Report of the Office of the Revenue Commissioners

Analysis of High Income Individuals' Restriction 2010

1. General

The 2006 and 2007 Finance Acts introduced, with effect from 1 January 2007, measures to limit the use of certain tax reliefs and exemptions (known as 'specified reliefs') by high-income individuals. Such individuals, by means of the cumulative use of various tax incentive reliefs, had in previous years substantially reduced their tax liabilities.

The overall objective was to ensure that, from 2007, individuals with an adjusted income[1] of **€500,000** or more (where the full restriction applied) would pay an effective rate of tax of approximately **20 per cent** on a combination of adjusted income and ring-fenced income. As previously reported, that objective was achieved in 2007, 2008 and 2009.

The 2010 Finance Act introduced further limitations on the use of specified reliefs. These limitations were designed to ensure that, with effect from the tax year 2010, individuals with an adjusted income level of **€400,000** or more (where the full restriction applies) would pay an effective rate of tax of approximately **30 per cent** on a combination of adjusted income and ring-fenced income.

This report relates to the use of specified reliefs by high-income individuals who were subject to the restriction in the tax year 2010. All other high-income individuals are subject to the normal tax rules. Composite details of the tax paid by all high-income individuals are available from the annual Statistical Reports published on the Revenue website www.revenue.ie.

Analysis of the application of the high-income individuals' restriction for the tax year 2010 shows that the objective of achieving an effective rate of tax of approximately 30 per cent for individuals with an adjusted income of €400,000 or more was achieved in that tax year. Where adjusted income was less than €400,000, a tapering approach ensured that there was a graduated application of the restriction, with the effective rate of tax increasing towards 30 per cent as adjusted income increased towards €400,000.

It should be emphasised that the effective tax rates quoted in this report are exclusive of the income levy which applied in 2010. The levy was charged on an individual's aggregate income from all sources with rates applying on a progressive basis as follows – 2% on the first €75,036, 4% on the next €99,944 and 6% on the remainder. The income levy was subsumed into the Universal Social Charge from 2011.

[1] ***Adjusted income*** is the taxable income of an individual before the restriction is applied, to which is added the amount of income sheltered in the year through the use of the specified reliefs. It excludes "ring-fenced income" (e.g. DIRT) which is normally liable to tax at specific rates regardless of the amounts involved or the marginal rate of tax at which the individual is liable.

A brief summary of how the restriction operated for the tax year 2010, and the specified tax reliefs covered by the restriction, is included in **Annex 1**.

2. Results for 2010

A breakdown of the 2010 results showing the effect of the restriction in its fourth year of operation is set out in tabular form in **Annex 2**. These results are based on actual returns received.

A comparison of the outcome for 2010 with the outcome for 2007, 2008 and 2009 is set out below.

Year	Total Number of Individuals	Additional Tax €m
2010	1,544	80.18
2009	452	38.86
2008	423	39.68
2007	439	39.99

The results for 2010 indicate that the overall number of individuals who were subject to the restriction was 1,544 and that the additional tax yield was €80.18m. Compared to 2009, this represents an increase of 1,092 in the number of individuals and an increase of €41.32m in the additional tax yield from the measure. These increases are due to the changes introduced to the measure in Finance Act 2010 i.e. the reduction from €250,000 to €125,000 in the income level at which the restriction normally starts to apply and the reduction from €250,000 to €80,000 in the amount of specified reliefs that can be used without restriction.

Cases where full restriction applies – Adjusted Income of €400,000 or more

Table 1A (Annex 2) shows that the 387 high-income individuals with an adjusted income of €400,000 or more (i.e. where the full restriction applied) paid an **average** effective tax rate of **30.72 per cent** on the combination of adjusted income and ring-fenced income.

This meets the objective set out for the measure. The additional tax involved was €52.20m, representing a 95.5% increase on the tax that would otherwise have been paid if the restriction had not applied. 45 individuals with adjusted income of €400,000 or more, who would not otherwise have paid tax in 2010, were brought into the tax net for that year.

Table 1B (Annex 2) summarises the distribution of the effective tax rates for the 387 cases with adjusted income of €400,000 or more. It shows that all of the high-income individuals within this category fell into the effective tax rate bands of 25% to 30% (62 cases) and 30% to 35% (325 cases).

Cases where restriction partly applies – Adjusted Income of up to €400,000

Table 2A (Annex 2) shows that the 1,157 high-income individuals with an adjusted income of up to €400,000 (i.e. where the restriction applies on a graduated basis) paid an **average** effective tax rate of **18.97 per cent** on the combination of adjusted income and ring-fenced income. The additional tax involved was €27.98m, representing a 92.2% increase on the tax that would otherwise have been paid if the restriction had not applied. An additional 179 individuals with adjusted income of up to €400,000, who would not otherwise have paid tax in 2010, were brought into the tax net for that year.

Table 2B (Annex 2) summarises the distribution of the effective tax rates for the 1,157 cases with adjusted income of up to €400,000. The spread reflects the graduated nature of the application of the restriction for cases in this category. The fact that nearly 50% of these individuals had an effective tax rate of 20% or more reflects the fundamental changes made to the restriction in Finance Act 2010.

3. Schedule of declared use of Reliefs

Table 3 (Annex 2), in relation to each specified relief, shows:

- the overall number of individuals subject to the restriction, who declared that they used the relief, and
- the total combined amount of the relief declared as used by those individuals.

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ANNEX 1

Operation of the restriction in the tax year 2010

The restriction works by limiting the total amount of "specified reliefs" that a high-income individual can use to reduce his or her tax liability in any one tax year.

In the tax year 2010, the overall objective was to ensure that individuals with an adjusted income of **€400,000** or more would pay an effective rate of tax of **approximately 30 per cent** on a combination of adjusted income and ring-fenced income. A graduated application of the restriction below an adjusted income level of €400,000 would ensure that the effective rate of tax increased towards 30 per cent as adjusted income increased towards €400,000.

For the tax year 2010, the restriction applied to an individual where all of the following criteria applied:

- the Adjusted Income of the individual for the tax year was equal to or greater than an Income Threshold Amount which was, in general, ***€125,000*** but was less if the individual had ring-fenced income (e.g. deposit interest),
- the aggregate of specified reliefs used by the individual for the tax year was equal to or greater than a Relief Threshold Amount which was set at ***€80,000***, and
- the aggregate of specified reliefs used by the individual for the tax year was greater than **20 per cent** of the individual's adjusted income.

In the case of a married couple, application of the restriction to each spouse is determined separately. Therefore, in 2010, the restriction applied to each individual spouse only where the three circumstances mentioned above applied to that spouse for that tax year.

Specified Reliefs

Broadly speaking, the reliefs that are restricted include:

- the various sectoral and area-based property tax incentives,
- certain exemptions e.g. relating to artists' income, patent royalties etc.,
- certain investment incentive reliefs such as BES relief and film relief,
- relief for interest paid on loans used to acquire an interest in a company or in a partnership.

Normal business-related expenses, deductions for capital allowances on plant and machinery, genuine business-related trading losses, and genuine losses from a rental activity that do not arise from the use of specified reliefs are not restricted. In addition, personal tax credits are not affected by the restriction.

ANNEX 2

Table 1A: Cases with Adjusted Income of €400,000 or more

Adjusted Income Range	Number of Cases	Number of Cases and Tax Before Restriction		Tax After Restriction	Additional Tax After Application of Restriction	Average Effective Rate Before Application of Restriction	Average Effective Rate After Application of Restriction
		No.	Amount	Amount	Amount	Rate	Rate
€			€	€	€	%	%
400,000 500,000	119	98	8,404,987	16,590,387	8,185,400	18.56	29.98
500,001 650,000	99	93	10,145,611	18,687,280	8,541,669	17.10	30.49
650,001 800,000	63	60	8,977,184	14,496,636	5,519,452	20.34	31.00
800,001 1,000,000	38	33	5,672,531	11,067,701	5,395,170	18.80	31.29
1,000,001 1,500,000	41	35	6,581,065	16,423,985	9,842,920	15.04	31.68
1,500,001 2,000,000	12	9	3,502,688	7,225,692	3,723,004	20.01	31.68
Over 2,000,000	15	14	11,382,180	22,374,398	10,992,218	13.11	32.11
Totals	**387**	**342**	**54,666,246**	**106,866,079**	**52,199,833**	**17.95**	**30.72**

Table 1B: Effective Tax Rates - cases with Adjusted Income of €400,000 or more

Effective Rate	No of cases	% of cases in Table
0%	0	0
> 0% < 10%	0	0
> 10% < 20%	0	0
> 20% < 25%	0	0
> 25% < 30%	62	16
> 30% < 35%	325	84
> 35% < 40%	0	0
> 40%	0	0
Totals	***387***	***100%***

Table 2A: Cases with Adjusted Income of up to €400,000

Adjusted Income Range	Number of Cases	Number of Cases and Tax Before Restriction		Tax After Restriction	Additional Tax After Application of Restriction	Average Effective Rate Before Application of Restriction	Average Effective Rate After Application of Restriction
		No.	Amount	Amount	Amount	Rate	Rate
€			€	€	€	%	%
Under 125,000	52	40	538,569	762,742	224,173	5.41	7.60
125,001 160,000	293	218	2,140,547	4,986,541	2,845,994	5.67	10.66
160,001 200,000	220	191	3,412,083	6,967,197	3,555,114	9.29	16.77
200,001 250,000	202	174	4,948,894	10,606,097	5,657,203	11.46	21.50
250,001 325,000	233	210	9,419,087	17,676,457	8,257,370	14.88	25.34
325,001 399,999	157	145	9,882,655	17,320,765	7,438,110	17.50	28.64
Totals	**1,157**	**978**	**30,341,835**	**58,319,799**	**27,977,964**	**11.13**	**18.97**

Table 2B: Effective Tax Rates - cases with Adjusted Income of up to €400,000

Effective Rate	No of cases	% of cases in Table
0%	0	0
> 0% < 5%	18	1.56
> 5% < 10%	152	13.14
> 10% < 15%	209	18.06
> 15% < 20%	214	18.50
> 20% < 25%	254	21.95
> 25% < 30%	302	26.10
> 30% < 35%	8	0.69
> 35% < 40%	0	0
> 40%	0	0
Totals	***1,157***	***100%***

Table 3 - Schedule of declared use of different reliefs (for publication purposes, some categories have been amalgamated)

Ref Number	Specified Relief	Number of Cases	Amount of Relief used in 2010 by those affected by the restriction.
1/2/3/4	Sect 140, 141, 142 and 143 – dividends and distributions out of exempt income from stallion fees, stud greyhounds, woodlands, patents, certain mines and other mining operations	168	24,939,644
5	Sect 195 – Exempt income, profits or gains of artists, writers or composers	55	20,272,842
6	*Sect 231 – Exempt stallion fees*	*N/A*	*Did not apply in 2010*
7	Sect 232 – Exempt woodland income	12	602,876
8	*Sect 233 – Exempt stud greyhound fees*	*N/A*	*Did not apply in 2010*
9	Sect 234 – Exempt patent royalty income	74	15,003,474
10/11	Sect 248 and 250 – relief for interest paid on loans to acquire an interest in a company	114	9,508,619
12	Sect 253 – relief for interest paid on loans to acquire an interest in a partnership	38	764,550
13	Sect 272 – writing down allowances in respect of capital expenditure on:		
	• hotels and holiday camps/cottages	495	89,344,409
	• nursing homes, residential units attached to nursing homes and convalescent homes	124	14,844,154
	• hospitals, sports injury clinics and mental health centres	147	15,752,295
14	Sect 273 – accelerated writing down allowances in respect of certain industrial buildings or structures	34	3,809,148
15	Sect 274 – balancing allowances in respect of capital expenditure on:		
	• hotels and holiday camps/cottages	141	24,287,061
	• nursing homes, residential units attached to nursing homes and convalescent homes	23	2,247,668
	• hospitals, sports injury clinics and mental health centres	37	4,316,612
15A	Sect 304(4) – Carry forward of capital allowances (relating to specified reliefs) in trading situations	2	63,500
15B	Sect 305(1) – Set off and carry forward of capital allowances (relating to specified reliefs) in rental situations	36	7,218,553

Ref Number	Specified Relief	Number of Cases	Amount of Relief used in 2010 by those affected by the restriction.
16/17	Sect 323 and 324 – Custom House Docks Area: capital allowances for commercial premises and double rent allowance in respect of rent paid for certain business premises	10	1,684,739
18/19/20	Sect 331, 332 and 333 – Temple Bar Area: capital allowances for industrial buildings, commercial premises and double rent allowance in respect of rent paid for certain business premises	5	277,311
21	Sect 341 – Urban Renewal Scheme: capital allowances for industrial buildings	35	4,349,869
22	Sect 342 – Urban Renewal Scheme: capital allowances for commercial buildings	53	7,030,683
23	Sect 343 – Enterprise Area: capital allowances for certain buildings	32	1,762,924
24	Sect 344 – Multi Story Car Park capital allowances	24	428,603
25	Sect 345 - Urban Renewal, Enterprise Area, Multi Story Car Park: double rent allowance in respect of rent paid for certain business premises	2	71,156
26	Sect 352 – Qualifying Resort Area: capital allowances for certain industrial buildings	12	304,585
27	Sect 353 – Qualifying Resort Area: capital allowances for certain commercial buildings	12	498,916
28	Sect 354 – Qualifying Resort Area: double rent allowance in respect of rent paid for certain business premises	2	75,731
29	Sect 372C – Qualifying (Urban) Areas: capital allowances for certain industrial buildings	69	8,957,711
30	Sect 372D – Qualifying (Urban) Area and Living over the shop scheme: capital allowances for certain commercial buildings	39	3,078,554
31/32	Sect 372M and Sect 372N – Qualifying Rural Areas: capital allowances for certain industrial and commercial buildings	46	5,629,458
33/34	Sect 372V and 372W – Park and Ride Scheme: Capital allowances for Park and Ride Facilities and for certain commercial buildings	4	338,260
35	Sect 372AC – Town Renewal Area: capital allowances for certain industrial buildings	21	964,601
36	Sect 372AD – Town Renewal Area: capital allowances for certain commercial buildings	21	1,775,562

Ref Number	Specified Relief	Number of Cases	Amount of Relief used in 2010 by those affected by the restriction.
36A/36B	Sect 372AX and 372AY – Mid Shannon Corridor Tourism Scheme: capital allowances for certain registered holiday camps and tourism infrastructure facilities	3	397,055
37/38	Sect 372AP and Sect 372AU(1) – Relief for lessors of residential premises ("section 23" type relief, including old schemes)	98	14,071,331
39	Sect 381 – Repayment of tax due to losses (arising from use of specified reliefs)	5	312,979
40	Sect 381 – Repayment of tax due to losses (arising from use of specified reliefs), as extended by Sect 392	5	398,947
41	Sect 382 – Carry forward of losses (arising from use of specified reliefs) to future years	14	2,323,597
42/43/44	Sect 383, Sect 384 and Sect 385 – Relief (arising from use of specified reliefs) for losses under Case IV and Case V and for Terminal losses	100	16,323,400
45	Sect 481 – Relief for investment in Films	74	3,552,500
46	Sect 482 – Relief for investment on significant buildings and gardens	21	3,613,678
47	Sect 485F – Carry forward of excess relief	202	46,546,371
48	Sect 489(3) – BES relief	69	5,583,298
49	Sect 843 – Capital allowances for buildings used for third level education purposes	20	1,959,541
50	Sect 843A – Capital allowances for certain child-care facilities	45	3,301,043
51	Sect 847A – Donations to certain sports bodies	5	12,900
52	Sect 848A – Donations to approved bodies	228	3,001,574
53	Paragraph 11 of Schedule 32, Urban Renewal Scheme 1986: Capital allowances for certain commercial premises in designated areas	16	1,410,578
54	Paragraph 13 of Schedule 32, Urban Renewal Scheme 1986: Double rent allowances in relation to certain premises in designated areas	2	328,838