An Roinn Airgeadais
Department of Finance

Income Tax

Tax Strategy Group – 20/02

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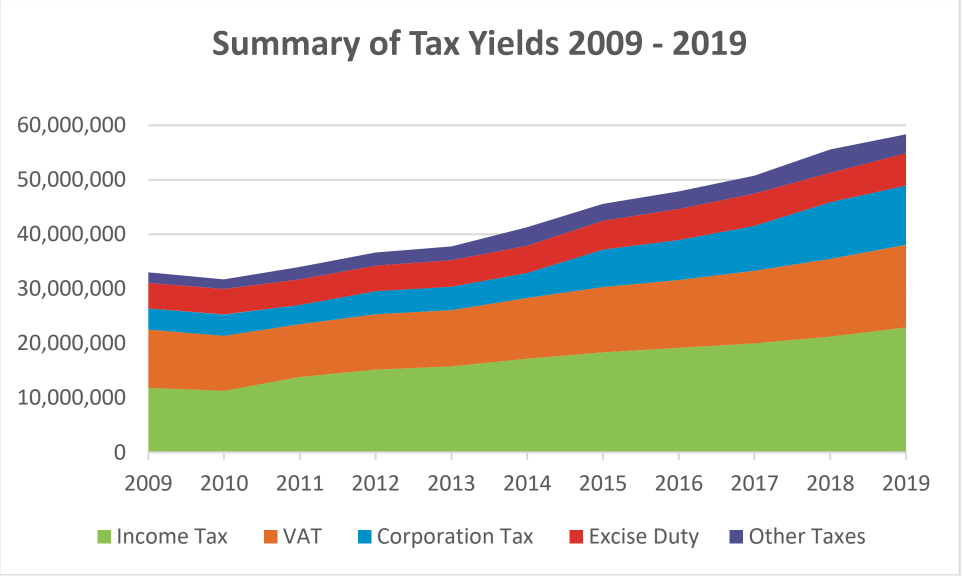
www.gov.ie/finance

Contents

Introduction

1. In 2019, personal income taxes of c. €22,9 billion were raised for the Exchequer, representing about 39% of the total tax take. Of this, income tax comprises c. €19.2 billion and USC comprises c. €3.8 billion. Income tax and USC remain the single largest source of tax revenue to the Exchequer, having surpassed the proportion contributed by VAT in 2009.

Summary of Tax Yields 2009 – 2019



Data source: Department of Finance

2. The total income tax yield for the last ten years is set out in table 1 below. Figures for the years 2010 to 2019 represent actual yield and figures for the year 2020 are projections[1].

Table 1: Income Tax (including USC) Yield

	2010	2011	2012	2013	2014	2015	2016	2017	2018	*2019*	*2020*
€bn	11.3	13.8	15.2	15.8	17.2	18.4	19.2	20.0	21.2	22.9	*18.2*
% Tax	35.5	40.5	41.4	41.7	41.6	40.3	40.0	39.4	38.2	39.2	*36.7*

[1] Department of Finance Stability Programme Update https://www.gov.ie/en/publication/43a6dd-stability-programme-update-2020/

Structure of Income Tax and USC

3. The 2020 rates and bands of income tax are as follows:
   - 20% rate on income within standard rate band, and
   - 40% on income in excess of standard rate band.

Taxpayer	Standard Rate Band
Single	€35,300
Single Parent	€39,300
Married – one earner	€44,300
Married – two earners (max)[2]	€70,600

4. Spouses and civil partners may elect for joint assessment under the income tax system, whereby the combined income of the couple is assessed in the name of the higher earner, net of their combined reliefs and credits. This can allow for a reduction in the couple's overall tax liability as compared to separate assessment due to the transferability of the married tax credit and a portion of the standard rate band.

5. The Universal Social Charge is an individualised tax, meaning that a person's liability to the tax is determined on the basis of his/her own individual income and personal circumstances. The USC was introduced in 2011 and replaced two existing levies – the Income Levy and the Health Levy. The current rates and bands of USC are as follows:
   - Incomes of €13,000 or less are exempt. Otherwise:
   - €0 to €12,012 @ 0.5%,
   - €12,012 to €20,484@ 2%,
   - €20,484 to €70,044 @ 4.5%,
   - €70,044 to €100,000 @8%,
   - PAYE income > €100,000 @ 8%,
   - Self-employed income > €100,000 @11%, and
   - Maximum rate of USC of 2% for individuals over 70, and for full medical cardholders (under 70), whose aggregate income does not exceed €60,000.

[2] Where each spouse earns a minimum of €26,300– the maximum rate band transferability between jointly-assessed spouses is €9,000.

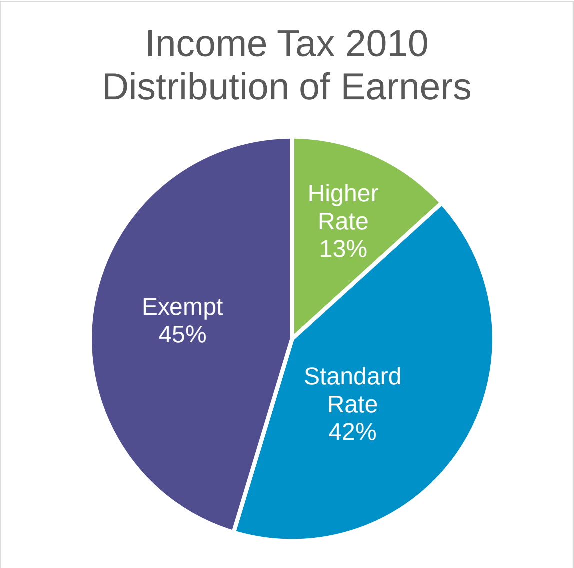
Distribution and Burden of Income Tax and USC

6. The years leading up to 2009 saw a progressive narrowing of the income tax base as Government policy was focused on increasing tax credits and bands. As a result, by 2009, 40% of income earners were exempt from income tax and only 20% of earners were liable to the higher rate of tax. The subsequent falls in income and rising unemployment exacerbated the narrowing of the base further and by 2010 over 45% of earners were exempt from income tax and just over 13% were liable to the higher rate.

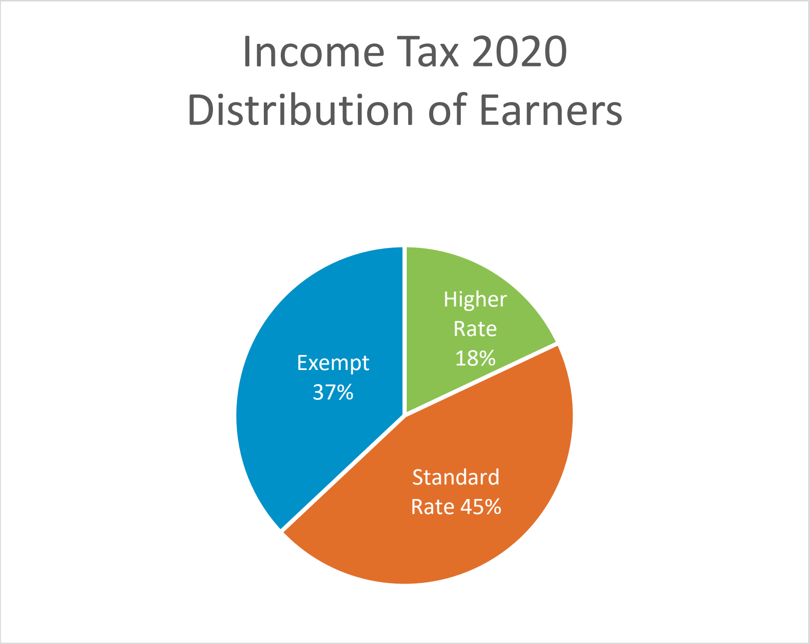
7. A range of changes were made between 2009 and 2014 to correct the narrowing of the income tax base, including reductions in tax credits and bands, the restriction or abolition of many reliefs, and the introduction of the broad-based USC.

8. Taking account of the economic recovery, since 2015 Government policy has focused on reductions to income tax targeted at low to middle income earners.

Income Tax 2020 Distribution of Income Earners



Data source: Revenue Commissioners



Data source: Revenue Commissioners

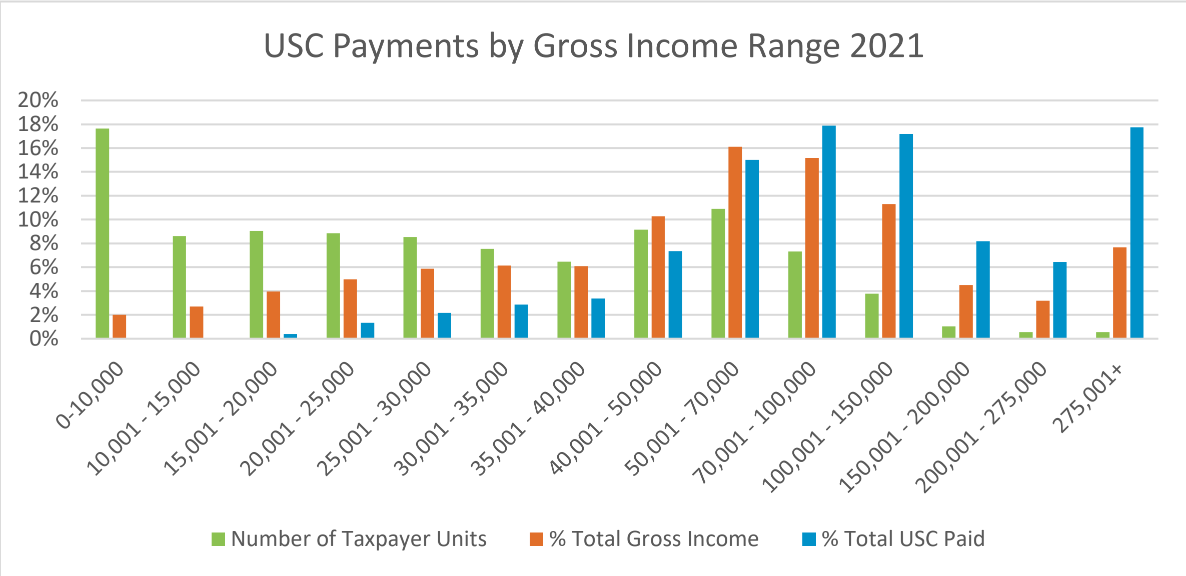
Table 2: Income Tax 2010 Distribution of earners

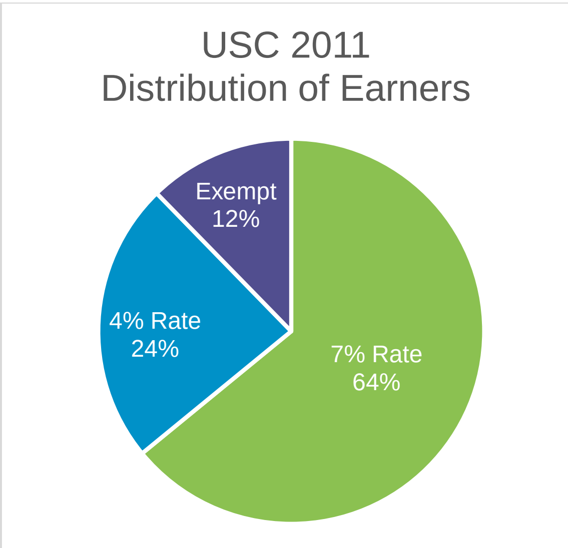
Income Tax	Earners	% of Earners
Higher Rate	277,086	13%
Standard Rate	864,726	42%
Exempt	946,631	45%
Total	2,088,443	100%

Table 3: Income Tax 2020 Distribution of earners

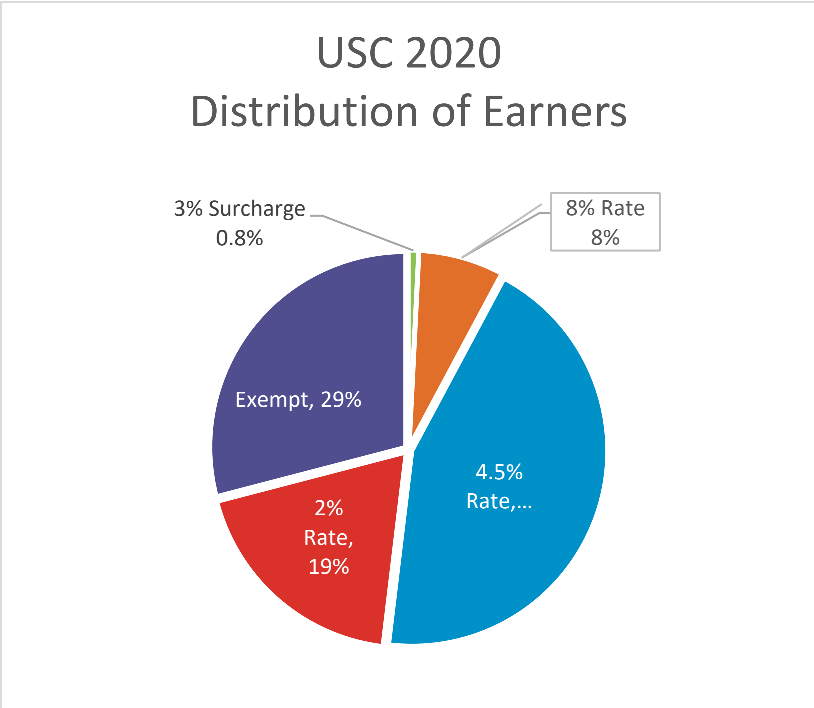
Income Tax	Earners	% of Earners
Higher Rate	473,800	18%
Standard Rate	1,178,100	45%
Exempt	962,100	37%
Total	2,614,000	100%

Universal Social Charge 2020 Distribution of Income Earners





Source: Revenue Commissioners



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Data Source: Revenue Commissioners

Note: Distribution of 3% USC surcharge income earners in 2011 was less than 1%

Table 4: Universal Social Charge 2020 Distribution of Earners

USC (2020)	Earners (2020)	% of Earners (2020)
3% Surcharge	20,700	0.8%
8%	200,200	8%
4.5%	1,113,200	43%
2%	528.500	20%
Exempt	772,200	30%
Total[3]	2,614,100	100%

[3] This excludes the 3% surcharge as these taxpayer units are also included under the 8% rate.

Insights from PAYE Modernisation Data

9. Real-time reporting of payroll has been operational since 1 January 2019, following the successful implementation of Revenue's PAYE Modernisation project. Under the updated Pay As You Earn (PAYE) system, employers are required to report provide information regarding employees' income and PAYE deductions to Revenue in real-time thereby allowing Revenue and employees to better manage tax liabilities.

10. One of the many benefits of the new system is the provision of up-to-date data to inform Revenue's administration of the tax code. This data is also extremely informative from a Budgetary forecasting and tax policy making perspective.

11. Revenue has published a report setting out the Statistics and Insights from the First Year of Real-Time Reporting for the 2019 tax year. This data related to individuals paid via the PAYE system, including retired workers in receipt of occupational pensions. Notable insights from this report include:
    - Around 2.7 million individuals paid via the PAYE system, 53% male, 87% aged between 19 and 65.
    - 1.7 million employees remain with the same employer throughout the year (1.3 million in the private sector, and 400,000 in the public sector) and on average per month about 1 in 10 taxpayers have more than one employment.
    - Across all workers (full-time, part-time and temporary workers) the mean gross pay per employee per annum is €33,394; the equivalent median is €25,421.
    - In an average month:
        - 62% of taxpayers (1.55 million individuals) are paid €3,000 or less (€690 per week, €36,000 per annum)
        - 3.4% of taxpayers (85,000 individuals) are paid more than €9,000 (€2,071 per week, €108,000 per annum).
    - 10% of employees did not pay Income Tax or USC through the PAYE system at any point in 2019. This figure is lower than the 25% estimate from Revenue on a taxpayer unit basis and suggests that a significant level of taxpayers claim additional credits, reliefs, or refunds of income tax and USC retrospectively after the year end.

Estimated Cumulative Burden of Income Tax and USC for 2020

12. In 2020:
    - The top 1% of income earners (>€200,000) will pay 24% of total IT and USC
    - The top 6% of income earners (>€100,000) will pay 50% of total IT and USC
    - The top 24% of income earners (>€50,000) will pay 82% of total IT and USC
    - The bottom 76% of income earners (< €50,000) will pay 18% of total IT and USC

Notes for tables 2, 3 & 4:

1. *Distributions for 2020 are estimates from the Revenue tax-forecasting model using actual data for the year 2018, adjusted as necessary for income and employment trends in the interim.*
2. *Figures are provisional and likely to be revised.*
3. *A jointly assessed married couple/civil partnership is treated as one tax unit.*
4. *Percentages are rounded to the nearest percentage point.*

Recent Developments – Budgets 2015 to 2020

13. The stabilisation of the economy has allowed for reductions in the personal tax burden to be introduced in five successive Budgets, focussing primarily on reductions to the lower rates of Universal Social Charge.

14. The main cumulative effects of these six Budgets are as follows:

- The three lower rates of USC have been reduced from 1.5%, 3.5% and 7% to 0.5%, 2% and 4.5% respectively.

- The ceiling of the second USC rate band has increased by €2,298 to €19,874, in conjunction with increases in the National Minimum Wage.

- The income tax standard-rate band has increased by €2,500 from €32,800 to €35,300 for single individuals and from €41,800 to €44,300 for married one earner couples, and the higher rate of income tax was reduced from 41% to 40%.

- A new 8% USC rate was introduced in Budget 2015 in concurrence with the reduction of the higher rate of income tax. This USC rate band has allowed the benefits of the Budget 2015 to 2020 personal tax packages to apply on income up to €70,044 only, thereby limiting benefits arising to higher earners.

- A new Earned Income Credit for self-employed individuals who do not have access to the PAYE tax credit was introduced in Budget 2016 and increased in each subsequent Budget to the current rate of €1,500.

- The Home Carer Credit, which is available to families where one spouse or civil partner works primarily in the home to care for children or dependents, has increased from €810 to €1,600. The limit on the income which the home carer is allowed to earn and still qualify for the credit was also increased from €5,080 to €7,200.

- In Budget 2020, the USC provision for medical card holders and individuals aged 70 years was extended by two years to end 2020. This limits the rate of USC payable by such individuals whose aggregate USC-liable income does not exceed €60,000 per annum by allowing income in excess of €20,484 to be taxed at the second USC rate (currently 2%) in place of the third rate (currently 4.5%).

15. As a result of the changes in the previous six budgets, over €2 billion per annum has been allocated to income tax reductions, comprising both income tax and USC.

16. The following table illustrates the estimated value of income tax packages that have been introduced since Budget 2015:

Table 5: estimated value of budget income tax packages	Full Year Cost/Yield
Aggregate cost, Budgets 2016 to 2020 (rounded)	-€2,174m
Budget 2020	
USC	
1 year extension of reduced rate of USC for medical card holders	
Income Tax	
Increase in the Home Carer Tax Credit from €1,500 to €1,600	- €8m
An increase in the Earned Income Credit from €1,350 to €1,500	- €35m
Other	
Enhancements to Key Employee Engagement Programme (KEEP)	
Enhancements to Employment and Investment Incentive	
Extension of Foreign Earnings Deduction to 31 December 2022	
Extension of Special Assignee Relief Programme to 31 December 2022	
Extension of Help to Buy until 31 December 2021	- €40m
Budget 2020 Total Cost	- €83m
Budget 2019	
USC	-€123m
Reduce 4.75% rate to 4.5%	
€502 increase to €19,372 band ceiling to €19,874	
Income Tax	
Increase the Standard Rate Band by €750	-€161m
Increase in the Home Carer Tax Credit from €1,200 to €1,500	-€24m
An increase in the Earned Income Credit from €1,150 to €1,350	-€48m
Other	
Agri-Taxation measures	-€10.5m
Amendment to Key Employee Engagement Programme (KEEP)	-€10m
Rented residential property interest deduction restoration	-€18m
Budget 2019 Total Cost	-€394.5m
Budget 2018	
USC	-€206m
Reduce 2.5% rate to 2.0%	
€600 increase in 2nd rate band ceiling to €19,372	
Reduce 5.0% rate to 4.75%	

Income Tax	
Increase the Standard Rate Band by €750	-€152m
Increase in the Home Carer Tax Credit from €1,100 to €1,200	-€8m
An increase in the Earned Income Credit from €950 to €1,150	-€31m
Other	
Tapered extension of Mortgage Interest Relief	+€175m
Introduction of Key Employee Engagement Programme (KEEP)	-€10m
Pre-letting expenses – rented residential property	-€3m
Budget 2018 Total Cost	-€235m
Budget 2017	
USC	-€390m
Reduce 1% rate to 0.5%	
Reduce 3% rate to 2.5% and increase ceiling to €18,772	
Reduce 5.5% rate to 5%	
Income Tax	
Increase in the Home Carer Tax Credit from €1,000 to €1,100	-€8m
An increase in the Earned Income Credit from €550 to €950	-€58m
Other	
Help to Buy Initiative introduced	-€40m
HRI extended until 31 Dec 2018	-€38m
Rent-a-Room threshold increased to €14,000	-€1m
Living City Initiative enhanced	-€3m
SARP and FED enhanced and extended until end of 2020	-€11m
Start Your Own Business (SYOB) relief extended to end 2018	-€10m
Fishers' Tax Credit introduced	-€6m
ACAs for Energy Efficient Equipment available to sole traders	-€3m
Budget 2017 Total Cost	-€568m
Budget 2016	
USC	-€772m
Reduce 1.5% rate to 1%	
Reduce 3.5% rate to 3% and increase ceiling to €18,668	
Reduce 7% rate to 5.5%	
Income Tax	

Increase Home Carer Credit from €810 to €1,000 (+ threshold increase)	-€14m
Introduction of €550 Earned Income Credit	-€61m
Other	
EII changes (incl. Nursing homes)	-€3m
HRI extended until 31 Dec 2016	-€19m
Various Agri-Taxation measures (incl. Farm Succession)	-€23m
High Earners' Restriction (removal of woodlands)	-€1m
Incentives for Certain Aviation Services Facilities	-€0.3m
Budget 2016 Total Cost	-€893.3m

Programme for Government Considerations

17. The Programme for Government contains a number of specific undertakings with regard to personal taxation, including the following:

- *There will be no increases in income tax or USC rates.*

- *In Budget 2021, there will be no change to income tax credits or bands. From Budget 2022 onwards, in the event that incomes are again rising as the economy recovers, credits and bands will be indexed linked to earnings. This will be done to prevent an increase in the real burden of income tax, to prevent more low-income workers being taken into the tax net because of no changes to the tax system and to ensure there is no increase in the number of people having to pay higher income tax and USC rates.*

- *The Earned Income Tax Credit (self-employed) will be equalised with the employee tax credit.*

- *The 3% USC surcharge applied to self-employed income is unfair and proposals will be considered to ameliorate this over time as resources allow.*

- *The Home Carer Tax Credit is an effective mechanism to support couples where one decides to home parent rather than working or availing of childcare subsidies and also where one parent stays at home to meet other caring needs. It will be increased to support stay-at-home parents as we increase subsidies for childcare.*

- *As part of the July Jobs Initiative set out a pathway for the future implementation of the Temporary Wage Subsidy Scheme.*

- *Auto-enrolment: The new Government will introduce a pension auto-enrolment system. Taking account of the exceptional strain both employers and employees are now under, we will seek to gradually deliver an automatic enrolment scheme.*

- *Fine-tune and expand targeted employment schemes, such as the Wage Subsidy Scheme (WSS) and the Ability Programme, to help more people with disabilities stay in the workforce.*

Equality Proofing

18. The previous Programme for a Partnership Government contained a commitment to task the Budget and Finance Committee with looking at gender and equality proofing Budget submissions and proposals. In the context of equality, it is important to note that it is the impact of the Budget as a whole which should be assessed, and not the impact of the taxation or expenditure measures in isolation.

19. Redistribution of income takes place through the taxation and social welfare systems. Using OECD data, the extent to which each element contributes to the redistribution of income, measured by the reduction in the initial market Gini coefficient can be seen. The Gini coefficient is a measure of the distribution of income where 0 represents a situation where all households have an equal income and 1 indicates that one household has all national income. A reduction in the Gini coefficient means that the distribution of income has become more equal.

20. The latest data from the OECD (for 2017), shows that Ireland had the largest reduction in the Gini coefficient between market and disposable income for the OECD countries for which data are available.[4] The data show that, compared to other countries, the Irish tax system is strongly progressive and that the tax and welfare systems combined contribute substantially to the redistribution of income and to the reduction of income inequality.

21. When looked at over a slightly longer time period and taking a more limited sample of countries for which data are available, it is evident that Ireland's tax system has consistently reduced the Gini coefficient (i.e. increased the equality of income distribution) to a greater extent than is the case with tax systems in other OECD countries. Of interest is the finding that, both for Ireland and the OECD as a whole, the contribution of the tax system to reducing market income inequality has been increasing since 2004.

22. The Irish tax system does contain a number of provisions which discriminate in favour of certain individuals, in view of additional challenges which they may face. These include, for example: the Age Credit and income tax exemption limits for individuals aged 66 and over; reduced USC liability for those aged 70 whose income does not exceed €60,000; additional tax credit and standard rate band for single parents; additional tax credits for parents of disabled children, for the blind, for widows/widowers, and for carers of a dependant relative. While these measures are deviations from the principle of horizontal equity, under which each person with the same income should have the same tax liability, they have been introduced into the tax code as a result of social policy decisions to provide additional supports to individuals in these specific circumstances.

[4] OECD Economic Surveys, Ireland, March 2018 (Figure 22); http://www.oecd.org/eco/surveys/Ireland-2018-OECD-economic-survey-overview.pdf

Gender Proofing: Individualisation

23. The issue of individualisation was outlined in the Budget 2020 Income Tax TSG paper.

24. It should be noted that if a policy of individualisation was pursued over the coming years it would support the equality agenda and it would have a positive impact on female labour participation.

International Comparisons

25. A progressive income tax system means that those on higher incomes pay proportionately higher rates of tax than those on lower incomes – this is in accordance with the concept of vertical equity. Ireland has one of the most progressive income tax systems in the developed world – the most progressive within the EU members of the OECD. The tax revenues are used, among other purposes, to fund social transfers such as welfare supports to those on lower incomes.

26. However high marginal rates of taxation as a result of progressive taxation can have a negative impact on incentives to work for income earners, and lead to increased labour costs for employers who may have to offer a certain level of net income in order to attract employees in a competitive labour market. Marginal tax rates which are high by comparison to competitor jurisdictions can therefore have a negative impact on domestic businesses seeking to attract mobile highly-skilled workers. They can also be a negative factor in the location choices of foreign direct investment, a particularly important issue for the Irish economy.

27. The Tax Wedge is defined as the sum of personal income tax plus employee and employer social security contributions together with any payroll taxes less cash transfers, expressed as a percentage of labour costs. It is the difference between what an employer has to pay in terms of gross wages plus taxes to hire an employee and the net income received by that employee after deduction of all taxes on their wages. High tax wedges particularly affect low skilled workers, second earners and older cohorts whose labour force participation is more sensitive to taxation. Reductions in the tax wedge on these groups can have significant impacts on participation rates which can increase medium term economic growth rates through the labour supply channel.

28. Reductions in the tax wedge can also increase the demand for labour from employers. For these reasons, a competitive tax wedge is considered vital in encouraging employment growth across all income categories and to incentivise individuals to remain in or return to the labour market.

29. In terms of international comparisons, according to the OECD Taxing Wages Report 2020, based on 2019 data:
    - Ireland had the thirteenth lowest headline tax wedge (33.2%) of the 36 OECD members included for a single worker on average earnings, which sits below the average of 36.%. Ireland is the second lowest of the 23 EU members of the OECD.
    - The wedge for a two earner married couple with children is 25.5%, below the OECD average of 30.5%, tenth lowest in the OECD and the second lowest of the EU members.
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Update on Income Tax Related Reviews

30. Following various commitments, including those set out in the Department of Finance Tax Expenditure Guidelines[5] a number of income tax incentives are being reviewed over the course of 2020. The following is a short summary of the status of these reviews.

Reduced rate of USC for medical card holders

31. The legislation that introduced the Universal Social Charge ("USC") in 2011 included a provision that gave persons with a full medical card holders a reduced rate of USC on a temporary transitional basis for the duration of the National Recovery Plan (2011 – 2014) and was subsequently extended in Budgets '15, '18 and '19.

    The concession was originally provided in recognition of the fact that the Health and Income Levies, which the USC replaced, both had exemptions for medical card holders. If there was no similar relief for the USC such individuals could otherwise have experienced a more significant reduction in their net income as a result of the overall transition into the USC charge.

    This treatment had originally applied to all incomes, but since 1 January 2013 an income threshold of €60,000 has applied to limit the benefit for those considered to be on "high" incomes. Once an individual's aggregate annual income is above €60,000 the normal USC rules apply.

    Individuals who qualify avail of a rate of 2% on their income between €20,484 and €60,000 rather than the higher rate of 4.5%.

32. The results of this review are due to be published as part of Budget 2021, but the following preliminary results are brought to the attention of the Group:
    - There are over 1.5 million medical card holders, with a majority of cardholders being female (54%). 90% of individuals obtain a medical card via means assessment, and the remainder through a variety of means such as discretionary granting (eg, if a person has endured undue hardship) or if persons qualify under EU regulations.
    - It is estimated that around 180,000 individuals benefit from the reduced rate of USC for full medical card holders each year.
    - Where an individual satisfies the criteria, the individual will pay a rate of 2% on their income between €20,484 and €60,000 rather than the higher rate of 4.5%. This would result in a maximum potential tax saving of €988 each year.
    - It is estimated that the Exchequer cost of this measure is around €70m per annum.

33. This relief is due to expire at the end of 2020 but it is noted that the link to the medical card has been used as a way of identifying people with sufficiently low means or undue hardship to merit exceptional treatment for tax purposes. Given the full extent of the negative

[5] http://www.budget.gov.ie/Budgets/2015/Documents/Tax_Expenditures_Oct14.pdf

economic impact of the COVID-19 pandemic, it may be considered an inappropriate time to allow this relief to expire.

Tax Treatment of Couples

34. The structure of the current tax treatment of married couples derives from Article 41.3.1° of Bunreacht na hÉireann:

    “The State pledges itself to guard with special care the institution of Marriage, on which the Family is founded, and to protect it against attack.”

    This position was confirmed in Murphy vs. Attorney General (1980) when the Supreme Court held that it was contrary to the Constitution for a married couple, both of whom are working, to pay more tax than two single people living together and having the same income.

    This decision led to the current income tax treatment of married couples that is in operation today, as announced in the Budget statement of February 1980, whereby married couples (and now civil partners) have the same rate bands as two single persons.

    Married couples (and civil partners) who are jointly assessed have also retained the ability to transfer some tax credits, something that is not also available to non-married couples. This is because the Constitutional protection of Article 41.3.1° does not extend to non-married couples.

35. Due to changes in societal norms in Ireland, for example, non-traditional family structures becoming more common and a slightly decreasing trend in marriage rates1 it is worth considering the issues around extending the tax treatment currently only available to married couples to co-habiting couples.

    In the event that the tax treatment of married couples was to be extended to cohabiting couples, consideration would need to be given to the practicalities that would arise for Revenue if they were to administer such a system.

    Married couples and civil partners have an independent, verifiable and legally binding confirmation of their marital status, including the dates of commencement and cessation of same. In order to administer a credit for cohabiting couples, Revenue would require a similar standard of verification of their status.

36. While there is legislation relating to cohabitants, such as the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010, this falls short of the independent certification that is given to married couple and civil partners. Further, it would be difficult to accept a self-certification process as a suitable alternative, given that it could be the gateway to a number of generous tax reliefs, for example, the Home Carer Tax Credit, and it would be difficult, intrusive and time-consuming if Revenue were expected to confirm declarations by individuals that they were actually cohabiting.

Revenue’s core function is the administration of the tax code and the collection of taxes and duties so it would not be possible for them to operate without such certification. This turns the focus on to broader changes in Ireland relating to the legal status of cohabiting couples

Options for changes to the tax treatment of cohabiting couples were looked at in detail by a Working Group who published a report entitled the Treatment of Married, Co-habiting and One-Parent Families under the Tax and Social Welfare Codes in 1999. Many issues that this group highlighted are relevant today, for example, a discussion on how cohabitation would be defined and legally enforceable for the purposes of tax relief.

37. The group’s report included a policy option of extending transferability of tax allowances and bands to cohabiting couples with children, however it noted that a key issue with this option was how appropriate it would be to amend tax legislation in advance of changing the general law around cohabiting couples. It also noted that there was an argument to focus tax and social welfare treatment to be more based on the family with children rather than on marriage.

    Related to this another earlier Working Group called the Expert Working Group on the Integration of the Tax and Social Welfare Systems published a report in 1996 which recommended that “consideration should be given to the possibility of allowing for joint taxation of cohabiting couples, in cases where such a couple have a child mainly resident with them, who is maintained wholly or mainly by the couple concerned”. However, the Expert Working Group also noted that there would be a range of issues that would have to be addressed before implementing such a measure.

38. Given the time lapse since both reports, there would certainly seem to be merit in an updated re-examination of these issues more broadly.

    Absent such broader changes to the social and legal status of cohabiting couples it is difficult to see how changes to the tax treatment of cohabiting couples could be implemented at this time.

    If it was to be pursued, account would also need to be taken of the cost of such an extension which would include the cost of co-habiting couples being jointly assessed for tax purposes and the extension of eligibility for tax credits, for example, the Home Carer Credit.

Update on Review of Tax Treatment of Employment Expenses including Flat Rate Expenses

Introduction

39. During the course of Revenue's review of its flat rate expenses regime in 2018 and 2019, a number of policy issues emerged. Revenue decided to defer its implementation of any planned changed to the regime pending the outcome of a review of a number of these policy issues.

    The policy issues are:
    - The differing tax treatment of expenses as between the self-employed and employees.
    - The inclusion of professional registration/subscription fees and trade union subscription fees.
    - The nature of expenses that should come within the scope of the expenses tax regime.

    A commitment was made to examine these issues as part of the Tax Strategy Group (TSG) and, if appropriate, to include options for legislative change.

40. In the meantime, however, the COVID-19 pandemic has resulted in widespread and unprecedented disruption to the social and economic life of the country, including to the employment of those working in many sectors of the economy.

    The purpose of this exercise is to set out the issues as originally envisaged as well as some options that may be considered in the area of flat rate expenses.

    In relation to the policy issues addressed, and having regard to the huge disruption in the labour market brought about by COVID-19, the question of the appropriate timing of the introduction of any policy changes relating to the flat rate expenses regime is one that will require careful consideration.

41. There is different tax treatment of expenses between self-employed individuals and employees which is outlined in detail later in this review.

    Professional registration/subscription fees are deductible under section 114 TCA 1997 but only where those fees are incurred wholly, exclusively and necessarily by an individual in the performance of the duties of his or her employment.

    Income tax relief for trade union subscriptions was previously provided for under section 472C of the Taxes Consolidation Act 1997. This relief was introduced in 2001 in recognition of the role played by the trade union movement in Irish society and in the partnership process generally. The relief was available in respect of the tax years 2001 to 2010 inclusive. In 2009 the Commission on Taxation recommended that the relief be discontinued and it was discontinued from 2011 in line with the National Recovery Plan and with a view to widening the tax base. A review was carried out on the current tax treatment of trade union subscriptions and it is outlined on page 29 of this paper.

General rules for deduction for expenses of employment

42. The most common source of income for Irish taxpayers is emoluments from employment, including salaries, fees, wages, perquisites or profits. Where such income arises from services rendered by an employee by virtue of the office or employment as a reward for services rendered, it is taxed under Schedule E. For the self-employed, the profits and gains of a trade or profession, are taxed under Schedule D.

    A general principle of taxation is that all income is taxable, subject to specified exemptions, reliefs and deductions which may reduce the taxable amount and/or the amount of tax due.

43. The long established legislative basis for tax deductions against Schedule E employment income is set out in Section 114 of the Taxes Consolidation Act, 1997 which says: "Where the holder of an office or employment of profit is necessarily obliged … to expend money wholly, exclusively and necessarily in the performance of those duties, there may be deducted from the emoluments to be assessed the expenses so necessarily incurred and defrayed."

    The strict legislative interpretation is that any amounts at the disposal of an employee are emoluments that are subject to tax in the first instance, subject to a claim under s114 TCA 1997 for them to be treated as an allowable expense. Schedule E deductions are therefore typically quite rare in practice, most commonly relating to business travel such as the cost of travel, accommodation and meals.

44. The question of whether a taxpayer meets the criteria for a deduction for employment expenses is one of fact that will depend on the individual circumstances, but the following table is intended to illustrate the criteria that must all be met before any such deduction can be validly applied:

<u>Requirement</u>	<u>Explanation and example</u>
an expense defrayed by the employee	This means that the employee must bear the economic burden of the cost without any reimbursement from any party. For example, if the expense for equipment used in the employment is reimbursed by the employer, the employee is not out of pocket. It is likely that the employer would be entitled to a deduction for that expenditure from their business profits.
wholly, exclusively and necessarily	This means that the expense must be essential to the employment, i.e. the

	employment could not be performed without incurring the expense. The wholly and exclusively provision rules out circumstances where an expense is incurred, and that expense serves a dual purpose. For example, statutory registration/membership required by law for the employment will qualify.
in the performance of the duties of the employment	This means that the expenditure must be a part of the employment and not incidental to it. For example if an employee is required to supply their own tools and these tools are used exclusively in the performance of the duties of the employment, this expense will qualify.

45. As outlined in Revenue's guidance[6], 'the narrow application of Section 114 means that expenses must be incurred wholly, exclusively and necessarily in the performance of the duties of the employment. Each and every part of the provision must be strictly conformed to.

The courts are the ultimate interpreters of what a statute means in practice and there is an abundance of accepted caselaw discussing the requirements of this particular piece of legislation which provide further examples[7]. The caselaw is comprehensively set out on Revenue's website[8], and may be summarised as follows:

- The Irish courts have endorsed the narrowness of the application of the legislation[9];
- the words "wholly, exclusively and necessarily" are directly linked to the performance of the duties: "in doing the work of the office, in doing the things which it is his duty to do while doing the work of the office"[10];
- expenditure which is not incurred in the actual performance of the taxpayer's duties, but merely in order to put the taxpayer in a position to perform his or her duties is not deductible: "any duality of purpose is fatal: that is the force of the word 'exclusively'"[11].

[6] https://www.revenue.ie/en/tax-professionals/tdm/income-tax-capital-gains-tax-corporation-tax/part-05/05-02-20.pdf

[7] Although much of this is UK caselaw, the UK have similar legislation and caselaw of the UK courts is typically persuasive and instructive in an Irish context.

[8] https://www.revenue.ie/en/tax-professionals/tdm/income-tax-capital-gains-tax-corporation-tax/part-05/05-02-20.pdf

[9] SP O'Broin v Giolla Meidre and Finbarr Piggot ITR Vol II p366

[10] Rowlatt J in *Nolder v Walters*, 15 TC 380

[11] Henderson J. in Revenue & Customs Commissioners v Banerjee [2011] 1 All ER 985

Difference between self-employed and employees

46. The rules that determine the amount of income to be taxed under Schedule E (employment) and Schedule D (self-employed trade or profession) differ, as do the rules that determine whether there may be a deduction for expenses.

47. The relevant legislation for Schedule D deductions are set out in Section 81 of the Taxes Consolidation Act: "…no sum shall be deducted in respect of… any disbursement or expenses, not being money wholly and exclusively laid out or expended for the purposes of the trade or profession".

    This stipulates that to be deducted, the expenses must be directly related to the running of the business in question. Deductible expenses include the purchase of goods for resale, employees' pay, rent and bills for the business premises, running costs for vehicles or machines that are used in the business, lease payments for vehicles or machines that are used in the business, accountancy fees and interest payments for money borrowed to finance the business.

48. The rules for the deductibility of expenses are slightly more prescriptive for employment income than for self-employed income from a trade or profession – expenses must be incurred 'wholly and exclusively' for 'the purposes of the trade or profession' for the self-employed versus 'wholly, exclusively and necessarily' in the 'performance of the duties of the office' for employees.

    Unlike the treatment of expenses for Schedule E which adopt a strict approach to duality of purpose, for the self-employed, if money is spent on something that is for both business and private use, a deduction can be claimed for the business part of the expense. This could include items such as phone bills, motor expenses and rent. The amount of expenditure for business purposes must be worked out and a deduction claimed for that amount only.

49. A rationale for the distinction in treatment between Schedule E and Schedule D generally is that an employee is engaged to perform specific duties for a third party as set out in their contract of employment, within which the appropriate level of remuneration for the specific services rendered and apportionment of costs can be negotiated and agreed with their employer. The employer may claim a deduction for those expenses against their business profits. This is contrasted with a self-employed individual who has responsibility to carry on business for their own account and who may have to develop paid work themselves with additional expenses that are not always foreseeable in advance and with no separate employer to compensate for same. As a result, the case has traditionally been made that a more flexible expenses regime should apply, reflecting the more flexible nature of the work.

    There are a number of assumptions that underpin this distinction, including the assumption of equivalence of bargaining power between employee and employer vis-à-vis wages, which may be especially less apparent in the case of lower paid workers.

Policy Options to take account of possible changes to Revenue's Flat Rate Expenses Regime

50. All employees have a statutory right to claim a deduction under section 114 TCA for any valid expenses incurred wholly, exclusively and necessarily in the performance of the duties of their employment, to the extent which the expenses are not reimbursed from any source. This would be done on a specific "vouched basis" following a claim to Revenue.

    In order to provide clarity to employees, Revenue's flat rate expenses regime forms part of their administration of the tax code. This concessionary practice is applied where both specific commonality of expenditure exists across an employment category, and the statutory requirement of Section 114 is satisfied.

51. The purpose of the practice is to simplify tax administration for both taxpayers and Revenue by making it easier for large groups of employees working in the same sector to avail of their entitlement to tax relief in respect of allowable expenses incurred in the performance of their employment duties.

    Any maintenance or progression of the practice can only take place if Revenue are satisfied that there is a legally valid basis to give the concession, and a decision on same typically involves extensive engagement with the relevant representative body acting on behalf of the various categories of workers.

52. Revenue carried out a review of their flat rate expenses regime in 2018 and 2019 to ensure that their on-going practice complied with the legislation.

    This review may result in a change to the current list of flat rate expenses, by either increasing, reducing, maintaining or withdrawing the various expenses that cover 53 employments and 134 categories of expense.

53. In the event that the review results in changes that increase the burden of taxation on workers in a way that is not considered desirable, the options presented below may be considered. As noted elsewhere in this section of the paper, the issues that arise in relation to an adjustment to the flat rate expenses regime, and any legislative reponse that may be deemed appropriate, need to be carefully weighed against the background of the present unprecedented social and economic circumstances.

1. LEGISLATE TO ALLOW THE INDIVIDUAL EXPENSE BE CLAIMED BY AMENDING SECTION 115 TCA

Section 114 of the TCA is the legislative basis for employment expenses. Any changes to this section could constitute a substantial erosion of the income tax base, with potentially significant additional costs to the Exchequer.

An amendment to this section would therefore not be considered advisable – but an alternative option might be considered in relation to Section 115.

Section 115 of the Taxes Consolidation Act, 1997 states that "*Where the Minister for Finance is satisfied, with respect to any class of persons in receipt of any salary, fees or emoluments payable out of the public revenue, that such persons are obliged to lay out and expend money wholly, exclusively and necessarily in the performance of the duties in respect of which such salary, fees or emoluments are of the average amount for a year of assessment so laid out and expended by persons of that class, and in charging the tax on such salary, fees or emoluments, there shall be deducted from the amount of such salary, fees or emoluments the sums so fixed by the Minister for Finance; but, if any person would but for this section be entitled to deduct a larger amount than the sum so fixed, that sum may be deducted instead of the sum so fixed*'.

Currently, the deductions provided under this section apply to public servants. It is possible that this legislation could be amended to expand the application to all workers and allow the list to be updated to specify deductions for specific categories of workers.

An advantage of this approach is that workers would have some level of certainty if expenses were explicitly referenced in legislation and it would not be expected to have an additional Exchequer cost as it would be legislating for what is already the current practice.

Disadvantages include that the legislation still requires that the expense be "wholly, necessarily and exclusively" incurred so it may not satisfactorily resolve the issue – for example, in relation to historic expenses that are no longer incurred by workers that may be withdrawn.

A number of equity issues may arise vis-à-vis other workers and it is likely that this list would need to be reviewed regularly to make sure that the expenses remain valid and take account of up-to-date work practices, which is similar to what Revenue do already under their flat rate regime.

2. INCREASE EMPLOYEE (PAYE) TAX CREDIT

Under such an option, there would be a general increase to the Employee (PAYE) Tax Credit to compensate for the withdrawal of flat rate expenses from that date.

In order to arrive at a suitable increase, the flat rate expenses for 2020 for 184 categories of worker range from €21 to €2,476, the average value is €244 and the median value (where half of values are above, and half of values are below this amount) is €153.

If the PAYE Tax Credit was increased by €244 to €1,894 this would cost €366 million and €405 million in the first and full year respectively.

If the PAYE Tax Credit was increased by €153 to €1,803 this would cost €229 and €254 million in the first and full year respectively.

Advantages are that this is a straightforward solution that might allow for the withdrawal of the flat rate expenses while seeking to ensure that no-one is worse off.

Disadvantages are that it is not a targeted and the distribution of the benefits of the measure are uneven as it treats all employees in the country in the same way whether they have a large amount of expenses, a small amount, or none. This also results in an Exchequer cost.

3. NO CHANGE TO THE LEGISLATION AND ALLOW INDIVIDUAL EXPENSES TO BE CLAIMED BY WORKERS ON A VOUCHED BASIS

Under this option, there would be no change to Section 114 TCA, 1997 so all employees would retain their statutory right to claim a deduction for any valid expenses incurred wholly, exclusively and necessarily in the performance of the duties of their employment, to the extent which the expenses are not reimbursed from any source.

This would allow Revenue to continue to apply their universal flat rate regime as appropriate, including with the changes they have deemed necessary to comply with the legislation, but employees would be able to claim their deduction on a specific “vouched basis”.

This measure has the advantage of ensuring that no worker is left out of pocket as a result of any expenses they have incurred in their job, although it would introduce an additional administrative burden for both them and Revenue in the making of the claim. The horizontal equity between different categories of workers on similar salaries would be increased although the withdrawal of certain historic deductions would still arise. Notwithstanding the intrinsic merits of such a proposal, in the current unprecedented social and economic circumstances the issues that arise from seeking to adjust or withdraw what may be seen as a modest tax benefit, especially from those on lower incomes, need to be carefully weighed.

Update on Review of Tax Treatment of Trade Union Subscriptions

Introduction

54. In the course of the Finance Bill Committee Stage debate in 2019, the Minister for Finance gave a commitment to have an updated review carried out into the specific issue of tax relief on trade union subscriptions, with reference to the question of the deductibility of professional subscription fees; taking into account differing stakeholder viewpoints on the matter, and providing an analysis of international practice in the area.

55. The following sets out background information on the former tax relief that was available under section 472 of the Taxes Consolidation Act 1997, and considers a number of policy options in relation to the tax treatment of trade union subscriptions and donations to trade unions.

Background

56. Income tax relief for Trade Union subscriptions was previously provided for under section 472C of the Taxes Consolidation Act 1997. This relief was introduced in 2001 in recognition of the role played by the trade union movement in Irish society and in the partnership process generally.

57. The relief initially operated by way of an income tax relief of £100, or €127 at the time of adoption of the European single currency in 2001, regardless of the level of union subscription paid. This gradually increased over the years to an amount of €350 in 2008. The relief was provided for at the standard rate which equated to a tax credit of €70 per annum per trade union member from 2008 onwards.

58. The relief was available in respect of the tax years 2001 to 2010 inclusive.

Reviews

59. In 2009 the Commission on Taxation recommended that the relief be discontinued. The rationale underpinning this recommendation was as follows:

> *"Membership of a trade union is likely to be influenced by the benefits of membership and may be a condition of employment. The value of the tax credit is unlikely to be a factor. Having regard to the significant element of deadweight associated with the tax relief, we consider that the relief should be discontinued".*

60. Tax relief for Trade Union subscriptions was subsequently abolished from 2011, in line with the National Recovery Plan and with a view to widening the tax base. The estimated yield to the Exchequer was €19 million in 2011 and €26 million in a full year.

61. During the course of Budget 2016 negotiations a commitment was made to undertake a review of the appropriate treatment for tax purposes of trade union subscriptions and professional body fees. At the time, the Irish Congress of Trade Unions (ICTU) argued that the continued availability of tax relief on fees paid to professional bodies created an inequity vis-a-vis the absence of tax relief on subscriptions paid by individuals to trade union bodies.

62. This review was undertaken by the Department of Finance in 2016 and was included in the 2016 report on tax expenditures published on Budget day 2016. On the particular issue of the tax treatment of trade union subscriptions versus the tax treatment of fees paid by individuals to professional bodies, the review concluded as follows:

- A tax deduction for fees paid to professional bodies is available where, for example, there is a statutory requirement for membership of a professional body or where there is a requirement for a practicing certificate or licence.
- As such, there is a fundamental difference between membership of a professional body which is required to practice a profession and membership of a trade union, which is essentially, a personal choice.
- A person cannot be refused the right of employment for failure to join a trade union, however, a person can be refused the right of employment as a solicitor, for example, if they fail to hold a practicing certificate.

63. On the question as to whether tax relief on Trade Union subscriptions should be re-introduced, the relief was analysed using the principles which are laid out in the Department of Finance tax expenditure guidelines. The review concluded that the relief should not be re-instated on the following grounds:

- Cost (projected to be of the order of €39.5M per annum).
- Absence of market failure (given the benefits associated with TU membership).
- Lack of incentive effect (the value of the relief equated to just €1 per week).
- Unintended consequences (the relief could have led to an increase in trade union fees thus negating the value of the credit).
- Importance of maintaining a broad tax base.

Stakeholder viewpoints

64. In March 2018, the Committee on Budgetary Oversight debated the issue of tax relief on trade union subs. The newly formed Fórsa trade union (which was formed in January 2018 as a result of the amalgamation of a number of pre-existing unions including the Municipal, Public and Civil Trade Union, IMPACT, the Public Service Executive Union, PSEU and Civil and Public Services Union, CPSU, amongst others) was represented at the Committee by their lead organiser, Mr Joe O'Connor.

65. The topics discussed at this committee included:

- The continued availability of tax relief on professional subscriptions;
- The availability of tax relief to businesses for subscriptions to bodies such as IBEC and ISME;
- The availability of tax relief to farmers for subscriptions to the IFA.

66. The proposal to re-introduce such a relief has featured in the ICTU pre-budget submissions over a number of years.

67. Fórsa subsequently initiated a campaign on the issue, with the Department of Finance receiving numerous representations from a number of interested parties calling for the reintroduction of tax relief on Trade Union subscriptions.

Tax deductibility of employee expenses – Section 114 TCA 1997

68. Section 114 TCA 1997 provides for a tax deduction in respect of expenses incurred wholly, exclusively and necessarily by an individual in the performance of the duties of his or her employment.

69. Professional membership fees are only deductible under section 114 TCA 1997 where those fees are incurred wholly, exclusively and necessarily by an individual in the performance of the duties of his or her employment.

70. The following are generally regarded by Revenue as having fulfilled the wholly, exclusively and necessarily incurred test in order for the expense to qualify for deduction under section 114 TCA 1997:

(a) There is a legal requirement for the employee to either: be a member of a professional body or hold a practising certificate or licence.
(b) The duties of the employee require them to either: be a member of a professional body, hold a practising certificate or licence, where the employee cannot complete their duties without that membership or certificate.
(c) Annual professional membership fees are commercially necessary.
(d) Annual professional membership fees are an indispensable condition of the tenure of employment.

71. Where an employer pays a professional membership fee or registration fee on behalf of his or her employees, deductions of Income Tax, PRSI and the Universal Social Charge (USC) must be made from pay in respect of the value of the membership fee paid by the employer on behalf of an employee.12

[12] For the tax years 2004 to 2010 expenses incurred by an employer on behalf of an employee in connection with the payment (or reimbursement) of annual membership fees of a professional body where such membership was regarded as "relevant to the business" of the employer was exempt from BIK. This exemption was repealed in Finance Act 2011 and ceased to apply from the tax year 2011.

72. However, for ease of administration and to avoid unnecessary claims under section 114 TCA 1997, Revenue permit a simplification procedure. Thus, where:

- an employer pays a membership fee to a professional body on behalf of an employee or reimburses such a fee to an employee; **and**
- a deduction under section 114 TCA 1997 would be available,

73. Deductions of Income Tax, PRSI and USC need not be made from pay in respect of the amount reimbursed or the notional income amount attributable to the cost of such annual membership or registration fee. As this taxing treatment incorporates the value of the deduction that would have been available under section 114 TCA 1997, the employee cannot then claim an expense deduction in respect of the cost of the annual membership.

74. Annual subscriptions paid by self-employed individuals to a professional association (where membership constitutes a qualification to carry on the profession concerned) is allowed as a deduction where it is wholly and exclusively laid out or expended for the purposes of the trade or profession. This deduction is taken at the individual's marginal rate and is not subject to USC or PRSI.

Subscriptions to IBEC, ISME and the IFA

75. The tax treatment of PAYE workers, the self-employed and businesses varies quite fundamentally in a number of ways, and so to directly compare these three categories on the issue of deductibility of certain subscriptions would not be to compare like with like.

76. In order for an expense to be deductible for a PAYE worker, it must be incurred wholly, exclusively and necessarily by an individual in the performance of the duties of his/her employment.

77. By contrast, in order for an expense to be deductible for a self-employed individual or a business, it must be incurred wholly and exclusively for the purposes of a trade. In the case of IFA subscriptions, this expense may be deducted by the sole trader as it is beneficial to the trade of being a farmer. A similar argument can be made regarding the tax deductibility of subscriptions to IBEC and ISME.

Analysis under the Department of Finance Tax Expenditure Guidelines

78. Prior to the introduction (or reintroduction) of a tax expenditure measure, an ex-ante evaluation should be carried out in accordance with the Department of Finance Tax Expenditure Guidelines. In the 2016 examination of the most appropriate treatment for tax purposes of trade union subscriptions, the five key questions of an ex ante evaluation were addressed, with the conclusion that the re-introduction of a tax relief would fail to reach the required evaluation threshold.

1. What objective does the tax expenditure aim to achieve?

The tax expenditure would have the objective of incentivising increased membership of trade unions by way of a refund of income tax on subscription fees. It should be noted that the proportion of the overall cost of the proposed relief that relates to those individuals who are already members of trade unions would represent significant economic deadweight; that is to say that the State will ultimately be funding activity that would have occurred in the absence of a tax incentive, at a substantial cost to the Exchequer.

2. What market failure is being addressed?

Trade union membership rates have been on the decline globally over recent years. Trade union density (the share of workers who are union members) has declined across OECD countries, from a level of 33% on average in 1975 to 16% in 2018[13]. CSO data suggests Ireland's union membership figures dropped to c. 25 per cent of employees in 2019, down from 32 per cent in 2010. However, given that this is a global trend, it would be incorrect to directly attribute this downward trend to the termination of the pre-existing tax relief that operated between 2001 and 2010.

3. Is a tax expenditure the best approach to address the market failure?

A tax expenditure scheme which would offer tax relief of the order of less than €1 per week would arguably have little effect in terms of reversing a trend towards decreasing unionisation rates, which is occurring globally, and in countries that have a scheme of tax relief for such fees. The drivers of the decline in union density are numerous and vary between countries and over time.

4. What economic impact is the tax expenditure likely to have?

The scheme may lead to an increase in the number of individuals who take up membership of a trade union, however, it would also see the Exchequer effectively subsidising the membership fees of those individuals who already subscribe to a union. It can be argued that these individuals have chosen to join a union in recognition of the many benefits that it affords to them, without the need for a tax relief to influence their behaviour. It is possible that a tax expenditure measure could lead to increases in trade union fees which would absorb the relief and reduce the incentive effect.

5. How much is it expected to cost?

ICTU data[14] indicates that in 2017 they had 527,048 affiliated members across the Republic of Ireland. If the relief was introduced at the same level as previously applied (i.e. a relief on fees of €350 at the standard rate), this could lead to an Exchequer cost of €36.9 million if

[13] Negotiating Our Way Up- COLLECTIVE BARGAINING IN A CHANGING WORLD OF WORK- OECD January 2020
[14] https://www.ictu.ie/about/affiliates.html

fully utilised by existing members. This estimated cost is based on the assumption that there would be no change in existing behaviour, however, the stated intention of the relief is to incentivise a larger number of individuals to join trade unions.

79. The cost of the relief in the years prior to its termination in 2011 was as follows.

Year	Cost (€ million)	No. of Claims
2004	10.7	248,300
2005	11.8	272,100
2006	19.2	294,300
2007	20.7	316,300
2008	26.4	341,900
2009	26.7	345,800
2010	26	337,500

International comparison

80. It is difficult to provide a meaningful direct comparison between the tax treatment of trade union subscriptions in various countries given the differing roles and functions that trade unions have in other societies. For example, in Finland over 70% of workers are union members. In contrast to Ireland, it is the union and not Government that pays most unemployment assistance claims, and at a significant earnings-related rate to the salary of last employment. The union's ability to pay is financed by members' contributions, but also by a wide variety of investments and enterprise in which the union is involved. Trade union subscriptions (which usually amount to 1-2% of gross pay) are tax-deductible. Union membership fees are deducted in full from gross income before tax is calculated.

81. In some countries trade unions serve a joint function as both a professional body and a representative body and so there is a clear case for tax relief on the subscriptions paid in respect of membership (given that it's an expense incurred wholly, exclusively and necessarily by an individual in the performance of the duties of his/her employment). This is the case in relation to the fees that Doctors and Nurses in the UK pay to the British Medical Association and the Royal College of Nursing respectively. However, with regard to the UK,

as a general rule there is no income tax relief available to taxpayers on trade union subscriptions.

82. The following table gives further detail on the availability of tax relief in a number of countries, as we understand it to apply.

Country	Income tax relief available (Y/N)	Further details
Denmark	Y	Annual subscription can be deducted to the maximum amount of DKK 6,000 (€805).
France	Y	The rate of relief is 66%.
Germany	Y	The rate of relief depends on tax class and income.
Italy	N	
Spain	Partial	In Spain members of trade union make contributions that comprise two elements – the membership fee which goes towards the running of the union and a contribution towards benefits that members receive (discounts on gym access or other schemes etc.). Tax relief may only be claimed on the costs relating to the amount paid for membership. Rate of relief applied (20-35%) depends on a range of factors, including family size.
Sweden	N	
United Kingdom	N	

Options for consideration

Option 1: Reinstate the relief

This would introduce an immediate cost to the Exchequer of €36.9 million per annum in respect of the existing members of trade unions. As such, a significant amount of revenue would be foregone with no actual change in behaviour/incentive effect. It is uncertain as to whether there would be an increase in membership of trade unions as a result.

Option 2: Do not reinstate the relief

As recognised by previous reviews on the matter, including those conducted by the Commission on Taxation and the Department of Finance itself, it is the particular benefits of membership of a trade union that entices an individual to join. It is unlikely that the maintenance of the current position in relation to the tax treatment of the subscriptions will have any significant impact on current trends.

Option 3: Extend the existing income tax relief available in respect of charitable donations to Trade Unions.

83. During the course of Finance Bill 2019 Committee stage debates, Deputy Joan Burton raised the possibility of an extension to the existing tax relief that is available in respect of donations made to charitable bodies. This relief is provided for under section 848A of the Taxes Consolidation Act ('Donations to Approved Bodies') and essentially allows the approved body to receive a donation at a grossed up level of 31%, providing certain criteria are met, including the following:
    - The organisation must be on the list of approved bodies as set out in Schedule 26A of the Taxes Consolidation Act, and,
    - The minimum donation in any single year of assessment that must be made to any one approved body for the purposes of obtaining tax relief under the scheme is €250.

84. Trade unions are not considered an approved body for the purposes of section 848A as they are not included on the list of approved bodies in Schedule 26A. This list includes, in addition to a number of bodies providing primary, post primary and higher education:

    - Bodies approved for education in the arts in accordance with Part 2
    - Bodies approved as eligible charities[15] in accordance with Part 3
    - Human rights convention institutions

85. It should be noted that where there is an association between a donor (being an individual) and an approved body at the time a donation is made – for example, where the donor is an employee or member of the approved body – relief under the scheme is restricted to 10% of the individual's total income for the year of assessment in which the donation is made.

86. The donation must also satisfy the following conditions- it must not be repayable, it must not confer any benefit, either directly or indirectly, on the donor or any person connected with the donor, and it must not be conditional on, or associated with, any arrangement involving the acquisition of property by the approved body. As such, the actual subscription fee paid to a trade union could not qualify for tax relief (and must not form any part of an individual's

[15] It should be noted that trade unions are deemed an excluded body under the Charities Act 2009

donation) given that it is a subscription for membership in consideration of which the union provides services to the member.

87. It is not possible to conclude that an extension of s. 848A relief would lead to increased levels of donations being made to trade unions, given that the relief goes to the approved body rather than the individual donor. Furthermore while an extension would provide a ‘top up’ to any donations received (at the grossed up rate of 31%), it would not meet the targeted policy objective of incentivising trade union membership rates, and so it falls outside the scope of this review.

Early Access to Pensions and Auto-Enrolment

Early Access to Pensions

88. An issue that has arisen recently is a number of proposals to allow people access a portion of their pension fund before retirement, the long established policy of providing tax relief for pension contributions is to encourage saving by employers, employees and the self-employed towards their retirement income. A repayment of contributions is only permitted in highly limited circumstances, for example due to ill-health, and as such, this would be subject to income tax.

89. The policy rationale underpinning this is the State provides generous tax relief on both pension contributions and fund growth to ensure that people have sufficient savings to fund their regular costs and expenses during their retirement. However, on actual drawdown a pension is subject to tax at the individual's marginal tax rate. In the event of any early encashment of a pension fund the tax relief received must be clawed back. It should also be noted that any refund of pension contributions is governed by the terms of the specific scheme or product.

90. By giving access now to pension sums, the income for future use on retirement is reduced. This could put pressure on the State's future resources if people do not have adequate income in retirement. Noting the most recent demographic trends outlined in the 2018 Report Population Ageing and the Public Finances in Ireland, the 2015 Actuarial Review of the Social Insurance Fund, and the plans to introduce pension auto-enrolment in Ireland, caution should be taken with such a proposal.

Auto-Enrolment

91. In February 2018, the Government published A Roadmap for Pensions Reform 2018 - 2023 to address long-term pension policy challenges. The Roadmap details specific actions to be taken by various government Departments and agencies presented under six strands that, taken together, are intended to modernise the Irish pension system while continuing to target resources at those most in need.

    A number of specific Roadmap actions have been assigned to the Department of Finance and the Interdepartmental Pensions Reform and Taxation Group (IDPRTG) which the Department chairs[16].

92. These include a review of the cost of funded supplementary pensions to the Exchequer in the context of the development of a new auto-enrolment scheme (Action 3.13) and a review

[16] This group is comprised of representatives from the Department of Finance, the Department of Public Expenditure & Reform, the Department of Employment Affairs & Social Protection, Revenue and the Pensions Authority.

of the utilisation of the Approved Retirement Fund option, including the criteria set out in tax legislation (Action 3.14).

93. Hosted by the Department, the IDPTRG held a public consultation on the above matters from August to October 2018.

    It is expected that policy decisions arising from the Roadmap will be put forward for decision in future Budgets. This could include decisions on:

    - The tax treatment to be applied in the context of the new auto-enrolment scheme (if required).

94. Consequential amendments to the Taxes Consolidation Act, 1997 to mirror any changes that may be made to the types of pension products available in Ireland on foot of the simplification pillar of the Roadmap

Insights on Pensions from PAYE Modernisation Data

95. The Statistics and Insights from the First Year of Real-Time Payroll Reporting for the 2019 tax year includes data relating to individuals paid via the PAYE system, including retired workers in receipt of occupational pensions. Insights from the PAYE Modernisation Report relevant for pensions policy include:

    - Around 30% of all employees are making regular contributions to their pensions (on average 775,000 every month, although 875,000 employees made pension contributions at some stage in 2019. Most employees on lower incomes do not make contributions to pensions and the gross income point above which most employees make a pension contribution is between €40,000 - €45,000.
    - Those on higher income make larger contributions to their pension, but the average share of income set aside as a pension contribution is relatively consistent across most income ranges, typically between 3 and 6%
    - In terms of estimated incomes of those in retirement, the average monthly income is €1,500 and €18,100 per annum and 65% of that cohort have annual income of less than €20,000 (these figures exclude taxable pension income from the Department of Employment Affairs and Social Protection).

Further Potential Options for Consideration

69. The Pre-Budget 2021 Ready Reckoner in Appendix A allows calculation of the cost/yield of adjustments to the rates, bands and major credits in the income tax system.

Appendix A: Ready Reckoner – Potential Costs / Yields

The below table reflects the pre-Budget 2021 ready reckoner that was published in August 2020.

(See notes on next page regarding costing methodology)

No.	Options	First Year Cost/Yield €m	Full Year Cost/Yield €m
	Tax Rate		
1	Decrease 20% rate to 19%	- 528	- 608
2	Decrease 40% rate to 39%	- 230	- 276
3	Increase 20% rate to 21%	+ 532	+ 613
4	Increase 40% rate to 41%	+ 229	+ 275
	Standard-Rate Bands		
5	Increase standard rate cut off point by €1,000 (single, married one-earners and two earners)	- 150	- 173
7	Increase standard rate cut off point by €1,500 (single, married one-earners and two earners)	- 223	- 257
	Tax Credits		
8	Increase Earned Income Credit by €50	-4.5	-8
9	Increase Earned Income Credit by €150	- 13	- 24
10	Increase personal tax credits by €100	- 343	- 388
11	Increase Home Carer Credit by €50	- 3.3	- 3.8
	Universal Social Charge		
12	Increase USC entry point to €13,500	- 2.1	- 2.4
13	Increase USC entry point to €14,000	- 4.3	- 5.1
14	Increase €12,013 and €19,874 ceilings of second USC rate band (by €1,000) to €13,013 and €20,874	- 60	- 69

15	Reduce 0.5% rate to 0.0%	- 110	- 127
16	Reduce 2% rate to 1%	- 160	- 185
17	Reduce 4.5% to 3.5%	- 293	- 340
18	Reduce 8% to 7%	- 110	- 139
19	Increase 8% rate to 9% on income over €70,044 (with consequential increase from 11% to 12% in rate applying to non-PAYE income over €100,000)	+ 110	+ 139

Points to note regarding costing methodology and assumptions:

- *Distributions for 2020 are estimates from the Revenue tax-forecasting model using actual data for the year 2018, adjusted as necessary for income and employment trends in the interim. The data are published in the Revenue Ready Reckoner which is available on the Revenue website.*
- *The Costings shown are based on revised tax forecasts (August 2020). They are tentative costings and likely to be revised as further information becomes available, particularly in relation to the effect of COVID 19 on the Irish and global economy.*
- *Individual element cost estimates stand-alone i.e. putting two elements together may not simply cost the aggregate of the two elements as there may be interaction between the elements.*
- *Figures are provisional and likely to be revised.*
- *A jointly assessed married couple/civil partnership is treated as one tax unit.*
- *Percentages are rounded to the nearest percentage point.*

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