending the SPCCC in this manner. The Minister for Finance, Mr. Michael Noonan T.D., agreed that a review of the SPCCC to further investigate the proposal would be undertaken in 2015.

Current Scheme

30. The restructuring of the One-Parent Family Credit (OPFC) to the Single Person Child Carer Credit (SPCCC) in Budget 2014 took place in the context of a difficult fiscal environment which necessitated the review of all tax reliefs, credits and incentives to ensure that they were properly targeted and achieving the intended socio-economic objectives.
31. A feature of the OPFC was that it could be claimed by multiple individuals in respect of a single child, resulting in a considerable annual cost of over €141 million by 2013, attributable to over 104,000 claimants. The structure of the OPFC allowed a credit to be claimed even when a child was resident with a claimant for as little as one day per year, leading to significant cost implications.
32. The 2009 Report of the Commission on Taxation acknowledged the policy rationale for the credit, which was to support and incentivise labour market participation of single and widowed parents, but noted also the costs, including inefficiencies and deadweight elements, associated with the allocation of the full credit to both parents. The Report therefore recommended that the OPFC should continue, but that it should be allocated to the principal carer only.
33. The restructured SPCCC tax credit is of the same value as the OPFC, i.e. €1,650 per annum, and it also carries the same entitlement to an additional €4,000 extension to the standard rate band, within which income tax applies at the standard rate only. However the SPCCC is more strategically targeted in that it is primarily available to the principal carer of the child only.
34. A secondary carer may be entitled to claim the SPCCC where the principal carer has elected to relinquish his/her claim to the credit. This allows for a secondary carer to benefit from the credit, for example, in cases where a primary carer has no tax liability.

Preliminary Results

35. The review is currently still in progress within the Department of Finance. The legal review has highlighted the importance of retaining qualification criteria related to the provision of care for the relevant child. The administration review has identified significant difficulties in the operation of an automatic transfer of the credit. Investigations are continuing into the potential for a partial transfer of the SPCCC by consent.

Next Steps

36. Officials in the Department of Finance are currently finalising the SPCCC review and completing the associated report. Any recommendations made will be considered by the Minister as part of the Budget deliberations.

Review of the Potential of Taxation Measures to Encourage Development of Zoned and Serviced Land

Background

37. In Budget 2015 the Minister for Finance announced that, owing to a commonly held belief that owners of zoned and serviced land are hoarding it while waiting for higher prices before taking steps to develop it or sell it on, a public consultation would be launched examining the scope of the problem. The consultation would also seek views on whether corrective taxation measures might be taken as a means of discouraging such behaviour, if warranted, and what such measures might look like.

Review

38. The public consultation on the potential of taxation measures to encourage development of zoned and serviced land ran from February to May 2015, and received 24 submissions. Responses were received from individuals, political parties, the construction and ancillary industries, and representative bodies. The responses did not put forward any firm evidence of land hoarding, and offered no clear guidance as to corrective taxation measures to address it.
39. The Minister for Environment, Community & Local Government's Urban Regeneration and Housing Act 2015 (No 33 of 2015), which was first published on 3 June 2015, provides for a vacant site levy of up to 3% of the value of such sites (both brown and green-field) to come into effect in 2019. It also addresses some of the non-tax issues raised in the public consultation process, which were considered to be hindering the development of zoned and serviced land. These include revision of the Part V arrangements on social and affordable housing and the retrospective application of reduced development contribution charges.

Next steps

40. The Department of Finance is considering the outcome of the public consultation procedure and the question of whether it is appropriate to use corrective taxation measures to encourage the efficient use and development of zoned and serviced land.

Review of Corporation Tax - 3 Year Start-up Relief

Background

41. Section 486C of the TCA 1997 was introduced by Finance (No. 2) Act 2008 and provides for relief from corporation tax for start-up companies in their first three years of trading. The relief is granted by reducing the corporation tax payable on the profits of the new trade and gains on the disposal of any assets used for the purpose of the new trade. Prior to Finance Act 2011, full relief was available where the corporation tax otherwise payable by the company was €40,000 or less. Marginal relief applied where the corporation tax liability was between €40,000 and €60,000.
42. Finance Act 2011 modified the relief by linking it to the amount of Employers' PRSI paid by a company in an accounting period, subject to a maximum of €5,000 per employee and an overall limit of €40,000.
43. Finance Act 2013 provided for an enhancement of the relief by allowing any unused relief arising in the first three years of trading, due to losses or insufficient profits, to be carried forward for use in subsequent years.
44. The relief was extended in Finance Act 2014 until the end of 2015 to allow for a comprehensive review of the measure in 2015 in line with the New Guidelines for the Evaluation of Tax Expenditures.

Review

45. As part of the public consultation on Tax and Entrepreneurship, the Department invited views from the public and interested parties on the use and effectiveness of s486C. Some issues/requests raised by respondents to the consultation include:
 - start-up companies are generally loss making in the initial years and the relief is of no benefit to loss making companies;
 - the limitations on the qualification for relief following the changes in 2011 which introduced a link to the amount of Employers' PRSI paid by the company; and
 - requests for a form of refundable tax credit.

Next steps

46. The review will take account of consultation responses while examining the continued relevance, costs, impacts and efficiencies of the relief.

Review of the tax treatment of expenses of travel and subsistence

Background

47. The expenses of travel which qualify for a tax deduction are generally restricted to those expenses of travel *necessarily* incurred on temporary absences from an individual's place of work so long as those absences arise *in the performance of the duties of the office or employment*. Expenses of travel incurred on journeys from home to work, work to home and between separate employments do not qualify for a tax deduction.

Review

48. A review of the current law and practice in relation to the tax treatment of expenses of travel and subsistence for employees and office holders is being undertaken by the Department of Finance and the Office of the Revenue Commissioners.

Current Position

49. A public consultation process took place from 24th July to 21st August and some fifty submissions were received from a variety of representative bodies and interested individuals. While the submissions are still being analysed it has been noted that the issue of the taxation of expenses for non-executive directors is an issue that has proved of particular concern to many respondents.

Next Steps

50. Revenue and Finance will conclude their review of the submissions and consider the issues raised, as part of the process of determining whether any change to the current regime is appropriate. It is envisaged that the timescale of the process will allow, if appropriate, a submission to be sent to the Minister in the context of the current Finance Bill.

Spillover Analysis Research Project

Background

51. Ireland's "One World, One Future" policy for international development commits to an all-of-government approach to international development, and recognises that the achievement of international development goals must be underpinned by the ability of all countries, including developing countries, to raise their own revenue.
52. As part of Ireland's International Tax Strategy, published on Budget Day in October 2013, the Department of Finance set out an International Tax Charter outlining the principles and strategic objectives that guide Ireland's approach to international corporate tax issues.
53. One of these principles is a commitment to engage constructively and respectfully with developing countries in relation to tax matters, to support such countries in raising domestic tax revenues in ways that are more efficient, that promote good governance and equitable development, and that can allow them to eventually exit from a dependence on official development assistance.
54. As part of this commitment, and in response to calls from the G-20 and from civil society groups for all countries to have an awareness of this issue in formulating tax policy, it was decided to undertake a 'spillover analysis' to research what impact, positive or negative, Ireland's tax system may have on the economies of developing countries. Such an analysis can be used to inform future policy approaches on issues relating to developing countries.

Project Structure and Preliminary Results

55. The Spillover Analysis project consists of two strands, a public consultation and a research project.
56. The public consultation was administered by the Department of Finance, and was open for a period of 8 weeks to Friday 20 June 2014. A total of 94 submissions were received during the public consultation, all of which will be considered as part of the research project. Some of the common themes raised in the submissions were:
 - The impact of tax treaties, and in particular the withholding tax provisions of treaties.
 - Transfer pricing concerns – profit maximising and false invoicing.
 - The influence of domestic Irish legislation – attractiveness of domestic rate and incentives.
 - Calls for Ireland to take lead in multi-lateral initiatives such as AEOI and CBCR.
57. Following a competitive tendering process, the research contract was awarded to the International Bureau for Fiscal Documentation (IBFD), an independent, not-for-profit research institute specialising in tax research, including in particular the understanding of cross-border taxation, and government consultancy. The research project is being overseen by a steering group consisting of officials from the Department of Finance, the Revenue Commissioners, and the Department of Foreign Affairs and Trade.

58. The research project includes: an analysis of trade and capital flows between Ireland and developing countries; an analysis of Ireland's tax treaty network with developing countries; and review of relevant provisions in domestic tax legislation.
59. The statistical analysis has identified very limited flows of capital and trade between Ireland and developing countries, indicating a small likelihood of spillovers from the Irish tax system. Limited flows make it difficult to draw firm conclusions, but there are some indications that Ireland's treaties with developing countries may have the potential to increase trade flows, possibly in particular in trade of differentiated goods where treaty provisions can enhance the alignment of tax rules.
60. The analysis of Ireland's double tax agreement network looks at a range of treaty provisions and compares Ireland's treaties to other treaties concluded by those developing countries. The analysis is proving to be broadly positive in respect of Ireland's treaty network with developing countries. Some points of concern in relation to two older treaties were noted, but these treaties are already in the process of being updated.
61. The review of domestic tax legislation examines provisions relevant to multi-national trade such as withholding taxes, and the influence of multi-lateral agreements such as EU Directives on these provisions. The outcomes of this analysis are again broadly positive, and it also notes the work ongoing internationally to update the anti-abuse provisions in multi-lateral agreements, such as for example the EU Parent Subsidiary Directive.

Next Steps

62. Officials in the Department of Finance are currently finalising the Spillover Analysis project. The final report is due to be published in conjunction with Budget 2016.