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ALSO IN THIS EDITION

Disclosure Opportunity to Regularise Misclassification of Self-Employment

Irish Tax Institute

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President's Pages

Shane Wallace
Irish Tax Institute President

Introduction

The last quarter of the year is an extremely busy period for the tax profession and, indeed, for the Irish Tax Institute. This year has proved no different, with the October Budget announcement and the publication of the Finance Bill followed quickly by the fifth Global Tax Policy Conference, which the Institute hosted jointly with the Harvard Center for International Development. The Institute's annual Conferring Ceremony, a calendar highlight, brought November to a delightful close, and the Southwest Members' Christmas Lunch in Cork in early December provided an opportunity for me, as new Institute President, to meet with members outside of Dublin.

After my inauguration as the 50th President of the Irish Tax Institute in early September, it has been a whirlwind end to 2025, and it has been my pleasure to meet and speak with so many members at the various events over the past three months.

Budget 2026

The Institute gave a broad welcome to the measures contained in Budget 2026. Although there were no changes to personal taxes, there were a number of vital enterprise tax changes announced that the Institute has consistently advocated for through its many formal submissions and meetings with key stakeholders, as well as through participation on various Revenue forums.

In its Pre-Budget 2026 Submission and subsequent meeting with Minister Donohoe and his officials, the Institute highlighted the urgent need for reform of the R&D tax credit, which is key to Ireland's competitiveness. We were therefore glad to see changes announced in the Budget, and we look forward to the publication of the R&D Compass. We believe that these steps demonstrate a commitment to making Ireland a more attractive location for inward investment, as well as strengthening the environment for our SMEs to grow.

At the same time, the Institute has made its position clear that the time for action on Ireland's tax regime for interest is now. Although we will, of course, engage in the further consultation that was launched by the Department of Finance in November, we believe that urgent changes are needed now to ensure that our tax code is attractive to investment and are concerned that any further delay will undermine other efforts to enhance competitiveness.

The Finance Bill

The Finance Bill, which was published on 16 October 2025, contains 102 sections and runs to 140 pages. The Institute's Special Finance Bill 2025 TaxFax, on which the Policy and Representations team worked late into the night after publication of the Bill, outlines the main provisions of the Bill, including amendments to the R&D tax credit, the film credit, the digital games tax credit, the participation exemption for certain foreign distributions, the Special Assignee Relief Programme (SARP), the Foreign Earnings Deduction (FED), the Key Employee Engagement Programme (KEEP) and revised entrepreneur relief.

More detailed analysis of the Finance Bill was provided by the Institute via an online CPD accredited webinar, which was attended by a large number of members. The second and final webinar will follow in the new year.

Global Tax Policy Conference

On 23 and 24 October the Institute, in collaboration with the Harvard Center for International Development, hosted the fifth Global Tax Policy Conference in Dublin. The Conference, skilfully organised by the Institute's Professional Services team, brought together experts from around the world to explore critical issues in global tax policy.

Global Tax Policy Conference 2025, Dublin. Shane Wallace, Institute President, welcoming delegates to Ireland.

Approximately 220 delegates attended to hear voices from across Europe, the US, Canada, Indonesia, Egypt and beyond – making the Conference a truly international event. I had the opportunity to welcome delegates to Dublin before handing over to the wonderful speakers, who included global tax leaders from institutions such as the European Commission, the OECD and the UN, as well as senior officials from finance ministries and tax authorities, distinguished academics, industry professionals, international- and private-sector experts and civil society advisers.

The Conference was officially opened by the then Minister for Finance, Paschal Donohoe TD, in a pre-recorded address, which was followed by seven panel discussions. Over the 1.5-day conference some of the most pressing and transformative issues in international tax, from the ongoing Pillar Two and "side-by-side" negotiations to the digitalisation of the global economy and the challenges of climate-related taxation and achieving Sustainable Development Goals, were discussed.

Professor Jay Rosengard and Shane Wallace before opening the Global Tax Policy Conference.

The overwhelming consensus of those who attended and those who participated was that the Conference provided invaluable insights and networking opportunities not found elsewhere.

2025 Conferring Ceremony

On 20 November 2025 we celebrated the Institute's annual Conferring Ceremony – an occasion that continues to remind us of the importance, vitality and future of our profession. I had been kindly forewarned by former Presidents that the Conferring Ceremony would be a key highlight in my year as President, and I can genuinely say that was most certainly the case. It was a privilege to witness the collective joy not only of the conferees but also of their families, friends and colleagues who have supported them along the way.

Some 270 Chartered Tax Adviser graduates and 31 Tax Technicians were welcomed into the Institute's membership on the night, and you can take it from me that the future of the tax profession is bright. The Institute's Education team is to be commended for another excellent ceremony, where the careful planning, professionalism and commitment to detail were very evident and created a memorable occasion for all.

Cork Christmas Lunch

I was delighted to make the journey to Cork to attend the Southwest Members' Lunch at the Clayton Hotel in Cork City, where approximately 145 members gathered for this annual event. Former Irish and Munster Rugby star Alan Quinlan regaled us with some brilliant stories from his international playing career and proved to be a huge hit with his uplifting and engaging speech.

When I was inaugurated as President of the Institute, I was asked what some of my priorities would be. I said that it is important to me to get out among members and hear from those who are in very different practices from my own. I fully appreciate that the majority of our members will have a very different client base or a different area of expertise from mine. I want to ensure that I'm there and I listen and that the Institute continues to support our broader membership. The growing attendance at the event shows the appetite for such gatherings among members, and I look forward to continuing to meet more members throughout the new year.

New Finance Minister

In November we bid farewell to Paschal Donohoe as Minister for Finance as he took up a new position in the World Bank. Former Minister Donohoe had been generous with his time over the years he spent as Minister for Finance and Minister for Public Expenditure and Reform. He addressed many conferences and Annual Dinners and regularly invited the Institute to participate in meetings. We also welcomed Tánaiste Simon Harris as the new Minister for Finance, and we look forward to working with the Tánaiste in the time to come and continuing our positive, productive and pragmatic relationship with the new Minister and his officials.

Consultations

The Institute plays a vital role in strengthening Ireland's tax policy landscape through its participation in a wide range of Department of Finance surveys and consultations. The Policy and Representations team is working on a number of submissions at present, and we are grateful to all members who have engaged and continue to give feedback on the various submissions.

Happy Christmas

By any measure it has been an eventful year in the world of taxation, and one thing that we can all be sure of is the continuing global uncertainty. However, as we look forward to some downtime over the Christmas, it is important not to be too consumed by what is out of our control.

I want to thank everyone who has supported me in my first few months as President, and on behalf of the Institute I wish all of our members a happy and peaceful Christmas and New Year with your loved ones.

Chief Executive's Pages

Martin Lambe
Irish Tax Institute Chief Executive

A whirlwind end of the year for tax advisers, taxpayers, the Government and the Institute. Within a short period, the first Budget of the new Government was announced, Finance Bill 2025 published, thousands of taxpayers updated their property valuations for Local Property Tax, the pay and file deadline came and went, and a new Minister for Finance took office. For the Institute, there was extensive representation on behalf of taxpayers and our members through submissions and stakeholder meetings, the Global Tax Policy Conference took place facilitating much needed dialogue between international colleagues and we admitted our new members at the annual conferring ceremony.

Conferring Ceremony

One of the Institute's most anticipated nights took place in O'Reilly Hall on the second last Thursday of November. The evening saw our newly qualified Chartered Tax Advisers (CTA) and Tax Technicians mark their achievement with their friends and families who were all visibly proud. Congratulations to each of you and I encourage you to stay connected with your Institute and fellow CTAs.

20 November 2025: President, Shane Wallace, presenting a newly qualified CTA with their scroll.

During the Conferring Ceremony, we also acknowledged the CTA students who excelled and placed top in the country. Well done to our winners – Sam Totterdell, Claire Nolan, Jack Costello, Brian Murray, Joseph McWeeney, Mary Heneghan, Megan O'Reilly, Nóirín O'Malley and Robert Carey.

Chartered Tax Adviser (CTA) Part 3: 1st Place winners. L-R: Claire Nolan and Sam Totterdell.

Ahead of the Conferring Ceremony, 19 sponsored awards were presented to our 2025 prize winners by the sponsoring firms. My warmest congratulations to the winners and once again, thank you to the 12 firms for their generosity and continued support of the CTA programme.

As part of our long-standing partnership with Revenue, we jointly hosted a conferring ceremony to award Revenue officials with a range of Certificates and Tax Technician qualifications. This training relationship is imperative in ensuring taxpayers get the informed support they need. My congratulations to all who were conferred.

Third-Level Scholarship

Annually, the Institute awards one Leaving Cert student with our Third-Level Scholarship. This Scholarship provides financial support and mentorship to the scholar throughout their third-level studies, and they are offered a place on the CTA programme once they have completed college.

I am delighted to announce that the winner of this year's Scholarship is Sophie Hartigan. Sophie is a Limerick native and is studying International Business in the University of Limerick. We look forward to supporting Sophie on her educational journey.

Sophie Hartigan with her Third-Level Scholarship at the Institute's Conferring Ceremony.

Promoting a Career in Tax Advisory

The battle for talent and the competition to attract college students to our profession continues to be a challenge. The Institute has taken every opportunity to be in front of third-level students and their lecturers, traveling the country to attend career fairs and give engaging class talks. We were also delighted to be invited to develop and co-deliver tax lectures in a cross-discipline first-year module in UCD. We will continue to build on this work in the coming years.

Global Tax Policy Conference

With uncertainty growing in the world of international tax, bringing together a global audience of policymakers, revenue authorities, tax advisers, academics and NGOs to discuss critical tax issues is essential. Facilitating this conversation was our fifth Global Tax Policy Conference with our colleagues from the Harvard Center for International Development.

Held in Dublin on 23 and 24 October, over 220 national and international delegates were in attendance as the then Minister for Finance, Paschal Donohoe TD, opened the conference with a pre-recorded keynote address. The Minister confirmed the Government's commitment to further the simplification agenda of the EU during Ireland's Presidency next year, welcomed by all in the room.

Our seven stellar panels tackled a wide range of topics from the current global tax landscape to the challenge of reducing corporate tax complexity and the feasibility of harmonised global enforcement. Thank you to all our speakers for their invaluable insights and time.

Delegates also enjoyed a unique evening with dinner in The Honorable Society of King's Inns and a surprise musical performance by Anúna while sipping a glass of authentic Irish whiskey, compliments of Pearse Lyons Distillery.

Thank you to our delegates for making it a worthwhile event.

In conversation with Danny Werfel

After speaking at the Global Tax Policy Conference, Danny Werfel, Executive in Residence at Johns Hopkins University School of Government and Policy and former Internal Revenue Service (IRS) Commissioner, sat down for a compelling 40-minute conversation with Donal O'Donovan. Danny spoke about his efforts to modernise the IRS, the challenges that face tax authorities and how the relationship between the White House and the IRS works. You can listen now wherever you get your podcasts.

Danny Werfel discussing his career with Donal O'Donovan, Tax Talk host.

Revenue Disclosure Opportunity – employment classification errors

Revenue is offering employers a chance to disclose any misclassification of employees' employment status and to correct any payroll tax issues, in respect of 2024 and 2025, arising from these errors. This opportunity follows the Supreme Court judgment in the Karshan case which found that for tax purposes, Domino's delivery drivers should be classified as employees, not as independent contractors.

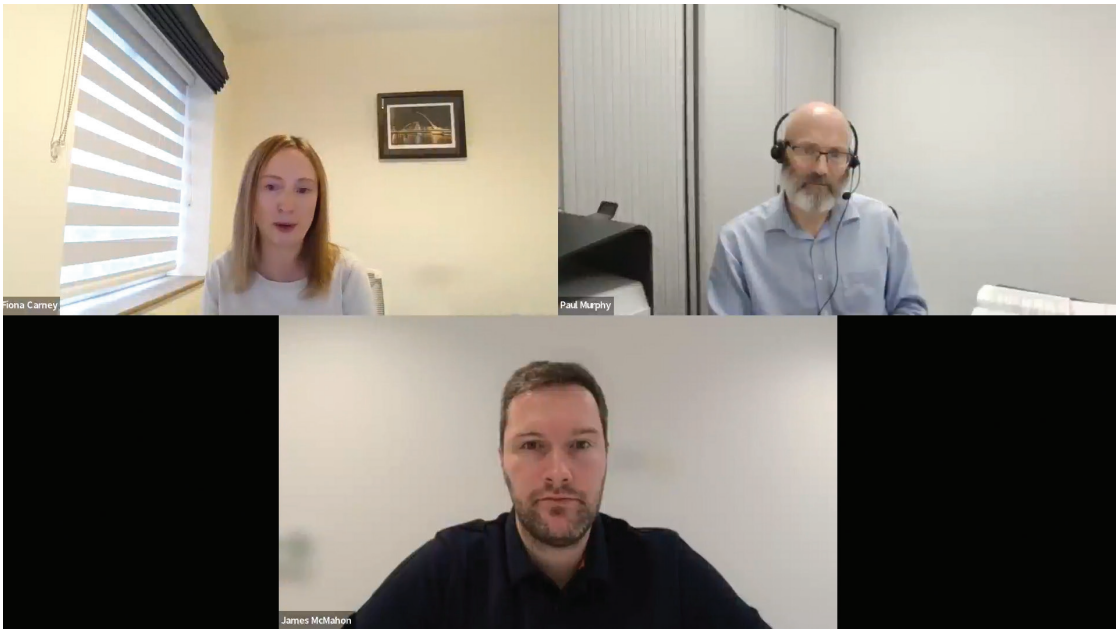
To support the release of Revenue Guidelines and this disclosure opportunity, two Revenue officials – Sarah Waters and Sinéad McNamara – and Aidan Lucey, Institute Council member, joined us for an episode of Tax Talk. They went through the five-step framework to determine employment status for tax purposes, its relevance across all sectors, the opportunity which now exists for employers and what comes next. You can listen now wherever you get your podcasts.

L-R: Donal O'Donovan, Tax Talk host, Sarah Waters, Revenue, Sinéad McNamara, Revenue, and Aidan Lucey, Council member and PwC.

Finance Bill 2025

Running to 140 pages, many of the provisions in Finance Bill 2025 reflected representations made by the Institute over the last year. Thank you for raising concerns and providing feedback during the year and throughout the Finance Bill process.

Fiona Carey of PwC and James McMahon of S&W Ireland provided a comprehensive analysis of the key changes within the Bill during the first part of our Finance Bill & Act 2025 webinar series. Make sure to join us for the second part at the end of January to delve into the Act and what it means for you and your clients.



Finance Bill & Act 2025 webinar series, 11 November. Top – Bottom, L-R: Fiona Carney, PwC, Paul Murphy, session Chair, and James McMahon, S&W Ireland.

Essential Guides

After months of great work, the publications team at the Institute released two new editions of critical guides for advisers. The first, *Practical Corporation Tax – The Professional's Guide*, is a comprehensive text for those working in corporation tax, with over 700 pages of practical examples and formats that simplify complex issues. The 600 plus page, *Practical Income Tax – The Professional's Guide*, was eagerly awaited by those navigating personal tax compliance and acted as a great guide for the pay and file season.

Thank you to our authors and editors for fully updating these essential texts and supporting our members during the busy filing season.

Connecting with Friends

Keeping in touch with friends of the Institute is something I always enjoy. A personal favourite is the Past President's Lunch held each winter in our office, offering an opportunity to learn from those who steered the Institute since its beginning. This year was no different and I want to thank each of the presidents for taking the time to join us.

Heading down to the Rebel County, our President, Shane Wallace, hosted the Southwest Members' Lunch in Cork City at the start of December. This event grows in popularity every year with members from the region bracing the cold for great company and an insightful discussion with Alan Quinlan, former rugby international and engaging speaker on resilience, high performance and mental fitness. Thank you all for adding warmth to an otherwise chilly December day.

L-R: Martin Lambe, Institute CE, Alan Quinlan, guest speaker, and Shane Wallace, Institute President.

Save the Dates

Our Annual Dinner will take place on 27 February 2026 and as usual will be held at the Clayton Hotel on Burlington Road, Dublin.

Our flagship CPD conference, Annual Conference 2026, will take place on 24 and 25 April 2026. Make sure to save the date and look out for the launch in the new year. While you wait, take a look back at this year's conference.

Thank You

As we come to end of 2025, I would like to thank our contributors and you the members for the continued support of the Institute. The Institute could not function without that support and input, and we look forward to working with you again throughout 2026.

I wish you and your loved ones a safe and healthy Christmas and a happy new year.

Policy and Representations Monitor

Lorraine Sheegar
Tax Manager – Tax Policy and Representations, Irish Tax Institute

News Alert

Key tax measures in Budget 2026 and Finance Act 2025

On 7 October the then Minister for Finance, Paschal Donohoe TD, and the Minister for Public Expenditure, Infrastructure, Public Service Reform and Digitalisation, Jack Chambers TD, delivered Budget 2026, which was followed by the publication of Finance Bill 2025 on 16 October.

Finance Bill 2025 passed all stages in the Dáil in the week commencing 24 November and moves to Second Stage in the Seanad. Committee Stage amendments were published before the Committee Stage debates on 5 and 6 November. Report Stage amendments were published on 25 November and discussed during Dáil debates on 26 November.

The key features of Budget 2026 and Finance Bill 2025 (as passed by Dáil Éireann), including Committee Stage amendments and Report Stage amendments, are outlined below. The Institute's Pre-Finance Bill 2025 Submission and Pre-Budget 2026 Submission are available on our website, www.taxinstitute.ie.

Personal tax

- An increase in the ceiling of the 2% USC rate from €27,382 to €28,700 to ensure that it remains the highest rate of USC paid by full-time minimum wage workers when the national minimum wage increases on 1 January 2026 to €14.15 per hour, and an extension of the concession applying to individuals who hold a full medical card and earn less than €60,000 per annum for a further two years to 31 December 2027. (See s2 FB 2025.)
- Extension of the rent tax credit for three years to 31 December 2028. The maximum value of the rent tax credit will remain €1,000 for single individuals and €2,000 for jointly assessed couples (or civil partners). (See s3 FB 2025.)
- A two-year extension to the temporary mortgage interest relief tax credit. The tax credit is available under s473C Taxes Consolidation Act 1997 (TCA 1997) for taxpayers with an outstanding mortgage balance on their principal private residence of between €80,000 and €500,000 as of 31 December 2022. For 2025, the credit will be available based on the increase in interest paid in 2025 over interest paid in 2022. For 2026, it will be based on the increase in interest paid in 2026 over interest paid in 2022. (See s4 FB 2025.)
- Report Stage amendment to s477C TCA 1997 to amend the definition of "qualifying residence" for the Help to Buy scheme to address an issue that arises with the scheme because of the reduced rate of VAT applying to apartments. This amendment has effect from 26 November 2025 via a Financial Resolution. (See s5 FB 2025.)
- Amendment to the income tax exemption for compensation received by living donors who donate a kidney, or a lobe of liver, to provide that the donation must be under the conditions defined by the Minister for Health under sub-sections (3) and (4) of section 12 of the Human Tissue

(Transplantation, Post-Mortem, Anatomical Examination and Public Display) Act 2024. (See s6 FB 2025.)

- Amendment to s208B TCA 1997 to provide that the exemptions in s207 and s208 TCA 1997 for charities and in s208A TCA 1997 in respect of overseas charities apply from the date of approval of the application for the exemption, under the respective sections, by Revenue. (See s7 FB 2025.)
- Amendment to s235 TCA 1997 to provide that the exemption from income tax or corporation tax on income of certain bodies established for the purpose of promotion of athletic or amateur games or sports applies from the date of approval of the application for the exemption by Revenue. (See s8 FB 2025.)
- Amendment to s847A and s847AA TCA 1997 to provide that where the tax relief for a donation is either claimed by the individual or surrendered to the approved sports body or certain sports national governing bodies (NGBs), this decision is irrevocable by the earlier of the date on which the individual claims the relief and the date on which the individual files a tax return, or at the latest 1 December in the year after the donation was made. The Bill also provides that to claim an exemption an individual must also provide the "approved project number" and the "unique receipt number", which will have been provided to them by the approved sports body or NGB, to Revenue. The Bill also clarifies that any donations made under s847A or s847AA TCA 1997 will not impact the maximum amount of income that can be relieved by pension contributions. (See s9 and s11 FB 2025.)
- Amendment to s531AM TCA 1997, which is the main charging provision for USC, to exclude any donation made by an individual to an NGB under s847AA TCA 1997 when calculating their USC liability. (See s10 FB 2025.)
- Extension of the foreign earnings deduction (FED) by five years to 31 December 2030 and an increase to the maximum emoluments that qualify for relief from €35,000 to €50,000, from 1 January 2026. Philippines and the Republic of Türkiye have been included in the list of qualifying countries for the FED for the years of assessment 2026 to 2030. The definition of "qualifying day" has been amended to remove the requirement to spend three consecutive days working in a relevant state. A Report Stage amendment removes Russia as a relevant state for the FED by amending the definition of "relevant state". (See s22 FB 2025.)
- Extension to the special assignee relief programme (SARP) by five years to 31 December 2030. From 1 January 2026 new claimants of SARP must have an annualised base salary of at least €125,000 to qualify for the relief. This amendment to SARP does not apply to existing claimants. The Bill also provides that where the SARP 1A certification is made after 90 days but before 180 days of the employee's arrival in the State, the individual will be deemed to be a relevant employee for SARP. However, such an employee will be entitled to relief only for four consecutive tax years, commencing with the tax year after which the relevant employee is first entitled to the relief. The Bill extends the filing deadline for the annual SARP Employer Return from 23 February to 30 June after the end of the tax year. (See s23 FB 2025.)
- Inclusion of a new vehicle category (A1) depending on business mileage for zero CO2 emission cars in s121 TCA 1997, with benefit-in-kind (BIK) rates applicable varying from 6% to 15% of the car's original market value (OMV). Extension to 31 December 2028, on a reducing basis, of the temporary universal relief of €10,000, applied to the OMV of the car categories A1–D. This relief will be €10,000 for 2026, €5,000 for 2027 and €2,500 for 2028. The lower limit of the highest mileage band has been permanently extended, so that the highest mileage band is entered into at 48,001km. (See s24 FB 2025.)
- Amendment to s121A TCA 1997 to extend the temporary reduction in OMV of vans,

including electric vans, in calculating BIK, with the OMV reduced by €10,000 in 2026, €5,000 for 2027 and €2,500 for 2028. (See s25 FB 2025.)

- Extension of the income tax exemption of up to €400 for certain profits arising from the micro-generation of electricity for a further three years to 31 December 2028. (See s12 FB 2025.)
- Extension of the exemption from income tax under s216F TCA 1997 related to certain profits from the production and maintenance of uilleann pipes and Irish harps by three years to 31 December 2028. The maximum amount of profits exempt from income tax under s216F is €20,000. (See s13 FB 2025.)
- Extension of the Key Employee Engagement Programme (KEEP) for a further three years to 31 December 2028. This extension is subject to approval from the European Commission and will be commenced by Ministerial Order on receipt of such approval. (See s19 FB 2025.)
- Extension of s97B TCA 1997, which provides for a deduction for landlords against rental income for certain retrofitting expenses on rented residential properties, for a further three years to 31 December 2028. Section 97B(4) is amended to allow relief, for 2026 and onwards, to be claimed in respect of the year in which the expenditure occurred. The Bill also amends s97B(5) to increase the number of properties in respect of which landlords can claim the relief from two to three for 2026 and onwards. (See s31 FB 2025.)
- Amendment to sections 730F, 730J, 730K, 739D, 739E, 747D and 747E TCA 1997 to provide, with effect from 1 January 2026, for a reduction in the rate of tax from 41% to 38% on income and gains from domestic life assurance policies, certain foreign life policies, Irish-domiciled investment funds and equivalent offshore investment funds in other EU Member States, EEA States and OECD countries with which Ireland has double tax agreements. (See s37 FB 2025.)

Pensions

- Inserting a new s784B in TCA 1997, which provides that qualifying fund managers must submit an annual electronic return to Revenue within three months of the end of the year of assessment that includes details of all approved retirement funds (ARFs) administered within that year. A penalty of €3,000 will apply to any failure to complete a return or the submission of a return that is incorrect or incomplete. Returns must be completed for the 2026 year of assessment and onwards. (See s14 FB 2025.)
- The Bill repeals Chapter 2E of TCA 1997, which was inserted by Finance Act 2024 but not yet commenced, and reinserts Chapter 2E in Part 30 of TCA 1997 with some amendments. The new Chapter 2E sets out the taxation rules for the Automatic Enrolment Retirement Savings Scheme (AE scheme) The Bill also repeals s15 of Finance Act 2024, which has not yet been commenced and is now replaced by s18 of Finance Bill 2025, which makes further amendments and clarifications to the AE scheme in TCA 1997, the Capital Acquisitions Tax Consolidation Act 2003 and the Stamp Duties Consolidation Act 1999. (See s15, s16, s17 and s18 FB 2025.)

Pillar Two: EU Minimum Tax Directive

- Amendments to Part 4A of TCA 1997 in relation to the EU Minimum Tax Directive (Council Directive (EU) 2022/2523 of 15 December 2022 on ensuring a global minimum level of taxation for multinational enterprise groups and large-scale domestic groups in the Union). The EU Minimum Tax Directive was based on the Global Anti-Base Erosion (GloBE) Rules, known as Pillar Two, developed by the OECD as part of its *Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalisation of the Economy*. (See s95 FB 2025.)
- There were several developments of relevance to Part 4A in 2025:
  - In January 2025 the OECD published two sets of Administrative Guidance on certain aspects of the GloBE Rules.

- Council Directive (EU) 2025/872 of 14 April 2025, known as DAC 9, which amended Directive 2011/16/EU on administrative cooperation in the field of taxation, was adopted. DAC 9 contains provisions on the exchange of information in relation to Pillar Two.
- The OECD developed a Multilateral Competent Authority Agreement (MCAA) that provides for the automatic exchange of information with respect to the filing of top-up tax information returns between Pillar Two implementing jurisdictions around the world, which Ireland signed in August 2025.

- The Bill amends Part 4A TCA 1997 for the following:
  - Amendments to the definition of "OECD Pillar Two guidance" in s111B TCA 1997 and a number of amendments to sections 111AI, 111AJ and 111AW TCA 1997 relating to the treatment of certain deferred tax assets that arose before the application of the global minimum tax rules as a result of certain governmental arrangements or after the introduction of a new corporate income tax in other jurisdictions.
  - Inclusion of definitions of DAC 9 and the MCAA in s111A TCA 1997 and amendments to s111AAI TCA 1997 in relation to the top-up tax information return.
  - Amendment to the definition of ultimate parent entity (UPE) in s111A TCA 1997 to clarify that it excludes an orphan entity where there is another entity in the group that is not an orphan entity and meets the definition of a UPE.
  - An amendment to s111AAC to include an additional sub-section to provide that any qualified domestic top-up tax (QDTT) calculated for a securitisation entity that is a minority-owned constituent entity, as defined in s111AH, will be allocated to other group members in line with the existing mechanism in s111AAC(4).
  - An amendment to the definition of minority-owned constituent entity in s111AH to clarify that it includes an orphan entity that is a constituent entity.
  - Amendments to both s111AAM and s111AAP to provide that the secondary collection mechanism will not apply to a securitisation entity where there is at least one other non-securitisation entity in the undertaxed profits rule (UTPR) group or QDTT group, as the case may be, that is not the UTPR or QDTT group filer.
  - Technical adjustments to ensure that the Pillar Two legislation operates as intended, including, amendments to s111O(3) (Determination of qualifying income or loss), the definition of "excluded gain or loss" in s111P (Adjustments to determine qualifying income or loss) and s111AO (Joint ventures) and an amendment to s111N(1) to provide that the UTPR top-up tax amount of an MNE group may, in certain circumstances, be allocated to the Irish constituent entities for a fiscal year in a manner that is agreed between all of the Irish constituent entities.
- The amendments to Part 4A apply in respect of fiscal years or accounting periods commencing on or after 31 December 2023, with the exception of the amendments listed below, which apply in respect of fiscal years or accounting periods commencing on or after 31 December 2025:
  - Amendment to the definition of OECD Pillar Two guidance in s111B(1)(b) TCA 1997 to update the reference to the OECD Pillar Two Examples document to the version that was published on 9 May 2025.
  - Finance Act 2024 amended s111AW TCA 1997 imposing a loss utilisation ordering rule. This change was necessary owing to the absence of an ordering rule for Irish corporation tax purposes. However, the rule applies for all Pillar Two calculations, including in respect of non-Irish group entities, and does not take account of the fact that other countries may have rules or practices governing loss utilisation. The Bill amends s111AW(2)(e) to account for situations where the tax law or practice of a jurisdiction provides ordering rules for

the offset of losses against a covered tax. The Bill makes a similar amendment to s111X(8) TCA 1997.

- Inclusion of a new sub-section (2)(f) in s111AW, which provides that for the purposes of determining the total deferred tax adjustment amount, where a loss deferred tax asset arising in a fiscal year (the originating fiscal year) is attributable to both a qualifying loss and a loss that is not a qualifying loss, the reversal of that loss deferred tax asset, as set out in s111X, shall be attributable to a qualifying loss in the same proportion as the qualifying loss bears to the sum of the qualifying loss and the loss that is not a qualifying loss in the originating fiscal year. The Bill inserts a similar sub-section at s111X(8)(c) TCA 1997.

- Amendment to s638A TCA 1997. The Companies Act 2014 provides for the transfer of assets and liabilities of a "transferor company" to a "successor company" pursuant to a merger or division. Section 638A provides that certain rights and obligations of the transferor company, including tax payment, filing and reporting obligations and liabilities, will transfer to the successor company or companies. This amendment extends the provisions of s638A to rights and obligations arising under Part 4A TCA 1997. The amendment is deemed to come into operation on 31 December 2023. (See s96 FB 2025.)
- Committee Stage amendments to s95 of the Bill include changes to sub-section (2)(e) of s111AAD TCA 1997, which provides for the determination of the domestic top-up amount of a qualifying entity of an MNE group, large-scale domestic group or joint venture group to address some practical difficulties that have been identified in the application of the QDTT provision. In the interest of providing certainty for taxpayers while Administrative Guidance is being agreed at the OECD to deal with these difficulties, and as the first top-up tax filing and payment obligations arise in June 2026, the Minister for Finance proposed to amend the Pillar Two rules such that a group will continue to calculate its QDTT liability using local accounting standards, notwithstanding that one or more group entities' fiscal year is not aligned with the fiscal year of its UPE in specific circumstances. Other Committee Stage amendments to the Pillar Two rules are minor or technical amendments to ensure the correct operation of the legislation as intended.

Corporation tax

- Amendment to s766C and s766D TCA 1997 to reflect the increase in the rate of the R&D tax credit from 30% to 35%, and an amendment to s766C TCA 1997 to reflect the increase in the amount of the first-year payment from €75,000 to €87,500. Introduction of an administrative simplification measure in s766 TCA 1997 to allow 100% of an R&D employee's emoluments as qualifying expenditure on research and development where not less than 95% of their time is spent on qualifying R&D activities. These amendments will apply in respect of any accounting period the specified return date of which is on or after 23 September 2027. The Bill also amends s766A TCA 1997 to clarify that expenditure incurred by a company on the construction of a qualifying building shall include expenditure incurred on the construction of a laboratory for use in the carrying on of R&D activities, and this amendment will have effect from the passing of Finance Act 2025. Finally, s766C and s766D TCA 1997 are amended to clarify the point at which claimant companies shall specify whether each of the three annual instalments should be treated as an overpayment of tax for the purposes of s960H TCA 1997 or paid to the company by Revenue, and these amendments will apply in respect of accounting periods ending on or after 31 December 2025. (See s35 FB 2025.) Sections 766C(11) and 766D(10) are amended to clarify the timing of the payment of the third instalment. These amendments will have effect from the passing of Finance Act 2025.

- Inserting a new s1009A in Part 43 of TCA 1997 to provide that a foreign body corporate and its members will be chargeable to tax on the basis that the foreign body corporate is a partnership and each of its members are partners in a partnership where, having regard to the characteristics of that foreign body corporate and the rights and obligations of each of its members, the foreign body corporate is substantially similar to an Irish partnership. (See s36 FB 2025.)
- Amendment to s172A, s172C and Schedule 2A of TCA 1997 to allow dividends to be paid free from dividend withholding tax to an investment limited partnership (ILP) authorised under the Investment Limited Partnerships Act 1994 or to an "equivalent partnership" authorised in the EEA in certain circumstances. The Bill also simplifies the filing requirements of an ILP by deeming a statement made under s739J(3) TCA 1997, the Form ILP1, as satisfying the filing requirements under sections 880, 959I or 959M TCA 1997. (See s39 FB 2025.)
- Inclusion of a new s222A in TCA 1997 to provide for a new corporation tax exemption for rental income arising from dwellings designated as cost rental under Part 3 of the Affordable Housing Act 2021. The exemption will apply to rental income arising from properties designated as cost rental dwellings by the Minister for Housing, Local Government and Heritage from 8 October 2025 onwards; income arising from properties that were designated as cost rental dwellings before that date will not qualify for the exemption. (See s33 FB 2025.)
- Inclusion of a new s81E in Part 4 of TCA 1997 to provide for a new enhanced corporation tax deduction ("the enhanced deduction") for qualifying apartment construction costs. The enhanced deduction can be claimed in a relevant property development trade, which is a trade carried out by a property developer that is not an excepted trade and that consists wholly or mainly of the construction or refurbishment of buildings or structures with a view to their sale. The enhanced deduction is calculated by reference to certain eligible expenditure incurred on the construction of a qualifying apartment block, which is a multi-storey building consisting of 10 or more apartments, either newly erected or non-residential buildings converted into a qualifying apartment block. The enhanced deduction is calculated by multiplying the eligible expenditure by 25%, giving a total deduction of 125% of eligible expenditure, subject to certain conditions. The maximum enhanced deduction is limited to €50,000 per apartment in the qualifying apartment block, providing a net benefit of up to €6,250 per apartment (€50,000 enhanced deduction at the 12.5% corporation tax rate). The enhanced deduction is available in respect of qualifying completed developments for which a first Commencement Notice is lodged on or after 8 October 2025 and on or before 31 December 2030. Committee Stage amendments introduce several new definitions and amend the definition of "relevant person" to provide that a relevant person can be a "property developer" or a "relevant contractor", as defined by the section. A new sub-section (3) provides that a relevant contractor may make a claim for the enhanced deduction where a signed declaration has been made by the beneficial owner(s), and this amendment provides for the use of forward funding models, which have become increasingly prevalent in the apartment construction sector. (See s42 FB 2025.)
- Amendment to the legislation for the participation exemption for certain foreign distributions that was introduced in Finance Act 2024. Section 831B TCA 1997 offers a full exemption from corporation tax for foreign distributions where the relevant conditions are met. The following changes have been made (see s47 FB 2025):
  - The **geographic scope has been broadened** beyond dividends paid from subsidiaries in the EU/EEA and double taxation agreement (DTA) partners to include qualifying dividends received from jurisdictions where a non-refundable dividend withholding tax has been paid

on the full amount of the distribution. A company resident in a territory with which Ireland has newly signed a DTA will be able to qualify as a relevant subsidiary from the date of signature. These changes will apply to relevant distributions made on or after 1 January 2026.

- The **definition of relevant subsidiary has been amended**. The legislation clarifies that a distributing company will not be excluded where, during the reference period, it acquired a business or business assets consisting of shares, or moved residence from Ireland, or had certain merger and acquisition activity involving an Irish-resident company. These changes will apply to relevant distributions made on or after 1 January 2025.
- The **definitions of relevant period and reference period have been amended** in s831B(1) TCA 1997, reducing the period in which a company must be resident in a relevant territory before making a distribution in scope of the exemption from five years to three years. These changes will apply to relevant distributions made on or after 1 January 2026.
- Further **clarification on whether a distribution is considered a "relevant distribution"** as defined in s831B TCA 1997. In circumstances where a distribution is made "out of the assets of the relevant subsidiary", s831B(5)(b) provides that the exemption applies only if any gain on the disposal of the shares on which the distribution is made would not be a chargeable gain under the provisions of s626B TCA 1997, if the parent company were to dispose of those shares on the date of the distribution. The Bill clarifies that this condition in s831B(5)(b) does not apply where the distribution is made out of the profits of the relevant subsidiary. A relevant distribution does not include a distribution that is deductible for tax purposes in any territory outside the State under the law of that territory. The legislation is also amended to clarify that a distribution will not be excluded from scope because it is deductible for the purposes of calculating a tax similar to the close company surcharge in s440 TCA 1997. These changes will apply to relevant distributions made on or after 1 January 2026.
- A new sub-section 831B(9) TCA 1997 has been inserted, which provides that **the residence of a company** will be determined under the terms of a relevant territory's DTA with Ireland in cases where the domestic law of the territory does not determine company residence. In those circumstances, where a company is regarded as resident under the terms of the relevant territory's DTA, a company will be regarded as "not generally exempt from foreign tax" where that company is not generally exempt from a tax that (1) corresponds to corporation tax in the State, (2) generally applies to income, profits and gains arising in the relevant territory and (3) is imposed at a nominal rate greater than 0%. This amendment will apply to relevant distributions made on or after 1 January 2026.

- Amendment to s291A TCA 1997 capital allowances on specified intangible assets to provide that balancing allowances on specified intangible assets (i.e. any event referred to in s288(1) TCA 1997) that arise on balancing events such as the disposal or transfer of the specified intangible asset are also subject to the ring-fencing and 80% cap provisions. This amendment took effect on 8 October 2025 via Financial Resolution No. 2. Amendment to s291A(6)(b), which provides for the carry-forward to future periods of excess allowances and interest that cannot be utilised in an accounting period owing to the ring-fencing and 80% cap provisions. The excess allowances carried forward are treated as capital allowances in future periods and added to the allowances arising in those periods for the purposes of offsetting them against relevant trade income in those periods. The Bill provides that, for all other purposes, the excess allowances are regarded as having been made in the first period in

which they were disallowed. Amendments are also made to broaden the scope of Revenue's power to consult with an expert to assist it in ascertaining whether certain conditions to qualify for capital allowances on specified intangible assets are met. The provisions relating to intra-group transfers of specified intangible assets are amended to clarify that if s400 TCA 1997 applies to the transfer, then the transferee can step into the shoes of the transferor for the purposes of claiming capital allowances on those specified intangible assets going forward. Committee Stage amendments provide that where some of the assets that qualify for s291A TCA 1997 capital allowances transfer from the predecessor company to the successor company and some of the assets do not, an apportionment of the excess allowances or excess interest between the assets that have transferred and the assets that have not transferred is required. This apportionment should be made on a just and reasonable basis. After the Committee Stage amendment, the legislation will specify that the provisions apply, first, for accounting periods commencing on or after 1 January 2026 and, second, in respect of a transfer of a trade that occurs on or after 1 January 2026. (See s43 FB 2025.)

- Amendment to references to certain territorial restrictions contained in s410 TCA 1997, which allows certain payments to be made to other group members, or to members of a consortium, without the application of Irish withholding tax. The amendments extend the geographic scope of permitted tax residence to cover countries with which Ireland has a DTA. Amendments have also been made to s243 TCA 1997 to provide that payments to which s410 applies remain deductible as a charge on income, where appropriate. These amendments apply to s410 payments made on or after the passing of Finance Act 2025. (See s41 FB 2025.)
- Amendments to s400 TCA 1997, which allows a successor company to step into the shoes of a predecessor company for the purposes of continuing to avail of certain tax attributes, including capital allowances and balancing charges, where the relevant conditions are met. The amendment specifies that for this treatment to apply to capital allowances (and balancing charges), the related assets must have transferred from the predecessor to the successor on the transfer of a trade. The amendment also provides that the attributes that can transfer to a successor company on the transfer of a trade include excess allowances and excess interest attributable to specified intangible assets carried forward under s291A. These amendments apply for accounting periods commencing on or after 1 January 2026. (See s44 FB 2025.)
- Introduction of an enhanced film tax credit to provide for a new 40% rate for qualifying relevant visual effects (VFX) projects that incur a minimum of €1m in eligible expenditure on relevant VFX work in the State. For films that qualify for the enhanced rate, the credit will apply to eligible expenditure up to a maximum of €10m per production. Where the eligible expenditure exceeds €10m, the total value of the film tax credit for the VFX project will be made up of an enhanced credit equal to 40% of €10m and a credit equal to 32% of the qualifying amount exceeding €10m. As this enhancement forms part of the film tax credit, it is subject to the existing sunset clause of 31 December 2028. The commencement of this enhancement will be subject to the receipt of State Aid approval from the European Commission. (See s45 FB 2025.)
- Extension of the digital games tax credit for a period of six years, from its current sunset date of 31 December 2025 to 31 December 2031. The credit is also enhanced to allow for claims in respect of post-release digital content, subject to certain conditions. The definition of "qualifying expenditure" is amended to provide clarification that, for corporation tax purposes, the expenditure must be allowable as a deduction, in computing, or against, the income of the trade of developing digital games, as referred to in the definition of "digital games

development company", that is chargeable under Case I of Schedule D. A number of technical amendments are made to ensure that the section operates as intended. Committee Stage amendments include the correction of a minor drafting error and a clarification to one of the commencement provisions to ensure that the provisions relevant to the post-release content are not linked to the commencement provision for the extension of the credit. As the digital games tax credit is an approved State Aid, these amendments are subject to a Commencement Order, pending approval from the European Commission. (See s46 FB 2025.)

- Extension of the list of large-scale assets that can qualify for the long-term infrastructure exemption from the interest limitation rules in s835AY TCA 1997. The list now covers certain additional categories of strategic infrastructure developments and large-scale residential developments, which are set out in the Planning and Development Act 2024. This amendment is subject to a Commencement Order. (See s48 FB 2025.)
- Amendment to s840A TCA 1997, which contains an anti-avoidance rule restricting a company's ability to obtain an interest deduction on funds borrowed from a connected party that are used to acquire specific assets from a connected party in certain instances. The amendment targets a scenario where the company selling the asset already had a loan in place that it used to acquire the asset in question and for which it obtained a deduction under Schedule D. In such a case, and subject to a number of conditions, including the fact that the connected loan must be made for bona fide commercial purposes, the connected transferee company can obtain a deduction for interest on a loan from another connected company to fund its acquisition of the asset in question. Relief is available only for interest on an amount of the loan principal that does not exceed the principal outstanding on the transferor's borrowings, in respect of that asset immediately before the transaction. This amendment applies retrospectively to transfers of assets (within the meaning of s840A) on or after 1 January 2024. Committee Stage amendments expand this relief to address practical difficulties with its operation such that the connected lender may on-lend to more than one investing company and hold shares in such investing companies and clarifies the operation of the relief set out in the Bill where there is more than one intra-group acquisition of an asset to which the relief applies. (See s49 FB 2025.)
- Extending the accelerated capital allowances (ACA) scheme for energy-efficient equipment in s285A TCA 1997 until 31 December 2030. (See s26 FB 2025.)
- Extending the ACA scheme for gas- and hydrogen-powered vehicles and refuelling equipment in s285C TCA 1997 until 31 December 2030. (See s27 FB 2025.)
- Updating references to various EU Regulations contained in s285D TCA 1997, which provides for ACA for certain farm safety equipment for a person carrying on a trade of farming. (See s28 FB 2025.)
- Extending the ACA scheme for capital expenditure incurred on slurry storage facilities by a person carrying on a trade of farming in s658A TCA 1997 until 31 December 2029. A Report Stage amendment removed the requirement for a Commencement Order, as the necessary consent for the extension of the scheme has been received from the European Commission. The extension of the scheme will take effect from 1 January 2026. (See s29 FB 2025.)
- Amendment to s891H TCA 1997, which enables Revenue to make regulations in relation to country-by-country (CbC) reporting, to provide that the CbC legislation is to be interpreted and CbC reports to be completed in accordance with the relevant OECD guidance. Section 891H is also amended to reflect Ireland's approach to specific circumstances where OECD guidelines permit flexibility for determining whether a group is an MNE group when applying the €750m threshold provided for in Article 1.3 of the OECD model legislation. (See s50 FB 2025.)

- Committee Stage amendments introduce a new section to the Finance Bill, amending s835AVB TCA 1997, which defines a "collective investment scheme" for the purposes of the reverse anti-hybrid rules in Part 35C TCA 1997. The amendment changes the legislation governing the assessment of diversification in two ways (see s40 FA 2025):
  - Where a collective investment vehicle holds securities, by increasing the maximum amount of such securities that can be issued by a single issuer from 10% to 20%.
  - To provide for the look-though of holding companies in investment structures for the purpose of determining whether the investments of an investment limited partnership (ILP) are sufficiently diversified. The ILP must own, directly or indirectly, at least 95% of the intermediate holding company and the holding company must be resident in the State, another EU or EEA Member State or a DTA partner jurisdiction and must not generally be exempt from tax.

Capital gains tax

- Amendment to s731(5)(a)(i) TCA 1997 to clarify that, for the purposes of that section, any gain accruing on the disposal of units in an exempt unit trust by an investment undertaking is not treated as being wholly exempt from CGT. This amendment will apply for the 2026 year of assessment and onwards. (See s38 FB 2025.)
- Amendment to CGT revised entrepreneur relief (s597AA TCA 1997) to increase the lifetime limit on capital gains qualifying for the relief from €1m limit to €1.5m from 1 January 2026. Disposals of chargeable business assets made on or after 1 January 2016 but on or before 31 December 2025 up to a value of €1m will be aggregated with disposals of such assets made on or after 1 January 2026 in applying the new lifetime limit. (See s51 FB 2025.)
- Extension of the relief from CGT for farm restructuring (s604B TCA 1997) to 31 December 2029. In addition, the definition of "agricultural land" is being amended to include land in the State suitable for occupation as woodlands on a commercial basis and land in the State suitable for occupation as woodlands (other than on a commercial basis) used for the purpose of conservation. It does not include buildings on the land. The commencement of this amendment is subject to State Aid approval from the European Commission. (See s52 FB 2025.)

VAT

- Amendment to sections 4, 6 and 17 and paragraph 12 and Schedule 3 of the Value-Added Tax Consolidation Act 2010 (VATCA 2010) to align the time period to be reviewed when undertaking the VAT registration assessment of farmers with all other businesses, as required by EU legislation (i.e. to refer to the current calendar year or the previous calendar year, as opposed to any continuous period of 12 months, and to substitute "annual turnover" for "consideration"). The amendment also provides that turnover from activities excluded from the flat-rate addition on foot of an order under s86A VATCA 2010 should be included in such an assessment under s6 VATCA 2010. (See s68 FB 2025.)
- Extension of the temporary 9% VAT rate to gas and electricity supplies until 31 December 2030. The temporary extension came into effect as on and from 8 October 2025 via Financial Resolution No. 3. (See s69 FB 2025.)
- Amendment to s46 and Schedule 3 VATCA 2010 to provide for a reduction in the VAT rate applying to the sale of completed apartments from 13.5% to 9%. The change to the VAT rate on the sale of completed apartments came into effect as on and from 8 October 2025 via Financial Resolution No. 4 and will apply until 31 December 2030. Committee Stage and Report Stage amendments were made to provide for a temporary 9% rate of VAT in respect of the supply and construction of apartments and apartment blocks, as part of a social

policy. The extension of the 9% rate to the construction of apartments and supply and construction of apartment blocks, including student accommodation, came into effect as on and from 26 November 2025 via Financial Resolution and will apply until 31 December 2030. (See s70 FB 2025.)

- Introduction of a temporary reduced 9% VAT rate for businesses in food and catering and hairdressing services with effect from 1 July 2026. (See s71 FB 2025.)
- Amendment to provide for the standard rate of VAT on the hire of rooms in hotels and guesthouses for use other than as accommodation from 1 January 2026. (See s72 FB 2025).
- Decreasing the flat-rate addition for farmers from 5.1% to 4.5% from 1 January 2026, which was announced in the Budget. (See s73 FB 2025.)
- Removal of the VAT-on-property waiver-of-exemption provisions, and the cancellation of all waivers from the date of passing of Finance Act 2025. In addition, consequential amendments are required after the removal of the VAT-on-property waiver-of-exemption provisions. (See s74 and s75 FB 2025.)
- Clarifying that a penalty of €4,000 may be applied from the day after the filing date by which a payment service provider (PSP) is required to report data on certain cross-border payments, as required under s85F VATCA 2010. A further penalty of €4,000 may be applied from the day after subsequent filing dates where the PSP has continued its failure to report the data. (See s76 FB 2025.)
- Inclusion of a new clause in paragraph 6 of Schedule 1 of VATCA 2010 to provide that the supply of financial services that consist of the managing of the Auto-Enrolment Retirement Savings Scheme is exempt from VAT. (See s77 FB 2025.)

Stamp duty

- Amendment to s83D of the Stamp Duties Consolidation Act 1999 (SDCA 1999), which provides for a partial repayment of stamp duty paid in respect of a conveyance or transfer of land where the land is subsequently developed for residential purposes and certain conditions are met, for the following (see s79 FB 2025):
  - Substituting 31 December 2030 for 31 December 2025 as the latest date by which construction operations must commence.
  - Extending the two time limits that apply (i.e. acquisition to commencement and commencement to completion) from 30 to 36 months for a large-scale residential development.
  - Allowing for a full repayment of stamp duty to be claimed in respect of a multi-phase development once the first phase commences.
  - Precluding Revenue from repaying stamp duty if any conditions to avoid a clawback of a repayment are not met.
  - For large-scale residential developments, an increase to the time limit in which the last phase of a residential development must be completed from 30 months to 36 months.
- Repeal of s110A SDCA 1999, which relates to the exemption from stamp duty for permanent health insurance and critical illness policies, and insertion of the contents of the section of the Bill in s125C SDCA 1999. Amendment to Schedule 1 SDCA 1999 to clarify that the stamp duty on the transfer, lease or conveyance of residential property is charged at 1% of the first €1m of the consideration, 2% of next €500,000 and 6% of the balance, other than for consideration attributable to three or more apartments in an apartment block or a relevant residential unit within the meaning of s31E SDCA 1999. (See s80 FB 2025.)
- Amendment to s31A (resting in contract), s31B (licence agreements) and s50A (agreements for more than 35 years charged as leases) to provide that the chargeable instruments in these sections will be deemed to be executed on the date on which the instrument becomes chargeable with stamp

duty under these sections (i.e. the date on which the 25% payment threshold has been reached). Section 31E SDCA 1999 (stamp duty on certain acquisitions of residential property) is also amended to clarify that where a contract for sale or agreement for lease, in s31A or s50A, comes within the scope of s31E, the date of acquisition of the residential property will be the date on which the chargeable instrument is deemed to be executed in accordance with those sections. (See s81 FB 2025.)

- Introduction of a new exemption from the 1% stamp duty on acquisitions of shares in Irish-registered companies to apply to the shares of companies admitted for trading on a regulated market, a multilateral trading facility or an equivalent third-country market and that have a market capitalisation of less than €1bn. The exemption, which is contained in a new s86B, is due to expire on 31 December 2030. In addition, the existing exemption for shares in Irish-registered companies traded on the Euronext Growth Market in s86A is repealed. The repeal of s86A takes effect on 1 January 2026, and the exemption in s86B is effective from the same date. (See s82 FB 2025.)
- Extension of the bank levy to 2026. For 2026 the levy will apply at the rate of 0.1025% on the value of relevant deposits held by the liable financial institutions on 31 December 2024 (as the base year). (See s83 FB 2025.)
- Amendment to the levy on authorised insurers to change how the health insurance levy is calculated, i.e. by reference to the age of each person insured under the health insurance contract on the date the contract is entered into or renewed, rather than the age of the person insured on the first day of the accounting period in which the contract is entered into or renewed. An amendment is also being introduced to allow a health insurer to submit a claim for a partial refund of stamp duty where an insured person's health insurance cover ceases within 12 months of the date the contract was entered into or renewed. The repayment will be pro-rated based on the number of complete months remaining on the contract in the 12-month period. The amendments will come into operation on 1 April 2027. (See s84 FB 2025.)
- Extension of stamp duty relief for the transfer of land to young trained farmers to 31 December 2029. A Report Stage amendment removed the requirement for a Commencement Order. It was indicated during the Committee Stage debates that this amendment would be brought forward if European Commission approval for the extension of the measure under the State Aid Agricultural Block Exemption Regulation was received. (See s85 FB 2025.)
- Extension of farm consolidation relief to instruments executed on or before 31 December 2029 and to expand the scope of the relief to cover non-commercial woodland. A claim for relief may be allowed where it is the intention of the purchaser to retain ownership of his/her interest in the qualifying land and use it for conservation purposes for five years. Guidelines will be published by the Minister for Agriculture, Food and the Marine. This amendment is subject to a Commencement Order. (See s85 FB 2025.)

Capital acquisitions tax

- Inclusion of a new sub-section 1A in s41 of the Capital Acquisitions Tax Consolidation Act 2003 (CATCA 2003). Section 41 provides that, for CAT purposes, an interest in a policy of assurance on human life does not become an interest in possession until the policy matures or is surrendered to the insurer for consideration or the insurer otherwise makes a payment under the policy. In line with s41, where such a policy is the subject of a gift or inheritance, no charge to CAT will arise until one of these events occurs. The new sub-section 1A provides that where a person receives a gift or inheritance of a policy of life assurance and disposes of their interest in that policy before any of the above-mentioned events occur, they will now be subject to CAT on the date of disposal. This amendment will apply to a disposal of a life assurance policy on or after 1 January 2026. (See s88 FB 2025.)

- Amendment to the relief from CAT for gifts and inheritances of qualifying business property, known as business relief, to provide that, in addition to the test for an excepted asset (i.e. an asset is an "excepted" asset if it is not used wholly or mainly for the purposes of the business concerned for a two-year period before the date of the gift or inheritance), an asset will not be an excepted asset if, at the date of the gift or inheritance, it was required to be used for a specific purpose of the business concerned within the following six-year period. A clawback of relief will apply where the asset is not used for the specific purpose within the six-year period unless it can be shown that the asset was not an excepted asset. In addition, amendments are made to s101 CATCA 2003 to provide that where property on which business relief has been claimed is disposed of within a period of six years commencing on the valuation date of the gift or inheritance, the relief will be withdrawn to the extent that the full proceeds from the disposal are not used, within a year after the disposal, to acquire other qualifying property. Where the property is disposed of for less than full consideration, the full proceeds of the disposal will be deemed to be equal to its market value immediately before the disposal. (See s89 FB 2025.)
- Amendment to the provision that allows Revenue to make or amend tax assessments in relation to a deceased person in respect of profits or gains accruing to the deceased person before his or her death, to prohibit Revenue from making or amending assessments outside a specified time limit, which is extended in circumstances where there is a requirement, as part of the probate application process, to deliver an additional affidavit under s48 CATCA 2003. To take account of changes to the probate application process after the introduction of eProbate in 2020, the Bill amends s1048 TCA 1997 to replace references to the requirement to deliver an additional affidavit with references to the requirement to rectify a material error or omission in information delivered to the Revenue Commissioners under the Capital Acquisitions Tax (Electronic Probate) Regulations 2020. The amendments will not apply where a material error or omission is rectified before 1 January 2026. (See s90 FB 2025.)

Miscellaneous measures

- A number of amendments are made to the residential zoned land tax (RZLT) legislation in Part 22A of the TCA 1997 and will come into operation on 1 January 2026. The amendments include a further opportunity for landowners to make a submission requesting a change in zoning of land appearing on the 2026 annually revised map, and, in certain circumstances, being exempted from RZLT for 2026 on foot of such submissions; introduction of an exemption, rather than a deferral, from RZLT because planning permission granted in respect of a relevant site is the subject of appeal proceedings by an unconnected third party; to provide that where non-residential development commenced prior to the land becoming a relevant site, the owners of the land are required to make to a declaration to Revenue, within 30 days of the land's becoming a relevant site, of the lodgement of the commencement notice relating to non-residential development; to ensure that the RZLT deferred shall not be due and payable until the later of 12 months after the date of the grant of planning permission and the return date relating to the liability date on which the RZLT arose; and clarification of the operation of RZLT in death cases. A number of consequential amendments to Part 22A TCA 1997 are required as a result of the introduction of the Planning and Development Act 2024, one of the objectives of which is to repeal and replace the Planning and Development Act 2000. (See s103 FB 2025.)
- Extension and amendment of the Living City Initiative, which supports the enhancement of older housing and commercial stock in designated Special Regeneration Areas, to 31 December 2030. (See s30 FB 2025.)

- Introduction of a new s891HA to TCA 1997 to provide for the transposition of Part I of the OECD (2023) International Standards for Automatic Exchange of Information in Tax Matters: Crypto-Asset Reporting Framework (referred to as CARF). CARF provides for the introduction of reporting obligations for Reporting Crypto Asset Service Providers and for exchange-of-information rules for tax authorities. Committee Stage amendments include a technical amendment to correct an error in s891HA(8)(a). The amendment substitutes "a Partner Jurisdiction" for "a Member State other than the State or a Qualified Non-Union Jurisdiction". An amendment is also made to s891F TCA 1997 to provide for the transposition of Part II of the CARF and the 2023 update to the Common Reporting Standard (CRS), which was published on 8 June 2023. (See s92 and s94 FB 2025.)
- Introducing revised wording in the general anti-avoidance measure in s811C(4)(a) TCA 1997 to note that where a person takes or fails to take any other action that directly or indirectly purports to obtain the benefit of a tax advantage arising out of or by reason of a tax-avoidance transaction, a Revenue officer may at any time deny or withdraw the tax advantage. (See s93 FB 2025.)
- Inclusion of new s959AX in Part 41A TCA 1997 to provide that where a chargeable person fails to deliver a return in respect of a chargeable period in the prescribed form, on or before the specified return date for the chargeable period for income tax or corporation tax, a Revenue officer may at any time estimate the amount of tax payable by the chargeable person in respect of that chargeable period and serve a notice in writing specifying the "estimated tax". The estimated tax for the chargeable period shall be the greater of (1) an amount based on the average amount of tax due that was included on the two most recent returns delivered by the chargeable person for income tax or corporation tax before the notice was served and (2) €1,000. The estimated tax shall be recoverable as if the chargeable person had delivered a return in respect of the chargeable period. If within 30 days of the notice the chargeable person submits a return to Revenue for the chargeable period and pays the tax, if any is due, together with any interest, penalties and a late surcharge, or notifies Revenue that he/she is not a chargeable person in respect of that chargeable period, then it shall be deemed that the notice is no longer served. The person can claim a repayment in accordance with s865 TCA 1997 for any excess tax paid in respect of the chargeable period. (See s32 FB 2025.)
- Amendment to the provision providing that Revenue may, by notice, request an individual to deliver a return of the various sources of income and the amounts derived from each source of income in any tax year, to clarify that notice may be given to an individual by electronic means through an online service provided by Revenue. (See s98 FB 2025.)
- Amendment to s959AA TCA 1997 to provide that a Revenue officer may make or amend an assessment on a chargeable person outside of the normal four-year period to give effect to a mutual agreement procedure reached under a tax information exchange agreement given force of law by virtue of s826(1B) TCA 1997. (See s99 FB 2025.)
- Amendment to s959AP TCA 1997 (payment of preliminary tax by direct debit) to facilitate direct debit modernisation for preliminary income tax, as Revenue has ceased the option to pay preliminary income tax by fixed direct debit and moved these payment arrangements to variable direct debit. The requirement for individuals to pay a minimum of three instalments in the first year and eight instalments in subsequent years has been removed, and the requirement for the Collector-General to debit an individual's bank account on the ninth day of each month under a direct debit arrangement for preliminary income tax has also been removed. (See s100 FB 2025.)
- Amendment to s959AU TCA 1997 (date for payment of tax: amended assessments) to provide that where an assessment is

amended more than once and the return, before its amendment, did not constitute a full and true disclosure of all material facts necessary for the making of the assessment, any additional tax due by reason of the second or subsequent assessment shall be deemed to have been due and payable on the same day as the assessment before its amendment. (See s101 FB 2025.)

- Insertion of a new sub-section 6 in s959I TCA 1997 to provide that a chargeable person will not be prevented from making a claim for an allowance, deduction or relief under the Acts in a return where the return is filed after the specified return date for the chargeable period, unless other provisions in the Acts prevent the making of such a claim. (See s102 FB 2025.)
- The list of accountable persons for professional services withholding tax is amended to include a number of additional bodies and to amend the name of one entity. (See s20 FB 2025.)
- Amendment to the relevant contracts tax legislation in s530A TCA 1997 by substituting the wording of sub-section (1)(d) with a new wording that reflects amendments to the Housing Act 1966 and the provisions of s7 of the Housing (Miscellaneous Provisions) Act 1979. (See s21 FB 2025.)
- Addition of the Property Services Regulatory Authority to the list of specified non-commercial State-sponsored bodies in Schedule 4 of TCA 1997 that are exempt from income tax and corporation tax under s227 TCA 1997. (See s34 FB 2025.)
- The Committee Stage amendments insert a new section into the Bill that amends s851A TCA 1997 regarding the confidentiality of taxpayer information. The purpose of the amendment is to facilitate Ireland's compliance with its obligations under the De Minimis Regulation and the Agricultural De Minimis Regulation, which require disclosure of taxpayer information to the European Commission on request and publication of certain taxpayer information on a publicly accessible central register. (See s97 FB 2025.)
- The Committee Stage amendments insert a new section into the Bill that makes a technical amendment to the *de minimis* aid provisions in s667C(1) TCA 1997 (special provisions for registered farm partnerships) and s81D(1) SDCA 1999 (relief for certain leases of farmland) to update the definition of Commission Regulation (EU) No. 1408/2013. (See s104 FB 2025.)

Revenue launches Pillar Two Registration and Hub

Revenue launched the facility to register for Pillar Two top-up taxes in August, as entities must register within 12 months of the end of the first fiscal year in which they come within scope of Pillar Two. The deadline for in-scope entities with a fiscal year ending on or before 31 December 2024 to register with Revenue for Pillar Two is **31 December 2025**.

Revenue has created a Pillar Two Hub on its website, which is the new location for updates and guidance in relation to Pillar Two. The necessary IT developments to allow return filing and payment of associated liabilities will be available on ROS in early 2026. Similarly, the necessary IT developments to allow the filing of the top-up tax information return will be available on ROS in early 2026. This will enable entities to meet the 30 June 2026 deadline for pay and file.

Revenue wrote to Irish ultimate parent entities (UPEs) of multinational enterprise groups that may be in scope of Pillar Two top-up taxes during August. The letter advises the taxpayer that the registration functionality is now live on ROS. The letters issued as a Prompt for Action in ROS. If a recipient of the letter is of the opinion that the entity is not within scope of Pillar Two and therefore not required to register, the taxpayer must notify Revenue, via MyEnquiries, clearly outlining why the entity does not meet the Pillar Two requirements. Revenue will review and correspond directly with entities that are of the view that they are not in scope of the Pillar Two rules.

These letters were not copied to agents on file, as Revenue had not yet received agent

link notifications for the Pillar Two tax heads. Revenue noted that it is cognisant of data protection and therefore it cannot contact agents on file for other taxes, as some taxpayers have different agents for different tax heads.

Phase 2 letters issued to the constituent entities of the Irish UPEs at the beginning of October. The Phase 2 letter is similar to the Phase 1 letter and includes a reminder that to form an undertaxed profits rule group or a qualified domestic top-up tax group, all entities electing into a group must be registered for the appropriate tax before a group can be formed.

Revenue announces disclosure opportunity to regularise misclassification of self-employment

In September, after the publication of a new manual titled "Revenue Guidelines – Settlement Arrangement Arising from Revenue v Karshan (Midlands) Ltd. trading as Domino's Pizza", Revenue announced that employers can correct payroll tax issues for 2024 and 2025 arising from *bona fide* employment classification errors without the imposition of interest and penalties, in accordance with settlement terms published by Revenue.

Any necessary adjustment to income tax, USC or PRSI liabilities due in respect of 2024 and 2025 will be treated as a "technical adjustment" under the Code of Practice for Revenue Compliance Interventions.

Disclosures should be submitted no later than **Friday, 30 January 2026** to avail of the settlement terms outlined in the manual. All liabilities should be paid in full, via REVPAY. Employers may also request a phased payment arrangement (PPA) to pay the liabilities. Any request to enter a PPA should be made at the time the disclosure is submitted

Revenue encourages employers who acted in good faith relying on the case law and guidance available before the Supreme Court judgment in the *Karshan* case but who may have misclassified employees as contractors to take this opportunity to regularise their tax affairs. Revenue noted that where an employer fails to take this opportunity to review its workforce practices and make a relevant disclosure and the liabilities from misclassification subsequently come to light, tax, interest and penalties will be applied in full. In a press release on 11 September Revenue included a reminder that the Supreme Court judgment has important and wide-reaching implications across all sectors.

Revenue updates PAYE settlement agreements guidance

Revenue updated the manual "PAYE Settlement Agreements" in November to include a new section 4, "Repayment claims in respect of prior years", dealing with overpaid amounts of tax under a PAYE settlement agreement (PSA).

After clarification in the manual regarding the methodology for calculating the grossed-up minor and irregular benefits that may be included in PSAs (in accordance with s985B TCA 1997), the Institute made representations seeking clarification in relation to employers seeking a refund for years before 2024.

Revenue confirmed to the Institute that claims for repayment will be subject to the four-year time limit set out in s865(4)(c) TCA 1997 and that any employer who wishes to make a claim for a refund of overpaid income tax, USC and PRSI may currently do so for the tax years, 2021, 2022, 2023 and 2024. On the basis that the PRSI liability paid under a PSA is an employment contribution, any PRSI paid in error may be refunded under s34 and Regulation 72 of the Social Welfare Consolidation Act 2005 (SWCA 2005), and such claims are subject to the four-year time limit in s38A SWCA 2005. This has been reflected in the manual, and it is **strongly recommended** that taxpayers submit the claim for repayment for any relevant years as soon as possible.

Revenue will write to all taxpayers who entered into settlement agreements in any of the

relevant years. Any employer who wishes to make a claim for repayment should review the material received and formally write to the relevant Revenue operational division in line with the instructions that will be contained in the correspondence from Revenue and provide all material that is requested. All refund claims will be assessed based on the facts and circumstances of each case.

The manual also confirms that Revenue is willing, based on the unique facts and circumstances of the operation of these settlement agreements that were entered into between Revenue and the relevant taxpayers, to confirm that where a refund is due s865A(1) TCA 1997 will apply. This means that interest at a rate of 0.011% per day (or part of a day) will be paid for the period commencing from the day the tax was paid and ending on the day on which the repayment is made.

Public consultation launched on Ireland's 2026 Presidency of the Council of the EU

The Tánaiste and then Minister for Foreign Affairs and Trade, Simon Harris TD, launched a public consultation in November to help inform the development of Ireland's 2026 Presidency of the Council of the EU priorities and policy programme.

The Government is seeking to gather observations, suggestions and reflections on how Ireland can best fulfil its Presidency role; ensure that the Presidency policy programme is informed by diverse perspectives from across Irish society; and identify EU-wide issues, themes and policy areas that should be given particular attention during Ireland's Presidency.

The Presidency of the Council of the EU will be an opportunity for Ireland to play an important role in shaping the EU's policy and legislative agenda in a way that responds to the overall interests and needs of the Union and its Member States. Planning for the Presidency is being led by the Department of Foreign Affairs and Trade, in close cooperation with the Department of the Taoiseach, and with active engagement from all Government Departments.

The submission form must be downloaded and submitted via email to EUPresidency2026Consultations@dfa.ie. The consultation was open for submissions until Friday, 12 December 2025.

Revised General Scheme of the Finance (Tax Appeals and Fiscal Responsibility) Bill 2024 published

The Department of Finance has published the Revised General Scheme of the Finance (Tax Appeals and Fiscal Responsibility) Bill 2024, which proposes a number of significant changes to the legislation underpinning the Tax Appeals Commission (TAC) and the tax appeals process. It also contains amendments to the legislation governing the Irish Fiscal Advisory Council.

The proposed amendments are set out under eleven Heads, and Head 5 relates to amendments arising from the 2021 Supreme Court judgment in *Zalewski v the Workplace Relations Commission* proposing.

Changes to the procedures for the hearing of tax appeals before the TAC to address the Supreme Court judgement in *Zalewski*

The Explanatory Note outlines that the Supreme Court in *Zalewski* decided that the exercise of powers by Adjudication Officers under the Workplace Relations Act 2015 ("the 2015 Act") was the administration of justice within the meaning of Article 37 of the Constitution. The court determined that the requirement under the 2015 Act for all hearings before an Adjudication Officer of the Workplace Relations Commission (WRC) to be held in private was inconsistent with the Constitution. It also determined that the absence of the provision for the administration of an oath, or any possibility of punishment for giving false evidence, was inconsistent with the Constitution.

The Explanatory Note states that the *Zalewski* case has implications for administrative, adjudicative and regulatory bodies that exercise quasi-judicial powers – in particular, if those matters are decided in private or contested

facts are not addressed through evidence given under oath. Such bodies may also be considered to be administering justice and subject to the same constitutional issues identified in the case of the WRC.

The proposed amendments under Head 5 are set out under a number of subheads:

- **Subheads 1 and 6 – Case Management Conferences and the dismissal of an appeal**: It is the Department's view that the hearing and determination of tax appeals by the TAC constitutes the administration of justice for the purposes of Article 34 of the Constitution, but its operation is legitimate based on Article 37 of the Constitution. To ensure compatibility with the judgment in *Zalewski*, subhead 1 proposes to remove the possibility for an appeal to be determined after a Case Management Conference (per s949T(2) TCA 1997). Following from this, subhead 6 proposes to remove the Commissioner's ability to dismiss an appeal where a party has failed to comply with a direction given under s949T(1) TCA 1997.
- **Subhead 2 – public tax appeal hearings**: The Explanatory Note outlines that as each adjudication by the TAC constitutes the administration of justice for the purposes of Article 34 of the Constitution, appeal hearings must be by default in public, and subhead 2 proposes to amend the wording of s949Y TCA 1997 to clarify that Appeal Commissioners have discretion to decide whether it is necessary to allow for a hearing to be held "in camera".
- **Subhead 3 – administration of an oath or affirmation**: After the decision in *Zalewski*, s41 of the 2015 Act was amended to require that a person giving evidence can give such evidence "on oath or affirmation and, for that purpose, cause to be administered an oath or affirmation to such person". Accordingly, subhead 3 proposes to amend s949AD TCA 1997 to expressly provide that Appeal Commissioners may administer an oath or an affirmation.
- **Subhead 4 – summoning and examination of witnesses**: In *Zalewski* the Supreme Court decided that although the absence of an express provision for cross-examination in the WRC's governing legislation was insufficient in itself to render the 2015 Act unconstitutional, given the presumption that an Act will be operated consistently with the Constitution, cross-examination of witnesses is fundamental to the concept of fair procedures. Currently, there is no explicit provision in TCA 1997 allowing parties to an appeal to cross-examine witnesses. Subhead 4 proposes to amend s949AE TCA 1997 to provide the relevant parties with the power to cross-examine witnesses on oath or affirmation.
- **Subhead 5 – redaction of determinations**: Subhead 5 proposes to amend s949AO(4) TCA 1997 to ensure that redaction of TAC determinations occurs only in "special and limited circumstances", as determined by the Appeal Commissioners. It is recognised that many appeal cases require confidentiality owing to commercial sensitivity and the sensitivity of taxpayer information. The Explanatory Note states: "as it stands, section 949AO provides that nearly all determinations are redacted, which is not in the spirit of the *Zalewski* judgement. Under the proposed amendment, a decision to redact a determination in respect of a particular appeal would be distinct from, for example, an earlier decision for the hearing of that appeal to be heard 'in camera'."
- **Subhead 7 – consequential amendments**: Subhead 7 provides for consequential amendments as required.

Public consultation

The Tax Appeals Bill is subject to pre-legislative scrutiny by the Joint Oireachtas Committee on Finance, Public Expenditure, Public Service Reform and Digitalisation, which has launched a public consultation on it. The deadline to respond to the consultation was Saturday, 13 December 2025. To help the Institute to respond to this public consultation and to provide direct feedback to the Department of Finance as part of this process, we issued a short survey to members at the end of November

to gather views on the potential impact of the proposed changes to tax appeal hearings.

Feedback Statement on reform of Ireland's taxation regime for interest published

The Tánaiste and Minister for Finance, Simon Harris TD, published a Feedback Statement for Phase One of Reform of Ireland's Taxation Regime for Interest ("Phase One Feedback Statement") on 21 November. This was signalled in the Action Plan for Reform of Ireland's Taxation Regime for Interest ("Action Plan") published on Budget Day.

The Phase One Feedback Statement includes a "Strawman Proposal", which sets out a possible approach for how the underlying framework for the taxation and deductibility of interest in Ireland may be reformed. The design of this Strawman Proposal has been informed by responses to the 2024 public consultation on the tax treatment of interest in Ireland, which the Institute responded to in January of this year.

The Strawman Proposal, outlined in section 5 of the consultation document, includes one possible approach to the design of the interest regime for consideration under Phase One of the reform of Ireland's taxation regime for interest. The following key topics are considered:

- Scope of Phase One reforms, including considerations relevant to the Strawman Proposal.
- Outline of a new interest deductibility rule for corporation tax, including:
  - the introduction of a "profit motive" test for interest deductibility and
  - proposals on the interaction of the new interest deductibility rule with existing legislative provisions, such as interest as a non-trade charge and loss/group relief.
- Further detail on the new interest deductibility rule regarding the definition for borrowings.
- Addressing identified gaps in the effectiveness of the "International Guardrails", including:
  - a proposal to apply the transfer pricing provisions to medium-sized enterprises and
  - a proposal for enhancements of the interest limitation rule.
- Transitional provisions and simplification measures for s247 TCA 1997.
- Simplification measures for s130 TCA 1997 and repeal of s76E TCA 1997.
- The alignment of the tax treatment between trading and passive interest income.
- The application of the new interest deductibility rule to "interest equivalents".

The consultation period for the Phase One Feedback Statement runs until **Friday, 16 January 2026**. It is planned that an outline of draft legislation for further stakeholder feedback will be published on 16 April 2026, with a closing date of 15 May 2026 for written responses on the draft legislation from stakeholders. The Action Plan notes that amended legislation for Phase One will be included in Finance Bill 2026.

Institute TALC representations on application of RCT to mixed contracts

Revenue published an updated Tax and Duty Manual (TDM) Part 18-02-01, "Relevant Contracts Tax: Relevant Operations", on 24 June to clarify that "Where a contract provides for both construction services and the supply of land, only the construction services provided for in the contract are subject to RCT."

In September 2025 the Institute submitted a technical query paper to Revenue highlighting the misalignment between Revenue and practitioners regarding the long-established practice regarding the application of RCT to mixed contracts. We highlighted that the operation of RCT on a full contract basis was firmly established for many years and that

this approach was supported by longstanding Revenue guidance, such as the now archived "Guidance Note for Boards of Management Relevant Contracts Tax/Value Added Tax" ("Boards of Management Guidance Note"), and Revenue's approach in compliance interventions.

In our technical query paper we underlined that the view being articulated by Revenue in the updated TDM was a departure from Revenue's practice and guidance to date on mixed contracts. We noted that this change in approach would have a significant impact on how principal contractors track and operate RCT on their payment runs going forward, potentially giving rise to additional administration and changes to existing controls and processes that have been in place for many years.

We set out several points in our technical query paper that needed to be addressed by Revenue, given its change in approach to mixed contracts. Revenue issued a written response to our paper on 17 November. We have summarised Revenue's responses to our queries below.

Legislation and guidance

Revenue's response states that the legislation restricts the application of RCT to relevant operations and makes no provision to apply RCT to services that are not included in the definition of construction operations (or meat processing and forestry operations as the case may be).

Certain operations may be within the scope of RCT or outside the scope of RCT depending on the circumstances, including whether they are carried out as part of a wider construction contract. Revenue notes that paragraph (e) of the definition of construction operations in s530 TCA 1997 brings certain "mixed contracts" within the scope of RCT. However, it would not bring all mixed contracts, such as those that relate to the sale of a site and the provision of construction services, within the scope of RCT.

Revenue's response notes that the now archived Boards of Management Guidance Note, which contained material regarding "mixed contracts", was incorrect and is at variance with the position outlined by Revenue at TALC and in the updated TDM 18-02-01.

Apportionment

The Institute asked Revenue to provide guidance on the apportionment of the consideration where a contract provides for a single consideration to cover both the construction services and the sale of the land.

Revenue's response confirms that it is a matter for the principal as to how the apportionment should be done. As each contract will be different, with land values differing depending on location and size of the land, and construction costs differing in each case, depending on the type of property being built, Revenue notes that it is not possible or appropriate for Revenue to provide guidance on this matter. Revenue expects that a principal should be in a position to carry out the apportionment as part of its normal business processes and due diligence.

Boards of Management Guidance Note

The Institute highlighted that the Boards of Management Guidance Note contained a wealth of practical, scenario-based and sector-specific content that has not been replicated in the updated TDM 18-02-01. We asked Revenue to continue to make such content available to taxpayers. In response Revenue notes: "Given the broad scope of the construction sector, not to mention meat processing and forestry sectors, it is not possible or sustainable to include detailed sectoral specific material in the RCT TDM."

Request for prospective date to change in position

The Institute highlighted that it would be appropriate for a prospective date to be applied to the changed Revenue approach to the application of RCT to mixed contracts. Revenue's position is that it does not regard

this as being necessary as the guidance in the updated TDM is in line with the legislation.

Engagement with principals and sub-contractors

The Institute asked Revenue to proactively engage with principals and sub-contractors regarding these important changes, given the significant penalties that could apply where there is unintentional non-compliance.

Revenue's response notes that s530F TCA 1997 sets out the penalty to be applied where a principal makes a payment to a sub-contractor that is not in accordance with a deduction authorisation issued by Revenue. Revenue outlines that the potential scenario being raised is the application of a penalty where an excessive amount (i.e. the payment included an amount that was not within the scope of RCT) was included on a payment notification and RCT was deducted in accordance with a payment notification. It is not the intention of Revenue that a penalty would apply in such circumstances.

Communication across Revenue's operational divisions

In our submission to Revenue we also raised the importance of clear communication of the updated position across Revenue's operational divisions to ensure that there is consistency in the RCT treatment of mixed contracts. In its response Revenue notes that an Operational Instruction was issued to all staff when the updated TDM was published to highlight the changes to the TDM. In addition, Revenue Legislation Services has issued a reminder to the Branch Managers of the relevant operational Branches.

Amend the RCT legislation

The Institute noted that consideration should be given to introducing an amendment to the RCT legislation to remove the ambiguity that exists. Revenue's response states that it does not accept that any ambiguity exists and does not see a need for a legislative change on this matter.

The Institute's submission and Revenue's response are available on the Institute's website, www.taxinstitute.ie.

Policy News

E-liquid products tax commenced

On 23 September the then Minister for Finance, Paschal Donohoe TD, signed the Commencement Order to operationalise the e-liquid products tax (EPT), as legislated for in Chapter 1 of Part 2 of Finance Act 2024.

The new excise duty applies from 1 November 2025. EPT will apply to both nicotine-containing and non-nicotine-containing e-liquid products at a single flat rate of 50 cent per millilitre of e-liquid. Suppliers of e-liquid products will be required to register with Revenue before making a first supply of e-liquid products in the State. Suppliers will also be liable to account for and pay the tax.

The taxation of new and novel products, including e-liquids, is also currently being addressed at EU level through a revision of the Tobacco Tax Directive (2011/64/EU); however, although the intention to harmonise the taxation of such products is welcomed, Ireland and a significant number of other Member States have moved to introduce domestic taxes on e-cigarette products in the interest of public health.

Commencement Order for January 2025 OECD Pillar Two Administrative Guidance signed

On 7 November the then Minister for Finance, Paschal Donohoe TD, signed SI 534 of 2025 to provide for the January 2025 OECD Administrative Guidance to be part of the Irish Pillar Two legislation in s111B TCA 1997. The SI provides that the following documents are designated as being comprised in the OECD Pillar Two guidance within the meaning of s111B TCA 1997, for the purposes of Part 4A TCA 1997:

- OECD Administrative Guidance on Article 8.1.4 and 8.1.5 of the Global Anti-Base Erosion Model Rules (January 2025),
- OECD Administrative Guidance on Article 9.1 of the Global Anti-Base Erosion Model Rules (January 2025) and
- OECD Multilateral Competent Authority Agreement on the Exchange of GloBE Information (January 2025)

International Agreements on Mutual Administrative Assistance in Taxation Bill published

The Department of Finance published the International Agreements on Mutual Administrative Assistance in Taxation Bill (draft Heads of Bill) at the end of October. The Bill transposes elements of the OECD Mutual Convention on Administrative Assistance and the EU–Switzerland Anti-Fraud Agreement.

Progressing the Bill was a commitment in Ireland's Corporation Tax Roadmap ("the 2018 Roadmap") published in September 2018 and in Ireland's Corporation Tax Roadmap January 2021 Update, following a recommendation from the Review of Ireland's Corporation Tax Code ("the Coffey Report").

The 2018 Roadmap noted that although Ireland ratified the OECD/Council of Europe Convention on Mutual Administrative Assistance in Tax Matters in 2010, Ireland lodged a number of reservations when depositing its instruments of ratification in respect of the Convention.

The 2018 Roadmap stated that the Bill, when enacted, would facilitate the withdrawal of Ireland's reservations regarding the recovery of tax and service of documents, except in respect of taxes imposed by or on behalf of political subdivisions or local authorities and social security contributions.

The 2018 Roadmap also noted that the Bill would enable Ireland to complete the ratification of some remaining provisions of the EU–Switzerland Anti-Fraud Agreement, which Ireland has partially ratified.

The Bill cleared pre-legislative scrutiny during 2017.

Ireland signs Multilateral Competent Authority Agreement on Exchange of GloBE Information

On 8 July Ireland signed the signed the Multilateral Competent Authority Agreement on the Exchange of GloBE Information ("GIR MCAA") under Pillar Two. The GIR MCAA sets out the conditions and modalities for the automatic exchange of GIR information under the Multilateral Convention on Mutual Administrative Assistance in Tax Matters. The other signatories of the GIR MCAA, as of 6 August 2025, include Austria, Belgium, Denmark, France, Italy, Japan, Korea, Luxembourg, New Zealand, Portugal, Slovak Republic, Spain and the UK.

VAT in the Digital Age implementation strategy published

At the end of September the European Commission published its Implementation Strategy for the VAT in the Digital Age (ViDA) package, setting out the actions that it will deploy to support businesses and Member States with the implementation of the ViDA package.

The ViDA package will change three aspects of the VAT system by introducing digital reporting requirements (DRR) and e-invoicing for cross-border transactions; a deemed supplier rule for the platform economy for short-term accommodation rentals and passenger transport services; and a single EU VAT registration (SVR).

The ViDA package was adopted on 11 March 2025 and published on 25 March 2025. The Implementation Strategy sets out the specific timing of the various elements of the ViDA package as follows:

- On entry into force, i.e. on **14 April 2025**, Member States are able to introduce mandatory e-invoicing under specific conditions, and improvements were made to

the Import One-Stop Shop (IOSS) framework for improved controls.

- As from **1 January 2027** certain legislative clarifications for users of the One-Stop Shop (OSS) and IOSS schemes will become effective. Furthermore, SVR improvements will also enter into application on that date.
- From **1 July 2028** platforms in short-term accommodation rental and passenger transport sectors must comply with new deemed supplier measures (unless the Member State has opted to delay implementation to 1 January 2030). The main SVR reforms and mandatory reverse charge for non-identified suppliers will begin.
- From **1 July 2030** DRR will affect cross-border business-to-business (B2B) transactions, with e-invoicing becoming mandatory.
- By **1 January 2035** Member States with a domestic digital real-time transaction reporting obligation must align their systems with the cross-border digital reporting system, marking the final phase of the ViDA package.

A detailed communication plan will be developed by the Commission in cooperation with Member States, with specific communication campaigns commencing six to nine months before each main milestone. This will involve "testing" and interaction with Member States to ensure that they have the necessary products to communicate best with businesses. The Commission will also, in collaboration with Member States and businesses, develop detailed explanatory notes on each of the three strands of ViDA, the aim of which is to ensure that all stakeholders have the same understanding of how the legislation should be implemented.

Revenue published a paper on 8 October titled "VAT Modernisation – Implementation of eInvoicing in Ireland", which sets out details of the work it is undertaking to prepare for the implementation of ViDA. To provide Irish businesses with adequate preparation time before ViDA becomes mandatory, Revenue will implement a phased roll-out of e-invoicing requirements as follows:

- **Phase One – From November 2028**: VAT-registered large corporate entities will be required to implement mandatory e-invoicing and real-time reporting for domestic B2B transactions.
- **Phase Two – From November 2029**: mandatory e-invoicing and real-time reporting for domestic B2B transactions will be extended to all VAT-registered businesses that engage in cross-border EU B2B trading.
- **Phase Three – From July 2030**: mandatory e-invoicing and real-time reporting will apply to all cross-border EU B2B transactions.

In addition, all businesses will need to have the capability to receive e-invoices from November 2028. This includes businesses that are not required under the phased roll-out to issue e-invoices. In December Revenue invited VAT-registered businesses managed by its Large Corporates Division to complete its "Large Corporates Division VAT Modernisation and eInvoicing Survey" to inform Ireland's implementation of ViDA.

EU list of non-cooperative jurisdictions updated

At the Economic and Financial Affairs Council (ECOFIN) meeting on 10 October, the Council approved conclusions on the revision of the EU list of non-cooperative jurisdictions for tax purposes. No new jurisdictions were added to the list (Annex I). Eleven jurisdictions remain on Annex I of the list: American Samoa, Anguilla, Fiji, Guam, Palau, Panama, the Russian Federation, Samoa, Trinidad and Tobago, US Virgin Islands and Vanuatu.

Viet Nam has been removed from the state-of-play document (Annex II) after successfully implementing the OECD's BEPS minimum standard on country-by-country reporting. Additionally, five jurisdictions have made new formal commitments to improve tax transparency and address deficiencies in

country-by-country reporting, bringing the total number of jurisdictions in Annex II to 11: Antigua and Barbuda, Belize, British Virgin Islands, Brunei Darussalam, Eswatini, Greenland, Jordan, Montenegro, Morocco, Seychelles and Türkiye.

European Council updates EU tax cooperation agreements with five non-EU countries

The Council of the European Union has approved updated EU tax cooperation and transparency agreements with five non-EU countries: Switzerland, Liechtenstein, Andorra, Monaco and San Marino. The updated agreements reflect new international standards in the field, as developed by the OECD. They expand the automatic exchange of financial account information between the EU and those countries to include electronic money products and digital currencies.

The new protocols also establish a new framework for cooperation between partners on recovery of VAT and on the prevention of tax fraud and tax evasion. In addition, they strengthen due diligence and reporting requirements, allowing tax administrations to act faster and more effectively on the information that they receive. The updated agreements will enter into force on 1 January 2026.

Commission proposes 2026 Work Programme

The European Commission has proposed its 2026 Work Programme, setting out the key strategies, action plans and legislative initiatives that will lay the foundation for the work ahead during this mandate. In 2026 the Commission will focus on making EU laws simpler and reducing costs. Several simplification proposals are foreseen across key sectors, including automotive, environment, taxation, food and feed safety, medical devices and energy product legislation.

New tax-related proposals in Annex I of the Annexes to the Commission Work Programme 2026 include a 28th Regime for Innovative Companies (Q1, 2026) and an Omnibus on Taxation (Q2, 2026).

The Commission intends to withdraw 25 proposals pending agreement, which are listed in Annex IV of the Annexes to the Commission Work Programme 2026. Tax-related proposals to be withdrawn include:

- Proposal for a Council Directive implementing enhanced cooperation in the area of financial transaction tax.
- Proposal for a Council Directive laying down rules to prevent the misuse of shell entities for tax purposes and amending Directive 2011/16/EU (UNSHELL).
- Proposal for a Council Directive on laying down rules on a debt–equity bias reduction allowance and on limiting the deductibility of interest for corporate income tax purposes (DEBRA).
- Proposal for a Council Directive on transfer pricing.

The remaining pending proposals are listed in Annex III of the Annexes to the Commission Work Programme 2026 and include tax-related proposals for Directives on:

- Business in Europe: Framework for Income Taxation (BEFIT).
- Establishing a Head Office Tax (HOT) system for micro, small and medium-sized enterprises.
- VAT rules relating to taxable persons who facilitate distance sales of imported goods and the application of the special scheme for distance sales of goods imported from third territories or third countries and special arrangements for declaration and payment of import VAT.
- The common system of VAT as regards conferral of implementing powers on the Commission to determine the meaning of the terms used in certain provisions of Directive 2006/112/EC.
- Restructuring the Union framework for the taxation of energy products and electricity.

- The common system of a digital services tax on revenues resulting from the provision of certain digital services.
- Laying down rules relating to the corporate taxation of a significant digital presence.

The list of pending proposals also includes proposals for a Council Decision and Regulation to amend the system of own resources of the EU.

Negotiations on UN Framework Convention on International Tax Cooperation

Substantive negotiations on a proposed United Nations (UN) Framework Convention on International Tax Cooperation began in the first week of August, with the Intergovernmental Negotiating Committee convening two sessions from 4 to 15 August. The formal and informal meetings focussed on core commitments under the prospective Convention, including sustainable development, the fair allocation of taxing rights, the taxation of income derived from the provision of cross-border services in an increasingly digitalised and globalised economy, and the prevention and resolution of tax disputes.

At the end of October the UN updated its webpage on Intergovernmental Negotiations for a UN Framework Convention on International Tax Cooperation, with the release of a Co-Lead's Draft Framework Convention Template. The Framework Convention Template includes draft articles on:

- fair allocation of taxing rights,
- high-net worth individuals,
- mutual administrative assistance,
- illicit financial flows, tax avoidance and tax evasion,
- sustainable development,
- prevention and resolution of tax disputes. and
- relation with protocols.

The UN has also published a Co-Leads' Concept Note on Ideas for Potential Solutions regarding the second early protocol to the Framework Convention on International Tax Cooperation, which focuses on tax dispute prevention and resolution.

The note outlines preliminary approaches for consideration by the Intergovernmental Negotiating Committee at its November 2025 session, with a view to informing subsequent work. Member States and stakeholders were invited to contribute input on the Co-Leads documents produced during inter-sessional work of the workstreams and on the third session of the Committee by Friday, 5 December 2025 at 11:59pm (New York time).

EU and US publish joint statement on transatlantic trade and investment

On 21 August the EU and the US issued a Joint Statement confirming that they had agreed on a Framework on an Agreement on Reciprocal, Fair, and Balanced Trade (Framework Agreement), which built on the political agreement reached by the European Commission President, Ursula von der Leyen, and the US President, Donald Trump, on 27 July.

The Joint Statement confirmed that the EU and the US intend for this Framework Agreement to be a first step in a process that can be expanded over time to cover additional areas and continue to improve market access and increase their trade and investment relationship.

The EU and the US will also engage in negotiating an Agreement on Reciprocal, Fair, and Balanced Trade to implement this Framework Agreement.

At the end of August the European Commission put forward two proposals to pave the way for the implementation of the EU–US Joint Statement of 21 August 2025 agreeing a Framework on an Agreement on Reciprocal, Fair, and Balanced Trade. These proposals were a first step in implementing the Joint Statement and will ensure tariff relief by the US for the EU

automotive sector starting retroactively from 1 August.

- The "Proposal for a Regulation of the European Parliament and of the Council on the adjustment of customs duties on the import of certain goods originating in the United States of America and opening of tariff quotas for imports of certain goods originating in the United States of America" concerns the elimination of tariffs on US industrial goods and provides preferential market access for a range of US seafood and non-sensitive agricultural goods.
- The "Proposal for a Regulation of the European Parliament and of the Council on the non-application of customs duties on imports of certain goods" prolongs the tariff-free treatment of lobster, now including processed lobster.

The European Commission continues to engage with the US to lower tariffs, including negotiations on a future EU–US Agreement on Reciprocal, Fair, and Balanced Trade.

President Trump proposes new US tariffs on branded or patented pharmaceutical products

On 2 September the US President, Donald Trump, announced on social media that from 1 October 2025 the US would be imposing a 100% tariff on any branded or patented pharmaceutical product, unless a company is building their pharmaceutical manufacturing plant in the US. In a statement after the announcement, the Tánaiste and then Minister for Foreign Affairs and Trade, Simon Harris TD, said: "We will be studying the impact of this announcement, which includes a number of exemptions, together with EU colleagues."

In his statement the Tánaiste noted that the EU and US Joint Statement issued on 21 August agreeing a Framework on an Agreement on Reciprocal, Fair, and Balanced Trade (Framework Agreement) made absolutely clear that any new tariffs announced by the US on pharmaceuticals under its section 232 investigation would be capped at 15% for pharma products being exported by the EU. The Tánaiste said: "This remains the case and underlines again the value of the agreement reached last month."

Referring to his meeting on 25 September with the US Secretary of Commerce, Howard Lutnick, the Tánaiste said: "I remain as convinced as ever of the mutually beneficial nature of the dynamic, two way economic partnership between Ireland and the US as well as between the EU and the US."

The US Department of Commerce and the Office of the US Trade Representative published a notice on 25 September implementing certain tariff-related elements of the Framework Agreement. The notice amends the Harmonized Tariff Schedule of the US to implement the elements of the Framework Agreement that adjust tariffs on certain articles that are products of the EU, including automobiles and automobile parts; unavailable natural resources (including cork); all aircraft and aircraft parts; and generic pharmaceuticals and their ingredients and chemical precursors.

UK Budget 2025

The Chancellor of the Exchequer, Rt. Hon. Rachel Reeves MP, presented Budget 2025 to the UK Parliament on 26 November. A summary of the key tax measures announced in Budget 2025 is given below.

Corporation tax

- **Capital allowances – writing-down allowances**: From 1 January 2026 a new 40% first-year allowance for main-rate expenditure will be introduced, including most expenditure on assets for leasing and expenditure by unincorporated businesses. From 1 April 2026 for corporation tax and 6 April for income tax, main-rate writing-down allowances will reduce from 18% to 14%.
- **Increases to corporation tax late-filing penalties**: Finance Bill 2025–26 will legislate for the doubling of the penalty for taxpayers submitting a late corporation tax return from 1 April 2026.

- **Targeted research and development (R&D) advance assurance service**: From spring 2026 a targeted advance assurance service will be piloted, enabling small and medium-sized enterprises to gain clarity on key aspects of their R&D tax relief claims before submitting them to HMRC. The UK Government is also publishing a summary of responses to the advance clearance consultation.
- **Creative industries and R&D expenditure credits**: The UK Government will introduce legislation in Finance Bill 2025–26 to set out the treatment for corporation tax purposes of intra-group payments made in return for surrendered Research and Development Expenditure Credit (RDEC), Audio-Visual Expenditure Credit (AVEC) and Video Games Expenditure Credit (VGEC). This will come into effect for payments made on or after 26 November 2025.
- **Corporate interest restriction (CIR) relief for certain capital expenditure in calculation of tax-EBITDA**: Finance Bill 2025–26 will make technical amendments to CIR in respect of relief for certain capital expenditure. The changes will take effect for periods ending on or after 31 December 2021.
- **Corporate interest restriction**: Finance Bill 2025–26 will simplify administration in relation to reporting companies under CIR. Most of the changes will take effect for periods ending on or after 31 March 2026.
- **Pillar Two multinational top-up tax and domestic top-up tax amendments**: Technical amendments to the multinational top-up tax and domestic top-up tax legislation will be included in Finance Bill 2025–26 to incorporate the latest published international updates and following stakeholder consultation.
- **Controlled foreign companies and treatment of interest on reversal of State Aid recovery**: Finance Bill 2025–26 will legislate for the payment of interest on amounts collected from taxpayers and now repayable after a successful challenge of a European Commission decision.
- **Transfer pricing – International Controlled Transaction Schedule**: The UK Government will legislate to require in-scope multinationals to submit an International Controlled Transaction Schedule (ICTS), which will report information annually on cross-border related-party transactions. This measure is expected to take effect for accounting periods beginning on or after 1 January 2027. Technical consultation on its design will take place in spring 2026.
- **Reform of UK law on transfer pricing, permanent establishment and diverted profits tax**: The UK Government will legislate in Finance Bill 2025–26 to simplify taxation of related-party transactions, non-resident companies trading in the UK, and profits diverted from the UK, for chargeable periods beginning on or after 1 January 2026.
- **Anti-avoidance rule for certain non-derecognition liabilities**: A new anti-avoidance provision will be introduced in situations where there has been a non-derecognition of assets transferred to a securitisation vehicle and a liability is recognised in connection with the transfer. The new rule will deny tax relief for amounts arising from such arrangements that are attributable to a main purpose of securing a tax advantage. This will take effect from 26 November 2025 and will be legislated for in Finance Bill 2025–26.
- **First-year 100% capital allowances for zero-emission vehicles (ZEVs) and charge points**: The 100% first-year allowances (FYA) for qualifying expenditure on zero-emission cars and the 100% FYA for qualifying expenditure on plant or machinery for electric vehicle charge points will be extended for a further year. The FYA will now be in place until 31 March 2027 for corporation tax purposes and 5 April 2027 for income tax purposes.
- **Company car tax**: The UK Government will introduce a temporary benefit-in-kind (BIK) tax easement for plug-in hybrid electric vehicles (PHEVs) in the BIK system to prevent their tax charge increasing significantly owing to new emissions standards. This easement will be in place from 1 January 2025 to 5 April 2028.

Personal tax

- **Tax on property income**: Finance Bill 2025–26 will create separate tax rates for property income. From 2027–28 the property basic rate will be 22%, the property higher rate will be 42%, and the property additional rate will be 47%. These rates will apply across England, Wales and Northern Ireland. The changes will take effect from 6 April 2027.
- **Tax on dividend income**: The ordinary rate of income tax applicable to dividends will be increased by 2 percentage points to 10.75%, and the upper rate will be increased by 2 percentage points to 35.75%. The additional rate will remain unchanged at 39.35%. This will be legislated for in Finance Bill 2025–26 and take effect from 6 April 2026.
- **Tax on savings income**: From 6 April 2027 the rates of income tax applicable to savings income will increase. The savings basic rate will be increased by 2 percentage points to 22%, the savings higher rate will be increased by 2 percentage points to 42%, and the savings additional rate will be increased by 2 percentage points to 47%.
- **Ordering of income tax reliefs and allowances**: The income tax rules will be amended so that reliefs and allowances deductible at steps 2 and 3 of the income tax calculation will be applied to property, savings and dividend income only after they have been applied to other sources of income. This will be legislated for in Finance Bill 2025-26 and take effect from 6 April 2027.
- **High Value Council Tax Surcharge**: A High Value Council Tax Surcharge (HVCTS) will be introduced in England for residential properties worth £2m or more, from April 2028. This charge will be based on updated valuations to identify properties above the threshold and will be in addition to existing Council Tax. The UK Government will consult on implementation of the HVCTS in the new year.
- **Non-resident dividend tax credit**: The dividend tax credit for non-UK residents with UK income will be abolished, aligning their treatment with that for UK residents. This will be legislated for in Finance Bill 2025-26 and take effect from 6 April 2026.
- **Technical amendments to residence-based tax regime**: The UK Government will publish legislation to make minor corrections to the residence-based tax regime introduced in Finance Act 2025. These changes are technical and should have minimal impact on individuals, trustees and employers. This will be legislated for in Finance Bill 2025–26 and will have retrospective effect from 6 April 2025. There are some provisions that will take effect from date of announcement, the date of Royal Assent and 6 April 2026.
- **Post-departure trade profits**: The post-departure trade profits provisions will be removed from the temporary non-residence anti-avoidance legislation so that all dividends received during a period of temporary non-residence are chargeable to UK tax. This will be legislated for in Finance Bill 2025–26 and take effect from 6 April 2026.
- **Expanding workplace benefits relief**: The income tax and national insurance exemption for employer-provided benefits will be extended to cover reimbursements for eye tests, home working equipment and flu vaccinations. This will be legislated for in Finance Bill 2025–26 and this will take effect from 6 April 2026.
- **Salary sacrifice for pension contributions**: Employer and employee NIC will apply on pension contributions above £2,000 per annum made via salary sacrifice. These changes will be legislated for through primary and secondary legislation that will be introduced in due course. This will take effect from 6 April 2029.
- **Penalty reform**: Late-submission penalties will not apply for quarterly updates during the 2026–27 tax year for income tax self-assessment (ITSA) taxpayers required to join Making Tax Digital. A new penalty regime will apply for late submission and late payment to all ITSA taxpayers not already due to join the new system from 6 April 2027. The UK Government will increase the penalties due for late payment of ITSA and VAT from 1 April 2027.

Capital taxes

- **CGT anti-avoidance provisions**: The anti-avoidance provisions that apply to share exchanges and company reorganisations will be modernised with immediate effect. This will be legislated for in Finance Bill 2025–26.
- **Non-resident capital gains**: The non-resident capital gains tax rules will be amended, closing loopholes for protected cell companies and clarifying legislation for investors. Changes apply with immediate effect, with further administrative reforms from 6 April 2026. This will be legislated for in Finance Bill 2025–26.
- **Incorporation relief claims process**: A requirement will be introduced for taxpayers to actively claim incorporation relief for transfers of a business to a company on or after 6 April 2026. Previously, the relief has applied automatically. This will be legislated for in Finance Bill 2025–26.
- **Employee ownership trusts**: The CGT relief available on qualifying disposals to employee ownership trusts will be reduced from 100% of the gain to 50%. This will be legislated for in Finance Bill 2025–26 and take effect from 26 November 2025.
- **Inheritance tax thresholds**: The inheritance tax nil-rate bands are set at current levels until April 2030 and will stay fixed at these levels for a further year, until April 2031. The forthcoming combined allowance for the 100% rate of agricultural property relief and business property relief will also be fixed at £1m for a further year, until 5 April 2031. This will be legislated for in Finance Bill 2025–26 and take effect from 6 April 2030.
- **Inheritance tax – unused allowance for agricultural and business property reliefs**: Any unused £1m allowance for the 100% rate of agricultural property relief and business property relief will be transferable between spouses and civil partners, including if the first death was before 6 April 2026. This will be legislated for in Finance Bill 2025–26 and take effect from 6 April 2026.
- **Inheritance tax treatment of unused pension funds and death benefits**: Personal representatives will be able to direct pension scheme administrators to withhold 50% of taxable benefits for up to 15 months and pay inheritance tax due in certain circumstances. Personal representatives will be discharged from a liability for payment of inheritance tax on pensions discovered after they have received clearance from HMRC. This will be legislated for in Finance Bill 2025–26 and take effect from 6 April 2027.
- **Inheritance tax anti-avoidance**: The UK Government will legislate to prevent inheritance tax avoidance through certain loopholes, including ensuring that UK agricultural property held via non-UK entities is treated as UK-situated, addressing changes in status of trust assets before an exit charge, and restricting charity exemptions to direct gifts to UK charities and clubs. This will be legislated for in Finance Bill 2025–26 and will take effect for trust exit charges from 26 November 2025, for gifts to charities in lifetime from 26 November 2025 or on a death from 6 April 2026, and for UK agricultural property from 6 April 2026.
- **Capping inheritance tax trust charges for excluded property in trusts**: A £5m cap will be applied to relevant property trust charges for pre-30 October 2024 excluded property trusts. This will be legislated for in Finance Bill 2025–26 and will apply to trust charges from 6 April 2025.

Excise and stamp duty

- **UK listing relief**: From 27 November transfers of a company's securities will be subject to relief from the 0.5% stamp duty reserve tax charge for three years from the point the company lists on a UK regulated market.
- **Electric vehicle excise duty (eVED)**: The UK Government is introducing electric vehicle excise duty (eVED), a new mileage charge for electric and plug-in hybrid cars, with effect from April 2028. Drivers will pay for their mileage on a per-mile basis alongside

their existing vehicle excise duty. Electric cars will pay half of the equivalent fuel duty rate for petrol and diesel cars, and plug-in hybrid cars will pay a reduced rate equivalent to half of the electric car rate.

- **Stamp duty land tax relief**: Stamp duty land tax rules will be amended so that property transferred within Local Government Pension Schemes are subject to stamp duty land tax Relief. This will be legislated in Finance Bill 2026–27.

VAT and customs

- **Cross-border VAT grouping amendment**: The UK Government will clarify the rules relating to operating cross-border VAT grouping from 26 November 2025 by reverting to the UK's previous position.
- **E-invoicing**: The UK Government will require all VAT invoices for business-to-business and business-to-government transactions to be issued in a specified electronic format from April 2029. The Government will work with stakeholders to develop an implementation roadmap to be published at Budget 2026.
- **Charity tax relief**: A new VAT relief will be introduced from 1 April 2026 for business donations of goods to charity for distribution to those in need or use in the delivery of their charitable services.
- **VAT on private hire vehicle services**: Suppliers of private hire vehicle and taxi services will be excluded from the scope of the Tour Operators' Margin Scheme from 2 January 2026, except where these are supplied in conjunction with certain other travel services.
- **Low-value imports**: The UK Government is removing the customs duty relief on goods imported to the UK valued at £135 or less, making them subject to customs duty from March 2029 at the latest, and consulting on implementing a new set of customs arrangements for these goods.
- **Plastic packaging tax rate and threshold 2026–27**: To incentivise businesses to use recycled instead of new plastic in packaging, the plastic packaging tax rate will increase for 2026–27 in line with CPI inflation.
- **Soft drinks industry levy (SDIL) consultation response**: The threshold at which the SDIL applies will be reduced from 5g to 4.5g sugar per 100ml, and the exemptions for milk-based and milk substitute drinks with added sugar will be removed to create a level playing field between pre-packaged beverages. These reforms will be implemented on 1 January 2028.
- **Carbon Border Adjustment Mechanism (CBAM)**: The UK Government will legislate in Finance Bill 2025–26 to introduce the CBAM from 1 January 2027. The inclusion of indirect emissions within scope of the CBAM will be delayed until 2029 at the earliest.

Other

- **Enhancing HMRC's powers and sanctions against tax adviser facilitated non-compliance**: The UK Government will introduce enhanced powers and sanctions to tackle tax advisers who facilitate non-compliance from 1 April 2026. This will be legislated for in Finance Bill 2025–26.
- **Raising standards in the tax advice market**: After consultation, the UK Government will not regulate tax advisers and will work in partnership with the sector to raise standards in the tax advice market. Tax advisers interacting with HMRC will be required to register with HMRC from May 2026. (See also article by Marie Farrell "UK and Northern Ireland Tax Update" in this issue).
- **Electronic sales suppression**: The UK Government will publish a Call for Evidence in early 2026 relating to software standards for the electronic and mobile point-of-sale sector to explore how best to embed standards across the latest products and innovations.
- **Reporting of UK-resident crypto-asset users**: UK-reporting crypto-asset service providers will be required to report on their

UK-tax-resident customers under the Crypto Asset Reporting Framework. Information for first reports to HMRC will be collected from 1 January 2026 and reported to HMRC in 2027.

- **Advance tax certainty service**: A new service to provide major investment projects with advance tax certainty will be legislated for in Finance Bill 2025–26 and launched in July 2026.
- **Call for Evidence on tax support for entrepreneurs**: The UK Government has published a Call for Evidence that seeks views on the effectiveness of existing tax incentives and the wider tax system for business founders and scaling firms, and how the UK can better support these companies to start, scale and stay in the UK. The Call for Evidence will close on 28 February 2026.

Recent Revenue eBriefs

Lorraine Sheegar
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Revenue eBriefs Issued from 1 August to 31 October 2025

No. 152 Revision of Mineral Oil Traders' Excise Licences Manual

Revenue updated the manual "Mineral Oil Traders' Excise Licences (Auto-fuel Trader's Licence & Marked Fuel Trader's Licence)" to reflect the current licence conditions for auto-fuel traders and marked fuel traders. The main changes are to:

- Section 4, "Licence Conditions", to include matters previously covered in an appendix entitled "AFTL/MFTL Guidelines", which has now been removed.
- Appendix I, "Licence Text with Conditions Attached to Holding of an AFTL and a MFTL", which sets out the licence text, including the conditions.
- Appendix XVII, "AFTL/MFTL Application Assessment", which concerns the AFTL/MFTL application assessment.

Other minor corrections and updates have also been made to the manual.

No. 153 EU VAT SME Scheme – Domestic Layer

Revenue published a new manual titled "EU VAT SME Scheme – Domestic Layer" providing guidance on the domestic element of the EU VAT SME (Small and Medium Enterprise) Scheme, which came into effect in January 2025. The SME Scheme aims to reduce the administrative burden and compliance cost for SMEs and to encourage them to undertake cross-border trade. The scheme has both a domestic and a cross-border element in each participating Member State.

The SME Scheme is optional for traders. It allows qualifying traders established in participating Member States to avail of VAT exemption in their own Member State and in all participating Member States where they supply goods and services, thereby avoiding the need to register for VAT there. If a qualifying trader decides to avail of the scheme, the VAT exemption will apply to supplies covered by the SME Scheme. If a trader decides not to avail of the SME Scheme, the normal VAT regime will apply by default.

No. 154 Corporation Tax Return 2024 – ROS CT1

The 2024 Form CT1 has been available for filing since April 2024. Updates were released in June 2024 and January 2025. The manual "Completion of Corporation Tax Returns – Form CT1 2024" highlights the changes to the Form CT1. These are:

- Updates to the Company Details panel (paragraph 1), including new sections for De Minimis Aid, Outbound Payments Defensive Measures, Group Relief and Section 299 Leases.
- Updates to the Trading Results panel (paragraph 2) and further guidance on iXBRL filing (paragraph 3.1).
- Updates to the Irish Rental Income panel (paragraph 4) to include updated guidance on Non-Resident Landlord Withholding Tax (NLWT).
- Expanded sections in the Irish Investment and Other Income panel (paragraph 5),

including further guidance on the Digital Games Tax Credit (paragraph 5.3).

- Updates to the Research and Development (R&D) Tax Credit (paragraph 8) Section 766, Section 766A, Section 766C and Section 766D TCA 1997 panels to reflect legislative changes.
- Updated guidance on the Close Company Surcharge panel (paragraph 9) relating to the text where a joint election is made under s434(3A)(a) TCA 1997 and noting that both the paying company and the receiving company should make their election on their respective CT1 returns.
- Updates to the Recovery of Income Tax panel (paragraph 10). A new section has been added related to interest paid to partnerships and tax-transparent entities without the deduction of income tax.

No. 155 Exemption for Certain Sporting National Governing Bodies

Revenue has created a new manual titled "Exemption for Certain Sporting National Governing Bodies". The manual covers s235A TCA 1997, which was introduced in Finance Act 2024 and provides an exemption from income tax or corporation tax, as the case may be, for certain categories of national governing bodies of sport.

The exemption applies to income that the body can hold for up to ten years provided the income is ultimately applied for certain qualifying purposes, including capital projects, the purchase of certain sporting equipment, supporting elite athletes in competitive sport, and supporting the participation of women and people with disabilities in sport.

The manual outlines definitions for the purpose of the section, explains how the exemption will operate and provides examples of where the exemption will and will not apply.

No. 156 ROS Pay and File – Useful Tips

Revenue's manual "ROS Pay and File – Useful Tips" has been updated as follows:

- A link to further information on Revenue's new agent e-linking facility is provided (paragraph 6.5.1).
- An update is given on methods of payment, e.g. payments via commercial debit cards will no longer be accepted from 1 September 2025. A warning message will be displayed if a card type that is no longer accepted is entered. The manual advises those unsure of their card type to contact their card provider (paragraph 7.1.2).
- Some information and a link to where further details may be found on the Residential Premises Rental Income Relief (RPRIR) (paragraph 8.8) are provided.
- Information and a link to further details on the Retrofitting Rental Properties Relief (RRPR) (paragraph 8.9) are provided.

No. 157 Revenue eBrief No. 157/25

This eBrief has been removed. Please see Revenue eBrief No. 161/25.

No. 158 PAYE Exclusion Orders

Revenue amended the "PAYE Exclusion Order" manual to include a new paragraph 3.2, which provides details of the new online PAYE exclusion order application portal. To apply for a PAYE exclusion order, an employer or any other person paying emoluments must make a written application to Revenue through ROS/myAccount, outlining the circumstances under which the order should issue.

A "Guide to Completing the Online PAYE Exclusion Order Application" is available on Revenue's website. Although it is still permissible to make applications for PAYE exclusion orders without using the online portal, Revenue's preference is for customers to use the new application system, as this will allow for faster processing times.

In addition, the tax years included in the examples have been updated in the manual, and the references in paragraph 4.3 to the 2011 and 2012 tax years have been removed, as these are no longer relevant. The contact details for the Department of Social Protection have also been updated in paragraph 9.

No. 159 VAT Treatment of Broiler Chicken Services

Revenue published a new manual titled "VAT Guidance on Broiler Chicken Services". In June the then Minister for Finance, Paschal Donohoe TD, announced the exclusion of the poultry broiler sector from the VAT flat-rate addition scheme with effect from 1 September 2025. This decision was made based on advice provided by Revenue and the Department of Finance that overcompensation was occurring within the sector.

Under s86A of the Value-Added Tax Consolidation Act 2010, the Minister excluded from the flat-rate addition the supply of any agricultural service of stock minding, rearing and fattening during the production of broiler chickens (broiler chicken services) with effect from 1 September 2025.

The existing "VAT Guidance for Flat-rate Farmers" manual has also been updated to reflect the Ministerial Order.

No. 160 iXBRL – Acceptance of Submissions Tagged with the 2025 Irish Taxonomies

This eBrief notes that Revenue will now accept iXBRL submissions tagged with the 2025 Irish taxonomies. It also clarifies that iXBRL submissions tagged with the FRS 101 + DPL, FRS 102 + DPL and EU IFRS + DPL taxonomies with a date of 2017-09-01 are no longer accepted.

Paragraph 1.6 of the manual "Submission of iXBRL Financial Statements as Part of Corporation Tax Returns" includes the updated table of accepted taxonomies and taxonomies that are not accepted by Revenue.

No. 161 Chapter 13 Pensions Manual

Revenue updated Chapter 13 of the Pensions Manual, "Transfer Payments", which provides guidance on the transfer of deferred pension benefits. The material changes to the manual are:

- Section 1, "Introduction", has been updated to provide clarity on the transfer of deferred benefits from an occupational pension scheme to a personal retirement savings account (PRSA).
- Section 3, "Overseas Schemes", has been updated to provide clearer guidance on transfers from overseas arrangements to an Irish scheme, and from an Irish scheme to an overseas arrangement.
- Other sections have been updated in line with Revenue style guides.

No. 162 Donations to Approved Sports Bodies

The "Donations to Approved Sports Bodies" manual has been updated to reflect Finance Act 2024 amendments to s847A TCA 1997, which provides for tax relief for donations to approved sports bodies for the funding of certain capital projects. The updates to the manual are:

- Paragraph 5, "Tax Relief for Donations", illustrates the new procedures for self-assessed and PAYE-income-only individuals, who can now opt either to claim a deduction for a relevant donation against their total income or to surrender the relief to the approved sports body. Examples are included in the appendix.
- Paragraph 6, "Issue of Receipts", outlines that an approved sports body is required to issue a receipt to all categories of donors to confirm payment of a relevant donation, which include donors in receipt of PAYE income only, self-assessed individuals and companies.
- Paragraph 7, "Repayment of Tax to Approved Sports Bodies", outlines that the relief given by the donor to the approved sports body will be claimable by the body on or after 1 December in the year after the relevant year of assessment in which the donation is made.
- The diagram in paragraph 11, "Summary of the Steps in the Process", which displays the s847A TCA 1997 process, has been updated to reflect the new system.

No. 163 Residential Zoned Land Tax (RZLT)

A number of manuals relating to residential zoned land tax (RZLT) have been updated to include information on obtaining a tax registration number (TRN) for non-residents, agent e-linking and the Abatement Claim Form process.

The manual "RZLT Site Sale or Transfer Guidelines" includes further information for non-resident owners on how to obtain a TRN. Individuals should contact the Department of Social Protection to obtain a PPS number, and non-individuals should email the RZLT Unit at RZLTQueries@revenue.ie. Non-individuals must complete an RZLT TR2 tax registration form to obtain a TRN and provide the following information:

- name of the foreign body corporate,
- address of the registered office of the foreign body corporate,
- date of incorporation,
- country of incorporation and
- details of the responsible person.

Similarly, the "RZLT Registration" manual has been updated to provide further information for non-resident owners on how to obtain a TRN. It also includes information on the process for an agent to link to RZLT. In the Manage Tax Registrations section on ROS, agents can select to link to RZLT for their client. Agents will be required to upload a signed client consent letter, which can be generated on ROS. It may take one business day for the system to update.

The "RZLT Return" manual includes information for non-resident owners on how to obtain a TRN and on the agent-linking process. The manual also includes information on the Abatement Claim Form process and provides a link to the Abatement of RZLT Liability – Claim Form. Completed Abatement Claim Forms should be submitted to the RZLT Unit via MyEnquiries on ROS or myAccount.

RZLT may be deferred in certain circumstances, and this deferred RZLT may be abated, and therefore not payable, where the relevant conditions are met, such as where the development of the relevant site is completed within the lifetime of the planning permission.

The manual confirms that during the period from the liability date (i.e. 1 February) to the RZLT filing date (i.e. 23 May), an abatement of tax deferred under s653AH TCA 1997 may be claimed on the RZLT return for the period to which it relates. During the period falling after the RZLT filing date (i.e. 24 May) but before the next liability date (1 February), an abatement of tax deferred under s653AH TCA 1997 may be claimed through the completion of an Abatement Claim Form for the period to which it relates.

No. 164 Completion of Corporation Tax Returns Form CT1

Revenue updated the manual "Completion of Corporation Tax Returns Form CT1" to include links to the manuals "Completion of Corporation Tax Returns Form CT1 2024" and "Completion of Corporation Tax Returns Form CT1 2023".

No. 165 Research and Development (R&D) Corporation Tax Credit: Appointment of Expert to Assist in Audits

The manual "Research and Development (R&D) Corporation Tax Credit: Appointment of Expert to Assist in Audits" was updated to reflect the start of the new independent expert panel on 8 August 2025 and the new two-year duration of the panel.

No. 166 Updates to Irish Real Estate Fund (IREF)

The manual "Irish Real Estate Fund (IREF) Guidance Note" has been updated in section 2.2, "Other excessive deductions [section 739LB]", to clarify the operation of s739LB TCA 1997. A newly inserted example 23 relates to a limited circumstance where Revenue is prepared to accept that a disbursement or expense that is wholly and exclusively incurred in respect of non-IREF property assets may be treated as not being a disallowed amount for the purposes of s739LB.

The manual has also been updated in section 5, "Annual IREF returns along with payment of IREF withholding tax obligations [section 739R]", to highlight reporting obligations where an IREF ceases to be an IREF during an accounting period.

No. 167 Vehicle Registration Tax (VRT) Online Payments for ROS and myAccount

The manual "Vehicle Registration Tax (VRT) Online Payments in ROS and myAccount" has been updated in paragraph 2, "Online Payment facility for VRT", to reflect the fact that VRT customers can make a payment to the current month +1 to cater for registering new vehicles on 01/01/YYYY and 01/07/YYYY. In addition, Appendix 1, "European Economic Area (EEA) and Non-EEA Single European Payments Area (SEPA) List of Countries", has been updated.

No. 168 Part 38-01-03b – Guidelines for VAT Registration

The "Guidelines for VAT Registration" manual has been updated to reflect the changes to the VAT turnover and registration thresholds and the introduction of the EU VAT SME (Small and Medium Enterprise) Scheme, after the transposition of Council Directive (EU) 2020/285 on the special VAT scheme for small enterprises. The following sections of the manual have been updated:

- Section 3.4, "VAT registration application details",
- Section 3.4.4, "Turnover and registration thresholds", and
- Section 10, "EU VAT SME scheme".

To qualify for VAT exemption under the domestic SME scheme, the annual turnover of a trader must not exceed the applicable threshold in the current and previous calendar years. Finance Act 2024 increased the VAT registration threshold in Ireland to €42,500 for services and to €85,000 for goods from 1 January 2025. The manual "EU VAT SME Scheme – Domestic Layer" provides further details on the domestic SME scheme.

To apply the cross-border SME scheme, a small enterprise must fulfil the following requirements:

- The annual turnover of the small enterprise in the 27 EU Member States (Union turnover) in the current and previous calendar year must not exceed €100,000 (or the equivalent in national currency).
- The annual turnover of the small enterprise in each Member State where it wants to make use of the VAT exemption must not exceed the national annual threshold (or sectoral threshold) in the current and previous calendar years (or in the two previous calendar years if so set).

The manual "Guidelines for Cross-border Operation of EU VAT SME Scheme (VSME)" provides further details on the cross-border SME scheme.

No. 169 Control of Waste Shipments

The "Control of Waste Shipments" manual has been amended to include references to the latest EU Waste Shipment Regulation (EU) No. 2024/1157 in paragraphs 1 and 2.

No. 170 Guidance on Pillar Two – Registration

Revenue published a new manual which provides further guidance on the registration process for Pillar Two titled "Global Minimum Level of Taxation for Multinational Enterprise Groups and Large-Scale Domestic Groups in the Union – Administration – Guidance on Registration".

Entities within scope of the Pillar Two taxes (i.e. the income inclusion rule, the undertaxed profits rule or the qualified domestic top-up tax) must register for the relevant taxes with Revenue no later than 12 months after the last day of the first fiscal year in which they become subject to the relevant tax.

The deadline for in-scope entities to register with Revenue is 31 December 2025. To allow time for agents and businesses to familiarise themselves with the new process, the

registration portal has been released and is now live on ROS.

The registration portal also requires entities to register for the Top-up Tax Information Return (TIR) to allow them to notify Revenue whether the TIR will be filed in Ireland or by a designated filing entity in another jurisdiction.

No. 171 CAT Manual Restructure

The capital acquisitions tax (CAT) manual has been completely restructured on Revenue's website to make it easier for tax agents, taxpayers and Revenue staff to identify the relevant guidance when considering the correct CAT treatment of a gift or inheritance. The old CAT manual has been replaced by two new manuals: the "CAT Administration Manual" and the "CAT Manual".

The new "CAT Administration Manual" contains the following five manuals, which were contained in the old CAT Manual. No changes have been made to these manuals:

- Part 1 – Introduction to Capital Acquisitions Tax,
- Part 2 – Statement of Affairs (Probate) Form SA.2,
- Part 3 – The Self-Assessment Tax Return (Form IT38),
- Part 4 – Certificates of Discharge and
- Guide to Capital Acquisitions Tax Compliance Interventions.

The structure of the new "CAT Manual" comprises 25 new documents that are aligned with the structure of the Capital Acquisitions Tax Consolidation Act 2003. The contents of these documents are taken directly from documents in the old CAT Manual, which can be viewed in Revenue's Historic CAT Documents webpage.

In order to fit in with the structure of the new "CAT Manual", small changes have been made to some of the contents – for example, introductory text has been added to some of the contents, where appropriate, and cross-references have been updated.

As part of the transition to the two new manuals, Revenue will update links to the manuals included in the new "CAT Manual".

The eBrief includes a table that lists the manuals included in the new "CAT Manual" and indicates the source of the guidance contained in each manual.

No. 172 Karshan Disclosure Opportunity Guidance

A new manual titled "Revenue Guidelines – Settlement Arrangement Arising from Revenue v Karshan (Midlands) Ltd. Trading as Domino's Pizza" has been published to provide a settlement opportunity for employers to correct payroll tax issues for 2024 and 2025 arising from *bona fide* employment classification errors without the imposition of interest and penalties, in accordance with settlement terms published by Revenue.

Any necessary adjustment to income tax, USC or PRSI liabilities due in respect of 2024 and 2025 will be treated as a "technical adjustment" under the Code of Practice for Revenue Compliance Interventions.

Disclosures should be submitted no later than Friday, 30 January 2026, to avail of the settlement terms outlined in the manual. All liabilities should be paid in full, via REVPAY. Employers may also request a phased payment arrangement (PPA) to pay the liabilities. Any request to enter a PPA should be made at the time the disclosure is submitted.

No. 173 iXBRL Filing Clarification

The manuals relating to the completion of Forms CT1 2023 and 2024 have been updated, in paragraph 3.1, to clarify that companies liable to corporation tax whose affairs are managed in either Large Corporates Division or High Wealth and Financial Services Division must continue to file iXBRL financial statements, as set out in paragraph 2.1 of the manual "Submission of iXBRL Financial Statements as part of Corporation Tax Returns" and in eBrief No. 255/24.

No. 174 The Provision of Miscellaneous Benefits

The manual "Chapter 12 – The Provision of Miscellaneous Benefits" has been updated, in paragraph 21, to reflect changes made to s118(5) TCA 1997 by Finance Act 2024. From 1 January 2025 a new "employer limit" applies to the level of employer contributions that can be made to an employee's personal retirement savings account (PRSA). This limit is 100% of the employee's emoluments in the year of assessment. Any employer contributions up to the employer limit will not be treated as a benefit-in-kind.

No. 175 Rent Pooling

The contents of the manual titled "Part 09-01-06 Rent Pooling" have been incorporated in the manual titled "Part 04-08-14 Rent Pooling".

No. 176 Tax Treatment of Payments under Mother and Baby Institutions Payments Scheme Act 2023

Revenue has published a new manual titled "Tax Treatment of Payments under Mother and Baby Institutions Payments Scheme Act 2023". The manual outlines the tax exemptions applying to certain payments made to former residents of relevant Mother and Baby Institutions. These exemptions were introduced by the Mother and Baby Institutions Payments Scheme Act 2023 and include payments to the relevant person, or their personal representatives where the applicant is deceased.

No. 177 Stamp Duty Manual – Section 1 SDCA Interpretation – Updated

The Stamp Duty manual "Part 1 – Section 1: Interpretation" has been extensively revised throughout to provide more detailed guidance on the definitions and concepts set out in s1 of the Stamp Duties Consolidation Act 1999 (SDCA 1999). Section 1 SDCA 1999 provides for the interpretation of certain terms used in SDCA 1999.

Some of the revisions to the manual are set out below:

- A new section 2 , "Instruments", provides guidance on instruments on which stamp duty may be charged, defines conveyance on sale, and includes examples of chargeable instruments and guidance on deemed instruments.
- Section 3, "Accountable person" (previously section 2), provides a more detailed breakdown of the definition of accountable person, including examples for different transaction types, e.g. conveyance, lease, voluntary disposition.
- A new section 4, "Terms relating to families and relationships", provides definitions for civil partner, child, and lineal descendant, and references adoption and cohabitant legislation.
- Section 5, "Residential property" (previously section 3), expands on the definitions of residential property and curtilage (up to one acre) and includes practical examples. The section also provides more detail on the treatment of car parking spaces and marina berths when acquired with or separately from a dwelling.
- A new section 6, "Non-residential property", provides a comprehensive list of what qualifies as non-residential property and includes examples.
- A new section 7, "Stocks and marketable securities", clarifies definitions for a marketable security, stock and a stock certificate to bearer.
- A new section 8, "Bills of Exchange", provides a definition of, and stamp duty treatment for, bills of exchange.
- A new section 9, "Insurance policies", provides a definition of, and stamp duty treatment for, insurance policies.
- A new section 10, "Specific persons", defines terms such as Appeal Commissioner, Teagasc, Minister and Revenue Officer.
- A new section 11, "Terms relating to making a Stamp Duty Return", explains the process for making electronic and paper returns and defines approved and authorised persons.
- A new section 12, "Terms relating to stamping an instrument", defines terms such as stamp, a stamp certificate and stamped.

No. 178 Chapter 15 – The Provision of Staff Meals

Revenue has published a new manual titled "Chapter 15 – The Provision of Staff Meals", providing guidance on the tax treatment that applies where an employer provides meals for its staff. The guidance outlines two new scenarios where Revenue accepts that a taxable benefit-in-kind will not arise. These two scenarios are subject to certain conditions and apply with effect from 1 October 2025.

The manual "Chapter 12 – The Provision of Miscellaneous Benefits" has been updated in paragraph 19, to reflect that the guidance therein has been incorporated in the new "Chapter 15 – The Provision of Staff Meals" manual.

No. 179 ROS Support for the 2025 Pay and File Period, Extended Opening Hours and Updating Your Bank Details

Revenue confirmed the extended opening hours for the ROS Technical Helpdesk, Business Taxes (Income Tax Self-Assessed) Support and Collector-General's Division (including ROS Payment Support) in the days leading up to the ROS pay and file deadline of 19 November 2025.

- Friday, 14 November: The ROS Technical Helpdesk and Business Taxes (Income Tax only) phone lines will remain open until 5pm. The Collector-General's phone lines (including ROS Payment Support) will operate from 9.30am until 1.30pm.
- Monday, 17, and Tuesday, 18 November: All three phone lines will operate until 8pm on these days.
- Wednesday, 19 November: The ROS Technical Helpdesk and Business Taxes (Income Tax only) phone lines will operate until midnight. The Collector-General's phone lines (including ROS Payment Support) will operate until 8pm.

The opening hours for the phone lines and contact numbers are outlined in the eBrief, which also includes details of the relevant MyEnquiries pathways and links to information on preparing for online filing.

The eBrief includes a reminder and information about updating bank details for a tax payment or refund for taxpayers who have recently changed to a new banking provider.

No. 180 E-Liquid Products Tax

Revenue published two manuals on the new e-liquid products tax, which is effective from 1 November 2025. The "E-Liquid Products Tax (EPT)" manual provides information and guidance on EPT relevant to Revenue officers and to traders engaged in the supply of e-liquid products. The manual "ROS Registration and Filing Guidelines for E-Liquid Products Tax (EPT)" includes a step-by-step explanation of the registration process and sets out how suppliers can comply with their filing and payment obligations.

No. 181 Income Tax Return 2024 – ROS Form 11 TDM 38-01-04I

Revenue released an eBrief providing an overview of additional updates made to the manual "Income Tax Return Form 2024 – ROS Form 11". The ROS Form 11 2024 has been available since 1 January 2025 and was updated in mid-2025. The manual has been updated in the following paragraphs.

- Paragraph 4.2 includes advice for non-resident landlords making claims for Residential Premises Rental Income Relief (RPRIR). To ensure that the RPRIR is correctly apportioned for any non-resident filers who wish to claim this relief, the Worldwide Income field must be completed on the Personal Details panel of the Form 11.
- Paragraph 8 provides updated information on contributions made by an employer to a personal retirement savings account (PRSA) on behalf of an employee. The manual notes that these contributions are no longer treated as made by the employee since 1 January 2023 and no benefit-in-kind charge arises on employer contributions to an

employee's PRSA. Advice has been included for filers for whom an employer contribution has been made to a PRSA on completing their return.

- Paragraph 10.2 provides information on changes to PRSI contributions for those aged 66 and over. From 1 January 2024, taxpayers have the option to draw down their State Pension (Contributory) between the ages of 66 and 70 or the option to continue to work and also make PRSI contributions after the age of 66. This change applies to all self-employed persons with two exceptions: (1) those who have already been awarded the State Pension (Contributory) and (2) those who have already reached 66 years of age by 1 January 2024 (born before 1 January 1958). The manual includes instructions on how a person can apply for an exemption because of either of the exceptions above.

No. 182 Mineral Oil Tax (MOT) Rate Increases – 8 October 2025

Revenue's manual "Excise Duty Rates – Energy Products and Electricity Taxes" has been updated to reflect increases to the carbon component and overall rates of mineral oil tax on petrol and auto-diesel announced in Budget 2026. These increases are effective from 8 October 2025.

No. 183 Tobacco Products Tax

Revenue made the following updates to the "Tobacco Products Tax" manual:

- A new table of the rates of tobacco products tax is included in section 4.1.
- Revised calculations are included in section 4.2 to reflect the new rates of tobacco products tax applicable from 8 October 2025.
- The wording in section 7.15.2 on repayment amounts has been clarified.
- Sections 5.2.1, 7.3, and 13.1 include updated cross-references to other guidance.

No. 184 Pension Manual Contacts

Revenue has updated the Pensions Manual "Useful Contacts" to provide contact details for the Department of Social Protection. The eBrief notes that all queries relating to the operation of and administration of the Automatic Enrolment Retirement Savings Scheme should be directed to the dedicated email address provided in the manual.

No. 185 Tax and Duty Manual on the Control and Examination of Baggage

Revenue's updated manual "Control and Examination of Baggage" reflects the Budget 2026 change in excise duty charged on imported tobacco in a traveller's baggage from 8 October 2025.

No. 186 Recoupment of Overpayments of Salary by an Employer from an Employee

The manual titled "Recoupment of Overpayments of Salary by an Employer from an Employee" has been updated to reflect a number of changes. Section 2 includes content from three paragraphs previously referenced in other parts of the manual:

- paragraph 2.3, "Current year overpayment recoupment from a former employee";
- paragraph 2.4, "Out of year recoupment from a current employee"; and
- paragraph 2.5, "Out of year recoupment from a former employee".

Section 3 includes a new example regarding "Recoupment spanning a number of years", and section 4 clarifies the procedure for an employee making a claim for a repayment of tax and USC, as well as containing a new paragraph 4.3 regarding PRSI refunds. Section 5 has been updated regarding the recoupment of a salary overpayment after the death of an employee. Periodic updates to dates and tax rates have also been made throughout the manual.

No. 187 Payments on Termination of an Office or Employment or Removal from an Office or Employment

Revenue updated section 3.5 of the manual "Payments on Termination of an Office or Employment or Removal from an Office or Employment" to reflect the impact of unpaid leave on the calculation of the average taxable emoluments figure for the Standard Capital Superannuation Benefit.

The guidance notes that where an employee has taken unpaid leave and there is no salary for a number of weeks in the previous 36 months, other prior weeks beyond the previous 36 months, (i.e. weeks from months 37, 38 or 39, etc.) are allowed to be added when calculating the average salary over the last three years of continued service to arrive at the average annual taxable emoluments figure.

This is permitted provided the individual did not receive any other taxable emoluments during the period of unpaid leave. Where an individual, for example, continued to receive a contribution to a pension scheme but no other emoluments, this would not be considered a period of unpaid leave for the purposes of the calculation. Examples of periods of unpaid leave include unpaid maternity leave, unpaid paternity leave and unpaid parental leave.

No. 188 Individuals Described as "Locums" Engaged in the Fields of Medicine, Health Care, Pharmacy and "Dental Associates" Engaged in the Field of Dentistry

The manual "Individuals Described as 'Locums' Engaged in the Fields of Medicine, Health Care, Pharmacy and 'Dental Associates' Engaged in the Field of Dentistry" has been updated as follows:

- The title of the manual now includes "dental associates" engaged in the field of dentistry.
- Section 1 has been updated to expand the purpose of this manual to include Revenue's position regarding the employment status for taxation purposes of dental associates.
- Section 3 has been amended to provide guidance on determination of employment status for taxation purposes of dental associates and dental hygienists.
- Section 4 now contains information regarding incorporation of locum practices.
- Section 5, "Further Guidance", has been updated to include reference to the publication of the revised joint Code of Practice on Determining Employment Status. Additionally, section 5 has been amended to include a link to the "VAT Treatment of Dental Services" manual.
- Section 6, "Frequently Asked Questions", has been updated and amended to include an additional question relating to tax treatment of payments made to dental associates.

No. 189 Dealing in Residential Development Land

The manual "Dealing in Residential Development Land" has been updated to note that the contents of the manual are no longer relevant. The effective 20% rate of tax in respect of income from dealing in residential development land provided for in s644A TCA 1997 (income tax) and s644B TCA 1997 (corporation tax) was terminated in Finance Act 2009.

No. 190 LPT Clearance Procedures on the Sale or Transfer of Residential Properties

Revenue's manual "LPT Clearance Procedures on the Sale or Transfer of Residential Properties" sets out the responsibilities of both vendors and purchasers in relation to the sale of residential properties that are chargeable to local property tax (LPT). The manual has been updated to reflect new LPT clearance rules that are effective from 17 March 2025.

The following additional information has also been provided in the manual:

- Valuation date and duration of valuation in paragraph 2.
- Sale of "new and unused" properties in paragraph 8.

- Sale of exempt properties in paragraph 9.
- Termination of deferral arrangements in paragraph 10.
- Properties sold by local authorities and approved housing bodies in paragraph 11.
- Penalties for non-compliance in paragraph 13.
- Sample of a Property History Summary in Appendix 2.

No. 191 Permanent Relief from Payment of Import Charges

The "Customs Manual Regarding Permanent Reliefs from Payment of Import Charges" has been updated to reflect the Control of Dogs (XL Bully) Regulations 2024 under section 2, "Transfer of Residence", point 2.1, and Section 3, "Laboratory Animals and Biological or Chemical Substances intended for research", point 3.3.4, "Prohibition/Restriction at Importation". Other minor corrections and updates have also been made to the manual.

No. 192 Part Misc. 10 – Company Incorporation – Economic Activity

Revenue updated the manual "Company Incorporation – Economic Activity Part Misc.10" in paragraph 2 to outline where an application for a statement under s140 of the Companies Act 2014 can be submitted.

No. 193 Revenue Online Service (ROS)

In an eBrief, Revenue provided an update on matters relevant to the upcoming income tax ROS pay and file deadline of Wednesday, 19 November 2025, that applies for self-assessed taxpayers who both pay and file through ROS. The extended deadline of 19 November also applies to CAT returns and payments made through ROS for gifts or inheritances with valuation dates in the year ended 31 August 2025.

The "Revenue Online Service (ROS)" manual includes updated information on ROS payment methods in paragraph 10, with information on variable direct debits in paragraph 10.3 and managing bank accounts and refunds in paragraph 10.5.

The manual has also been updated in paragraph 14, "Revenue Record (Inbox)", to confirm that a checkbox has been added to the ROS inbox to give users the ability to show or hide all PAYE-EMP messages. By default, this checkbox will be unticked, meaning that all messages will be shown. When the tickbox is checked, it will hide all PAYE-EMP messages from the display.

Two options, "SARP 1A" and "SARP Employer Return", have also been added to the PAYE-EMP sub-folder in the ROS inbox.

No. 194 Non-resident Landlord Withholding Tax

The "Non-resident Landlord Withholding Tax" manual has been updated to provide further clarification on the legislative background and the key elements of the NLWT system in paragraph 1.

Additional instructions have been included in paragraph 3.2 in respect of errors arising when an incorrect Local Property Tax (LPT) ID is entered when filing a Rental Notification (RN) and when the landlord Tax Reference Number (TRN) does not match the tax type selected.

Further clarification has been provided in paragraph 8.4 in relation to amending an RN. Where an error is discovered in an RN, a collection agent or tenant/other can self-correct the record. Users can amend an RN for the current year before 31 December. To amend an RN that is outside the current year, the tenant/collection agent must contact Revenue.

Paragraph 11 includes information on registration issues for collection agents and tenants who pay the withholding tax through the PAYE credit system, the role of collection agents in NLWT, and engagement with the NLWT system for collection agents.

No. 195 MyEnquiries Tax and Duty Manuals

The following MyEnquiries manuals have been updated:

- "MyEnquiries" includes an update relating to Revenue's Customer Service Standards (in paragraph 1.3).

- "Access to and Registering for MyEnquiries" includes telephone opening hours for the myAccount registration helpline.
- "MyEnquiries: Submitting and Managing Enquiries in myAccount" incudes updated screenshots for MyEnquiries screens, both for adding a new enquiry and for the messages received when an enquiry is submitted, with internal links added to the text.
- "MyEnquiries: Submitting and Managing Enquiries in ROS" includes updated screenshots, both for adding a new enquiry and for the messages received when an enquiry is submitted. Paragraph 3.4, "Export facility for enquiry thread", is updated to include a link to further information.
- "MyEnquiries – Tracking of Enquiries" includes updated screenshots in paragraph 2.1, "Enquiries Record includes 'status'".
- "Notifications about Enquiries – System Notifications and Replies" includes updated screenshots with messages received as notifications, particularly when referencing Customer Service Standards. Paragraph 6, "Agent e-linking requests sent via MyEnquiries to myAccount customers", is updated to include new information on agent e-linking messages for ROS and myAccount customers.

No. 196 VAT and Employers' Income Tax and Preliminary Income Tax Direct Debit Guidelines

The manuals "VAT and Employers' Income Tax Direct Debit Guidelines" and "Preliminary Income Tax Direct Debit Guidelines" have been updated to reflect the introduction of the new Payments Hub in ROS (previously named Payments and Refunds).

Using the Payments Hub, taxpayers and agents can set up and manage a variable direct debit (VDD) for VAT and a direct debit for payment of preliminary income tax, in addition to managing bank account details for payments and refunds.

Currently only payments for VAT VDD and preliminary income tax direct debit are processed through the Payments Hub and reflected in the Payment Activity screen. This will be expanded in future phases of Revenue's modernisation of its payment systems.

No. 197 Updated Tax and Duty Manuals on Entertainment Expenses

The contents of the manual "Entertainment Expenses – Section 117 Taxes Consolidation Act (TCA) 1997" have been incorporated in the renamed manual "Business Entertainment Expenses Incurred by Directors and Employees".

No. 198 Tax and Duty Manual Part 38-03-33 – Returns by Employers in Relation to Reportable Benefits

The manual "Returns by Employers in Relation to Reportable Benefits – Enhanced Reporting Requirements" has been updated in the following sections.

In section 1, "Introduction", the text confirming that Revenue would not seek to apply penalties for non-compliance in respect of the period 1 July to 31 December 2024 where employers took all reasonable steps to ensure that they complied with the new reporting obligations has been removed and replaced with the following text: "Revenue expects that all employers providing reportable benefits submit details of same on or before the provision of the benefit to the employee."

Section 4.3, "Small Benefit Exemption", includes additional text to confirm that an employer must determine before making any payment or providing a benefit whether it is a taxable or a non-taxable payment. The manual clarifies that if it is taxable, the employer should make the necessary deduction under the PAYE system and report it through payroll. If the benefit meets the conditions to qualify for the small benefit exemption, then the employer must report it to Revenue, in accordance with s897C TCA 1997.

The examples in section 7.2, "Small Benefit Exemption", have been updated, and a new section 8, "Appendix – Frequently Asked Questions", has been added to the manual.

No. 199 Compensation Payments in Respect of Personal Injuries

The manual "Compensation Payments in Respect of Personal Injuries (Exemption of Investment Income)" outlines the exemptions that exist for certain payments received by permanently incapacitated individuals. The manual has been restructured and includes the following updates:

- Section 2: Additional information has been provided in respect of related legislation.
- Section 3: Additional definitions have been included.
- Section 6: The examples have been updated to reflect current payment levels and present information in a more readable format.

No. 200 Tax Treatment of Certain Benefits Payable Under the Social Welfare Acts

The table in the appendix to the manual "Tax Treatment of Certain Benefits Payable Under the Social Welfare Acts" has been updated to reflect the scheme name change from the "Widowed or surviving civil partner grant" to "Bereaved parent grant" as a result of the enactment of the Social Welfare (Bereaved Partner's Pension and Miscellaneous Provisions) Act 2025.

No. 201 Customs Import Procedures Manual

The following amendments have been made to the "Customs Import Procedures Manual":

- The Import Control System (ICS2) information and guidance have replaced the ICS material.
- The postal procedures have been deleted as they are now included in paragraph 1.4 of the manual "VAT eCommerce Rules – Overview".
- A reference to the Carbon Border Adjustment Mechanism (CBAM) has been added to paragraph 9.3.
- General text and formatting amendments have been made throughout the manual.

No. 202 Prompt for Action

Revenue has published a new manual titled "Prompt for Action". The Prompt for Action is an application that enables Revenue to generate bulk ad hoc or bespoke correspondence for issue to specific or target groups of customers, generally via online channels.

No. 203 Completion of Corporation Tax Returns Form CT1 2025

Revenue has published a new manual titled "Completion of Corporation Tax Returns Form CT1 2025". The manual contains information about completing the ROS Form CT1 and updates relating to the Form CT1 2025. Form CT1 for accounting periods ending in 2025 has been available since April 2025 for filing through ROS online and the ROS Return Preparation Facility.

The following updates to the Form CT1 2025 have been included in the manual:

- Updates to the Company Details panel, including De Minimis Aid and Transfer Pricing in paragraph 1.
- Updates to the Trading Results panel, including a new section for lease taxation in s403 and s404 TCA 1997 in paragraph 2.
- Changes to the Extracts from Accounts panel, including text changes for iXBRL filing and Expenses and Deductions for Stock Exchange Listings Expenditure in paragraph 3. In addition, a new field has been added to the Expenses and Deductions section for Stock Exchange Listing expenditure under s81D TCA 1997.
- Changes to the Irish Investment and Other Income panel to include s766C and s766D TCA 1997 in the R&D clawback section in paragraph 4.

- Changes to the Foreign Income panel relating to Foreign Life Policies and Offshore Funds to add two new fields to capture distributions made out of profits and/or assets under s831B TCA 1997 in paragraph 5.
- Changes to the Deductions, Reliefs and Credits panel relating to Stock Exchange Listing Expenditure to include a new field for Stock Exchange Listing expenditure under s81D TCA 1997 in paragraph 7.
- Changes to the Film Relief panel to reflect the Scéal Enhanced Credit that was introduced in Finance Act of 2024 in paragraph 9.
- Clarification around certain fields relating to Lease Taxation.
- Paragraph 8 highlights changes to the Research and Development Tax Credit and Allowances panel.

Paragraph 6 of the manual notes that some practitioners have identified third-party filing software issues with the "Disposal of leased machinery or plant" field in the Capital Gains panel, which mean that they are currently unable to include a negative figure for a net capital loss in the "Net Chargeable Gain or Loss Arising" box.

Where this occurs, practitioners should file a nil return and clarify the proper figure in the notes to the accounts. When the software issue is resolved, practitioners should file an amended return immediately to correct the position.

There is currently no requirement to provide discounted present values of lease payments, and the discount rate used under s299(7)(e) and (8)(e) TCA 1997 in either the ROS filing or the Form CT1. The manual notes that this may be reviewed in the future.

No. 204 PAYE Regulation 16 – Arrears of Pay Being Paid to an Employee Who Has Left an Employment

The contents of the manual "PAYE Regulation 16 – Arrears of Pay Being Paid to an Employee Who Has Left an Employment" have been incorporated in chapter 7.3, "Post Cessation Payments Incorporating Arrears of Pay" of the manual "The Employers' Guide to PAYE with effect from January 2019".

No. 205 Local Property Tax – Finance Act 2025 Update

Revenue updated several LPT-related manuals to reflect changes introduced by the Finance (Local Property Tax and Other Provisions) (Amendment) Act 2025. These changes include:

- revised valuation bands and rate changes for the calculation of LPT liabilities for the year 2026 onwards;
- extension of the four-year valuation period to five years with effect from 1 November 2025 and for all valuation periods thereafter;
- broadening of the exemption from LPT for certain properties that have been damaged by the use of defective concrete blocks in their construction to reflect legislative changes to the Defective Concrete Block Remediation Scheme; and
- reduction of €105,000 in chargeable value of properties adapted for occupation by disabled persons.

Links to the following manuals, which have been updated where necessary, are available in the eBrief:

- "Meaning of a 'Residential Property'",
- "Properties Used for Diplomatic Purposes",
- "Overview of Exempt Properties",
- "Exemption for Residential Properties Fully Subject to Commercial Rates",
- "Exemptions Relating to Long-Term Mental or Physical Infirmity",
- "Exemption for Properties Used for the Provision of Special Needs Accommodation",
- "Exemption for Properties Used by a Charity for Recreational Activities",

- “Exemption for Properties Occupied by Permanently and Totally Incapacitated People”,
- “Exemption for Residential Properties Owned by a North–South Implementation Body”,
- “Exemption for Properties Constructed Using Defective Concrete Blocks”,
- “The Valuation of a Residential Property”,
- “Change of Liable Person During a Valuation Period”,
- “Properties Adapted for Occupation by Disabled Persons – Reduction in Chargeable Value” and
- “Surcharge (Income Tax, Corporation Tax, Capital Gains Tax)”.

Direct Tax Cases: Decisions from the Irish Courts and Tax Appeals Commission Determinations

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	Topic	Court
01	**Income Tax – "Valid Claim" for Refund under s865 TCA 1997 – Information Already in Revenue's Possession: *McNamara (Deceased) v Revenue Commissioners* [2025] IEHC 507**	High Court
02	**Capital Gains Tax – Conveyance Reserving Life Interest – Pre-2009 Settlements: *O'Dwyer v Revenue Commissioners* [2025] IEHC 490**	High Court
03	**Income Tax – Joint Assessment – Non-Resident Spouse: 192TACD2025**	Tax Appeals Commission
04	**PAYE/Income Tax – State Contributory Pension Arrears – Year of Assessment: 212TACD2025**	Tax Appeals Commission
05	**Dividend Withholding Tax and Income Tax – s130(3)(a) TCA 1997 Distribution – Share Valuation: 204TACD2025**	Tax Appeals Commission

01 Income Tax – "Valid Claim" for Refund under s865 TCA 1997 – Information Already in Revenue's Possession: *McNamara (Deceased) v Revenue Commissioners* [2025] IEHC 507

In this case, an appeal by case stated from the Tax Appeals Commission (TAC), the High Court considered whether a taxpayer had submitted a valid claim for a refund of tax under s865 TCA 1997. The taxpayer was non-tax resident in 2011. His gross salary was approximately €124,000, and his employer deducted €40,892 in PAYE. However, only €8,642 of his income was correctly within the charge to Irish tax.

In November 2012 the taxpayer filed a Form 11 return showing a liability of €168. On 30 December 2015 his agent attempted to file an amended Form 11 to claim the benefit of the PAYE tax deducted and obtain a refund. However, this amended return showed PAYE deducted as €8,641.90 (€0.10 less than his taxable income) because the Revenue Online Service (ROS) would not accept the correct figure of €40,892 (the system rejected entries where PAYE exceeded gross Irish salary). Owing to these technical issues the amended return was submitted as a PDF document via MyEnquiries, and the agent sought to address the point in a cover letter uploaded with that amended return.

At the TAC hearing the agent also gave evidence that he had attempted to include a note regarding the correct figure in the

"expression of doubt" panel of the return, but the Commissioner had found that those details were not recorded in the version of the return that had been submitted to Revenue.

Revenue issued an assessment on 6 January 2016 based on the €8,641.90 figure in the PAYE deducted panel and refunded the taxpayer €15,109.

On 22 December 2016 the agent sent a MyEnquiries message setting out that the actual PAYE deducted was €40,892, and on 24 February 2017 Revenue issued an amended assessment reflecting the €32,251 overpayment, but it refused to process that refund on the basis that it was outside the four-year time limit prescribed by s865(4) TCA 1997.

The taxpayer appealed to the TAC, arguing that the 30 December 2015 return constituted a valid claim within the four-year period. The Commissioner dismissed the appeal, finding that the taxpayer had failed to provide Revenue with all of the information that it reasonably required to establish entitlement to repayment within the four year time-limit.

The taxpayer appealed the TAC's determination to the High Court. The questions before the High Court were:

- Had the Commissioner erred in finding that the appellant failed to provide the respondent with all of the information that it reasonably required to establish the entitlement to repayment within four years?
- Had the Commissioner erred in finding that the claim was outside the s865(4) time limit?

Kennedy J allowed the appeal. Answering both questions in the affirmative, the High Court held that the appellant had provided all of the information that Revenue reasonably required within the time limit and that the 30 December 2015 return constituted a valid claim.

The court noted that the only missing information from the return was readily available to Revenue via the employer's PAYE returns and further noted that although s865 requires "all information" that Revenue may "reasonably require" to be made available to it, the section does not expressly indicate (1) whether it must be furnished by the taxpayer directly (Kennedy J stated "I do not think it does") and (2) whether, if Revenue already has the necessary information to enable it to reach a determination, the information must still be provided by the taxpayer within the prescribed time period in order to support a valid claim. In respect of the latter point the court concluded that where Revenue has such information from an authoritative source (e.g. the employer's PAYE filings) and is so aware, it does not reasonably need to be provided with that information again by the taxpayer.

02 Capital Gains Tax – Conveyance Reserving Life Interest – Pre-2009 Settlements: *O'Dwyer v Revenue Commissioners* [2025] IEHC 490

This case considered the effect of a pre-2009 deed of settlement for CGT purposes. The facts of the matter were that by a deed of settlement in 1986 the appellant's father had conveyed property to her in fee simple but retained for himself a right of residence, as well as the right to any rents or profits from that property.

In 2006 the property was sold for €4.5m, with both father and daughter named as vendors (the father having joined to release his reserved rights). The property had been used 60% as a principal private residence, 25% as commercial units and 15% as office space. No CGT was paid in 1986 or 2006.

Revenue raised a CGT assessment against the appellant in the sum of €431,230 in respect of the 2006 disposal on the basis that she had acquired the property beneficially in 1986 and

disposed of it in 2006. The appellant appealed, arguing that the property was "settled property" within the meaning of Chapter 3 Part 19 TCA 1997, such that her father retained the beneficial interest as life tenant and she held only a bare legal title as trustee.

The taxpayer was unsuccessful in her appeal before the Tax Appeals Commission and appealed that determination to the High Court. The questions before the High Court on case stated were:

- Had the Commissioner erred in holding that the property was not "settled property" for CGT purposes, notwithstanding the authority of *National Bank v Keegan* [1931] IR 344 that an exclusive right of residence over unregistered land created an equitable life estate (before the Land and Conveyancing Law Reform Act 2009)?
- Had the Commissioner erred in holding that the appellant acquired both the legal and the equitable interest in 1986, subject to a burden of her father's rights, such that the essential characteristics of a trust were absent.

Kennedy J held in favour of the taxpayer and allowed her appeal by answering both questions in the affirmative.

The court held that, on the authority of the *Keegan* case, the property had become settled property within the meaning of the Settled Land Act 1882. As a result, the father retained a lifetime equitable interest, and the daughter acquired only the legal title.

Applying the contextual interpretation principles set out in *Raymond Tooth v HMRC* [2021] UKSC 17, the court held that the indenture must be read as a whole. When so read, it showed that the father retained beneficial ownership for his lifetime as he had a full right of residence, and all rents and profits were reserved to him. The daughter had no right to access, use, benefit from, or derive income from the property during her father's lifetime. The effect of the document was that only a legal title had transferred to the appellant, and the beneficial ownership of the property remained with the father until his death or the surrender of his rights.

The court held that *National Bank v Keegan* remained binding authority (at least as regards pre-2009 settlements) for the proposition that an exclusive right of residence creates an equitable life estate. As the settlement occurred in 1986, it pre-dated the introduction of the Land and Conveyancing Law Reform Act 2009, and so the court held that the changes introduced by that Act (which, among other things, deprived the right of residence of its previous character as a life estate) were not applicable to the facts.

The court also found that the characteristics of a trust were present in the settlement. It noted that legal title was in one person (the daughter as trustee) whereas the benefit was in another (the father as life tenant). The court also found that the element of "bounty" (as identified in *Plummer v CIR* [1979] 54 TC 1) was present in that the property had been settled on the daughter in 1986 in consideration of "natural love and affection".

03 Income Tax – Joint Assessment – Non-Resident Spouse: 192TACD2025

This Tax Appeals Commission (TAC) determination considered the entitlement of a married couple to avail of the joint assessment basis and married tax credits in circumstances where one spouse was working abroad and claiming to be non-resident in Ireland for tax purposes.

The appellant and her spouse had elected for the joint assessment basis in 2016. In 2023 it came to Revenue's attention that the appellant's spouse was residing abroad, and Revenue subsequently issued amended statements of liability for the years 2020, 2021 and 2022 to assess the additional tax that

would have arisen if the appellant had been on the separate assessment basis.

The question before the TAC was whether joint assessment and married credits applied for the years 2021 to 2022, notwithstanding that the appellant's spouse was non-resident and did not have any income within the charge to Irish tax.

The Commissioner considered the residence test (s819 TCA 1997), non-resident relief limits (s1032 TCA 1997), personal credits (s461 TCA 1997), living together requirement (s1015 TCA 1997), joint assessment framework (ss1016–1019 TCA 1997), Revenue's Tax and Duty Manual Part 44-01-01 and the High Court's judgment in *Fennessy v McConnellogue* [1995] ITR 133.

The Commissioner held, in dismissing the appeal, that *Fennessy v McConnellogue* is authority for the position that joint assessment cannot apply to a case in which one spouse is non-resident and has no income assessable in the State.

04 PAYE/Income Tax – State Contributory Pension Arrears – Year of Assessment: 212TACD2025

In this case the Tax Appeals Commissioner considered in which tax year arrears of the State Contributory Pension should be assessed. The appellant was entitled to claim the State Contributory Pension from 2 August 2022 but did not claim her entitlements until February 2023. In June 2023 arrears of €6,930 were paid in respect of 2022, and a further €2,011 in arrears was paid in respect of January and February 2023. She received regular pension payments from March 2023.

Subsequently, Revenue issued amended statements of liability, which allocated the pension receipts between the tax years 2022 and 2023 and resulted in a net liability due from the taxpayer of €1,587. The question before the TAC was whether the 2022 pension arrears were taxable in 2022, when the entitlement arose, or in 2023, when the payment was received.

The Commissioner held, in dismissing the appeal and upholding Revenue's statement of liability, that as State Contributory Pension was subject to tax under Schedule E, that it followed per s112(1) TCA 1997 that it fell to be computed as if it were received in 2022, despite the fact that the appellant had not claimed her entitlements or received the arrears until 2023.

The determination clarifies that State pension arrears are taxable in the year in which the entitlement arises rather than the year of receipt.

05 Dividend Withholding Tax and Income Tax – s130(3)(a) TCA 1997 Distribution – Share Valuation: 204TACD2025

In this joined appeal an individual and his company appealed tax assessments to income tax and dividend withholding tax (DWT) that had been raised by Revenue in response to a set of transactions carried out by the parties in December 2015.

The facts of the matter were that:

- On 17 December 2015 the individual took out a loan of €200,000 from an Irish company ("Company C") and used it to subscribe for redeemable non-voting

preference shares in an Isle of Man company ("Company B").

- On 31 December 2015 he transferred those shares to his Irish company ("Company A") for €200,000, which was used to offset his existing director's loan account with that company (of €165,397), leaving him with a net credit balance of €34,603.

Revenue treated the €200,000 that Company A paid for the preference shares as a distribution, arguing that the true market value of those preference shares was nil, such that the individual received a benefit exceeding new consideration provided by him. Accordingly, Revenue treated the transaction as giving rise to a deemed distribution under s130(3)(a) TCA 1997 and assessed the individual to income tax and the Irish company to DWT.

The question before the Tax Appeals Commission (TAC) was whether the consideration the individual received (i.e. the €200,000 adjustment to the director's loan account) exceeded the value of the asset he had provided (the preference shares transferred), so as to give rise to a distribution.

This was essentially a valuation question, and the Commissioner noted that per statute (s547 TCA 1997) and case law (*AG v Jameson* [1905] IR 218; *Lynal CA* [1969] 3 WLR 984; *IRC v Gray* [1994] STC 360) it had been established that the market value of an asset means the highest achievable price that a hypothetical willing buyer would pay to a hypothetical willing seller in the open market.

The parties had each presented expert valuation evidence to the TAC. However, the TAC found that Revenue's expert valuation was flawed in that it had not assumed that a sale was possible and so had not applied the statutory hypothesis correctly. In this regard the Commissioner held that one must assume that there was a market for the shares and then value them accordingly. In contrast, the Commissioner held that the appellant's expert valuation had applied the statutory hypothesis correctly. Accordingly, the TAC accepted the appellants' expert's evidence and found that the appellants had discharged their burden of proof.


Direct Tax Cases: Decisions from the UK Courts

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	Topic	Court
01	**Income Tax – Sponsorship Payments**	First-tier Tribunal
02	**CGT – Termination Fee**	First-tier Tribunal
03	**Income Tax – Trade Benefit Test**	First-tier Tribunal

01 Income Tax – Sponsorship Payments

The First-tier Tribunal (FTT), in the case of *P Collingwood v HMRC* [2025] UKFTT 1065 (TC) (28 August), rejected an appeal by a former professional cricketer against amendments made by HMRC to his tax returns. The FTT determined that the taxpayer was liable for income tax on sponsorship payments, even though he had attempted to transfer his publicity rights to his personal company.

HMRC argued that the income was taxable on the player personally, because either he was the person "receiving" or "entitled to" the profits or, alternatively, the income was employment income. The FTT sided with HMRC, concluding that the taxpayer was the proper recipient of the income. Crucially, the FTT found several flaws in the purported assignment to the company:

- No right to provide services: The assignment documents did not grant the company the right to provide the taxpayer's services; the performance remained personal to the cricketer.
- Invalid assignment: Two of the sponsorship agreements specifically required the sponsor's written consent for assignment, and the taxpayer failed to provide any evidence that this consent was obtained, rendering the attempted transfer invalid.
- Lack of company involvement: The agreements never suggested the taxpayer was acting as an agent for the company. Furthermore, there was no proof that the company was actively involved in the arrangements or that the payments were even deposited into the company's bank account, despite being recorded in its accounts.

The FTT concluded that the payments were inherently the taxpayer's income, irrespective of the company's existence. The appeal was ultimately dismissed.

02 CGT – Termination Fee

In *Dialog Semiconductor Ltd v HMRC* [2025] UKFTT 1188 (TC) HMRC disputed the tax treatment of a US$137.3m termination fee that the taxpayer received after a merger agreement with Atmel, a US corporation. The core issue heard before the First-tier Tribunal (FTT) was whether this fee constituted a chargeable disposal of assets under the UK equivalent of s535(2)(a)(iii) TCA 1997 (which deals with the forfeiture or surrender of rights).

The taxpayer initially filed its tax return without accounting for a capital gain on the fee. When HMRC issued a closure notice arguing that the sum was chargeable, the company appealed.

The taxpayer contended that the fee was not paid "in return for" the surrender of any rights. Instead, the payment was simply a mechanism to execute the terms of the existing merger agreement. Consequently, it argued, the fee did not represent a disposal of an asset for capital gains tax (CGT) purposes.

The FTT ultimately allowed the taxpayer's appeal concerning this specific point. It determined that, when "viewed realistically", the fee was indeed received by the taxpayer "in return" for losing its rights under the merger agreement. However, the tribunal's analysis was crucial: the taxpayer forfeited nothing and took no action to cause the loss of its rights.

The loss of rights occurred because Atmel accepted a superior takeover offer, and the taxpayer was unable to exercise its "matching rights" (a right to match the superior offer). Because the taxpayer did not actively surrender or forfeit its rights, the FTT concluded that the specific provision, the UK equivalent of s535(2)(a)(iii) TCA 1997, did not apply to the termination fee.

The tribunal explicitly cautioned that its decision was not definitive "authority" that the fee would escape CGT entirely, as it had been asked to rule only on the applicability of the UK equivalent of s535(2)(a)(iii) TCA 1997.

However, because HMRC had agreed to withdraw the closure notice if the preliminary issue was resolved in the taxpayer's favour, the FTT's ruling meant that no further tax was due from the taxpayer in respect of this matter.

03 Income Tax – Trade Benefit Test

In the case of *J Boulting v HMRC* [2025] UKFTT 1272 (TC) (24 October) the First-tier Tribunal (FTT) ruled in favour of the taxpayer, holding that a payment made to him by his company for the purchase of its own shares qualified entirely as a capital payment, not an income distribution.

The dispute revolved around whether the company's buyback of its shares met the "trade benefit test" set out in a UK provision similar to s176 TCA 1997. This test requires the transaction to be carried out "wholly or mainly for the purpose of benefiting a trade" conducted by the company or its 75% subsidiaries. If this test is satisfied, the shareholder is taxed under the more favourable capital gains tax regime; otherwise, the payment is treated as a dividend (an income distribution).

The facts leading to the share purchase were largely agreed on:

- Dispute resolution: The company was experiencing management disagreements regarding its strategic direction, specifically concerning investment in fixed assets and IT infrastructure.

- Facilitating exit: The share purchase was executed as the mechanism to resolve these disputes by enabling the appellant, Mr Boulting, to retire and exit the business entirely.
- The transaction: The company acquired eight of Mr Boulting's shares for £4.8m. He disposed of his remaining shares to family members via gift or transfer. HMRC had initially granted clearance for capital treatment under s1033 of the Corporation Tax Act 2010.

HMRC later reversed its position, arguing that the trade benefit test was not met. It contended that the true purpose of the purchase was to allow Mr Boulting to extract the company's cash reserves for his personal benefit, regardless of the shares' value, or to reward him for his past investment. HMRC also relied on its guidance in Statement of Practice 2/1982, paragraph 3, which suggests that buying only a portion of a shareholder's stake is usually inconsistent with satisfying the trade benefit test.

The FTT sided with Mr Boulting, rejecting HMRC's interpretation of the law and the facts. The tribunal clarified that the legislation demands a focus on the company's purpose for making the purchase, not solely on the amount of the payment or the small number of shares acquired (although payment may be a relevant factor). Furthermore, the relevant intent is that of the company, not the departing shareholder.

The FTT dismissed HMRC's attempt to view the eight-share purchase in isolation from the gift of the remaining shares. It recognised that the overall purpose was to achieve a complete severance from the business to resolve the management impasse.

The FTT concluded that the company's purpose was definitively to benefit the trade by securing Mr Boulting's exit, thereby eliminating the detrimental management disputes. Although the company knew that Mr Boulting wanted a good valuation, the FTT found that this was merely his motivation and not an objective or purpose of the company's directors in undertaking the purchase.

The FTT held that the final valuation being higher than independent expert advice was not, by itself, sufficient evidence to prove that the company's purpose was cash extraction rather than trade benefit. It also dismissed HMRC's reliance on the Statement of Practice, stating that the guidance applies to situations where a shareholder retains a balance of their shares but it offers no guidance for cases such as this, where the shareholder disposes of substantially all of their shares in connected transactions.

The FTT therefore ruled that the buyback satisfied the trade benefit test, and Mr Boulting's appeal was allowed.


International Tax Update

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01 BEPS: Pillar Two Recent Developments

Recent Pillar Two legislative updates

The Pillar Two legislative landscape is complex and rapidly changing as jurisdictions continue to implement and update Pillar Two rules and introduce local compliance requirements. Below are some recent and upcoming requirements for groups with calendar year-ends.

Registration and notification requirements

- Kuwait: Notification of entities in scope was due by 30 September 2025. Registration due nine months from the date the local Pillar Two rules apply.
- Vietnam: Registration due by 31 December 2025. One-off registration generally due within 90 days from the fiscal year-end. However, this is extended for groups whose first financial year in scope ends on or before 30 June 2025. The extended deadline is the earlier of 13 January 2026 (90 days from the Decree's effective date of 15 October) and the relevant QDMTT filing deadline (12 months after the year-end).
- Guernsey: Notification of entities in scope due by 31 December 2025. Registration due the later of 12 months from the start of the first fiscal period beginning on or after 1 January 2025 and six months from the date the entity becomes a member of a qualifying MNE group.
- Ireland: Notification of entities in scope due by 31 December 2025. Registration due 12 months after the end of the first period in scope.

- Liechtenstein: Notification of entities in scope due by 31 December 2025. Registration due 12 months after the end of the first fiscal year in scope.
- Portugal: Notification of entities in scope due by 31 December 2025. Pre-filing notification due on the last day of the ninth month after the end of each fiscal year, or the twelfth month for the first year in scope.
- South Africa: Notification of entities in scope due by 31 December 2025. Registration and nomination of filing entity due six months before the due date of the GloBE return, which means nine months after the end of the relevant fiscal year, or twelve months for the first year in scope.

Qualified domestic minimum top-up tax filing requirements

- Hungary: Hungarian constituent entities that are part of multinational groups subject to the GloBE rules were required to submit their Hungarian QDMTT advance return for the fiscal year ending 31 December 2024 by 20 November 2025. Opting to apply the transitional CbCR safe harbour does not exempt entities from the obligation to file the Hungarian QDMTT advance return. The advance payment must correspond to the full annual QDMTT liability.
- Belgium: QDMTT return due 30 November 2025. The deadline for the Belgium QDMTT return is 11 months after the end of the fiscal year.
- Turkey and Vietnam: QDMTT return due 31 December 2025. The deadline for the QDMTT returns in Turkey and Vietnam is 12 months after the end of the fiscal year.

Legislation news

- Czech Republic: As of 3 September the law has been amended so that the deadline for the QDMTT Information Return is now 15 months from the end of the fiscal year (18 months for the first period) and the deadline for the QDMTT return is now 22 months. For calendar year-end groups, the deadlines are therefore 30 June 2026 and 2 November 2026, respectively.
- Korea has released draft QDMTT legislation as part of the 2025 Tax Reform Proposal. This will apply to financial years beginning from 1 January 2026.
- Mauritius has introduced QDMTT legislation applying to the year of assessment commencing 1 July 2025.
- Vietnam has extended its one-off registration deadline for groups whose first financial year in scope ends on or before 30 June 2025, as referenced above. Please note that the deadline for the notification of the filing constituent entity has not been extended.

OECD recognises Brazil's additional CSLL as a QDMTT

On 18 August 2025 the OECD officially recognised Brazil's additional social contribution on net profits (CSLL), established under Law No. 15,079/2024, as a qualified domestic minimum top-up tax (QDMTT). This tax was confirmed to satisfy the requirements for the QDMTT safe harbour starting from 1 January 2025.

This recognition represents an important step in Brazil's alignment with the global Pillar Two framework. It also resolves earlier concerns regarding possible inconsistencies with OECD standards, confirming that Brazil's tax approach is well aligned with international norms.

For multinational enterprises operating in Brazil and subject to Pillar Two regulations, this development offers significant relief regarding compliance. Jurisdictions applying either the income inclusion rule or the undertaxed profits rule will be prevented from duplicating efforts in calculating top-up taxes using alternative methods, thereby avoiding double taxation.

With Brazil now granted QDMTT safe harbour status, multinational groups with operations in the country need to ensure that their Pillar Two calculations are consistent with Brazil's framework and the specific provisions of the additional CSLL.

02 OECD Tax Developments

OECD publishes Inclusive Framework stocktake report on the BEPS Initiative

On 15 October 2025 the OECD Inclusive Framework published a report titled "A Decade of the BEPS Initiative: An Inclusive Framework Stocktake Report to G20 Finance Ministers and Central Bank Governors". This report reviews the progress made over the past ten years in implementing the Base Erosion and Profit Shifting (BEPS) Package and assesses the economic effects of these reforms. It concludes that substantial advancements have been achieved in applying the four BEPS Minimum Standards – Action 5 (addressing harmful tax practices), Action 6 (preventing tax treaty abuse), Action 13 (country-by-country reporting) and Action 14 (mutual agreement procedures) – alongside widespread and effective adoption of non-minimum standards.

The report presents evidence of the BEPS initiative's positive outcomes, such as improved alignment between profits and economic substance, reduced sensitivity of profit location to tax rates, stabilisation of statutory corporate tax rates over the past five years, enhanced transparency in multinational tax planning, and increased use of mutual agreement procedures to resolve disputes. Nevertheless, it acknowledges that further efforts are needed, noting that taxation still does not fully correspond with where value is created.

OECD publishes third batch of updated transfer pricing country profiles with new insights on hard-to-value intangibles and simplified distribution rules

On 22 October 2025 the OECD released the third batch of updated transfer pricing country profiles, reflecting the current transfer pricing legislation and practices across 25 jurisdictions. This update notably includes, for the first time, profiles for Cabo Verde, Guatemala, Thailand, the United Arab Emirates and Zambia. With this release, the total number of countries and jurisdictions covered by the OECD's transfer pricing country profiles reaches 83, with a fourth and final batch scheduled for publication in December 2025 to complete the year's update cycle.

These country profiles provide detailed insights into key aspects of each jurisdiction's domestic transfer pricing framework. They cover fundamental principles such as the arm's-length principle, transfer pricing methods and comparability analysis, treatment of intangible property, intra-group services, cost contribution agreements, documentation requirements, and administrative approaches to dispute avoidance and resolution. Additionally, the profiles address safe harbours and other implementation measures specific to each jurisdiction.

A significant enhancement in this third batch is the inclusion of new sections on the transfer pricing treatment of hard-to-value intangibles and the simplified, streamlined approach for baseline marketing and distribution activities. These additions stem from the OECD's work on Amount B, part of the Two-Pillar Solution designed to address tax challenges arising from the digitalisation of the economy. Amount B aims to provide a fixed return for baseline marketing and distribution activities, simplifying transfer pricing compliance in this area.

The information contained in the profiles is provided directly by the countries themselves through a detailed transfer pricing questionnaire, ensuring a high level of accuracy and reliability.

OECD Framework for the Automatic Exchange of Readily Available Information on Immovable Property for Tax Purposes

On 15 October 2025 the OECD released a report entitled "Framework for the Automatic Exchange of Readily Available Information on Immovable Property for Tax Purposes". This report presents the text of a voluntary competent authority agreement known as the Multilateral Competent Authority Agreement on

the Exchange of Readily Available Information on Immovable Property (IPI MCAA). The agreement is designed to enable tax authorities in participating jurisdictions to exchange "readily available information" related to immovable property transactions, ownership and recurring income. The IPI MCAA offers two optional modules for jurisdictions to adopt. The first module addresses ownership transparency, involving a one-time exchange of data on immovable property holdings followed by annual automatic exchanges concerning acquisitions. The second module aims to improve transparency regarding income derived from immovable property, with annual automatic exchanges covering disposals and recurring income.

Continued advancements in country-by-country reporting

The OECD has published the latest findings on the implementation of BEPS Action 13, demonstrating notable advancements in improving transparency regarding the global activities of large multinational enterprises (MNEs). Key highlights include:

- Legislation requiring CbC reporting has been enacted by more than 120 jurisdictions, covering nearly all MNE groups with consolidated revenues of €750m or more. Remaining members of the Inclusive Framework are in the process of finalising their legal frameworks with OECD assistance.
- In jurisdictions where such legislation is in place, the implementation of CbC reporting largely aligns with the minimum standard set out in Action 13.
- More than 4,900 bilateral agreements for the exchange of CbC reports have been established.
- The peer-review process is conducted annually, with the next evaluation report scheduled for the third quarter of 2026.

Revised BEPS Action 5 Transparency Framework on Tax Rulings

The BEPS Action 5 minimum standard encompasses the requirement for the spontaneous exchange of information on tax rulings, known as the "transparency framework". As part of its continuous oversight, the Inclusive Framework has conducted a review to assess the effectiveness of this transparency framework, in accordance with the mandate outlined in the Revised BEPS Action 5 Transparency Framework on Tax Rulings. This evaluation has led to several modifications aimed at improving its effectiveness.

The first section of the report presents the findings from this review, including a summary of the updates made to the transparency framework. Furthermore, the report introduces revised terms of reference that will apply starting with the 2025 review cycle, along with an updated assessment methodology for peer reviews commencing in 2026.

The second section details the updated Exchange on Tax Rulings (ETR) XML Schema and the accompanying User Guide, which incorporate necessary technical adjustments following the effectiveness review. The updated ETR XML Schema is scheduled to be implemented for all exchanges beginning 1 January 2027.

OECD: 2024 MAP and APA statistics released

The OECD has published its 2024 data on mutual agreement procedures (MAPs) and advance pricing agreements (APAs), offering insights into how tax authorities handle treaty-related disputes. After a slight decline in 2023, the number of unresolved MAP cases rose by 4% in 2024. The average time taken to resolve MAP cases remained steady at 27.4 months. Regarding APAs, there was a 3% increase in pending applications. Globally, 845 APAs were approved during the year, with the average approval time rising from 36.8 months in 2023 to 39.6 months in 2024. Additionally, the OECD announced the 2024 awards for MAP and APA performance, recognising the US as the most improved jurisdiction for MAPs and Ireland for APAs.

03 EU Tax Developments

European Parliament's Subcommittee on Tax Matters discusses implications of US tax policies for competitiveness of EU businesses

On 23 September 2025 the European Parliament's Subcommittee on Tax Matters (FISC Subcommittee) convened a public hearing titled "Tax Implications of the Trump Administration's Policies". The session brought together experts from the European Commission, alongside representatives from the private sector and academia, to evaluate recent changes in US tax policies and their potential impact on the competitiveness of EU businesses, as well as to explore possible policy responses at the EU level.

During the hearing, experts provided an overview of the relevant US tax regulations, highlighting differences from the OECD's Pillar Two framework. They also discussed the effects of the "side-by-side system", which fully exempts US-parented multinational groups from the income inclusion rule and the undertaxed profits rule, acknowledging the existing US minimum tax regime.

The panel emphasised the need to protect the competitiveness of European companies and to prevent US firms from gaining an "unfairly advantageous" position due to the way tax rules are applied. In particular, Mr Benjamin Angel, Director for Direct Taxation, Tax Coordination, Economic Analysis and Evaluation at the European Commission's Directorate-General for Taxation and Customs Union (DG TAXUD), stressed the importance of establishing safeguards given the uncertainties surrounding the implementation of the "side-by-side system" and potential future changes in US tax policy. Alongside monitoring and reacting to international developments, several experts highlighted that simplifying tax regulations and removing existing tax obstacles within the EU would significantly strengthen the competitiveness of European businesses.

European Commission unveils 2026 Work Programme

On 21 October 2025 the European Commission unveiled its 2026 Work Programme, titled "Europe's Independence Moment", during a session at the European Parliament in Strasbourg. The programme confirms several legislative initiatives of significant interest to tax professionals for the year ahead. These include the introduction of a 28th corporate regime aimed at innovative companies in the first quarter, a streamlined omnibus taxation proposal planned for the second quarter, a skills portability initiative set for the third quarter, and revised shareholder rights regulations expected in the fourth quarter. Additionally, evaluations of two important Directives – the Shareholders' Rights Directive and the Whistleblower Protection Directive – are scheduled for the year's end.

The Commission intends to withdraw several longstanding tax proposals that have been stalled in the Council of the European Union. Among these are the 2013 proposal for a Directive on enhanced cooperation regarding the financial transaction tax, the 2021 proposal for a Directive to prevent the misuse of shell entities for tax purposes (UNSHELL), the 2022 proposal for a Directive addressing debt–equity bias reduction and limiting interest deductibility for corporate tax purposes (DEBRA), and the 2023 proposal for a Directive on transfer pricing.

EU leaders reaffirm commitment to simplification agenda

At a meeting held in Brussels on 23 October 2025 EU leaders reiterated their strong dedication to promoting an ambitious and comprehensive agenda focused on simplification and improved regulation. While acknowledging the progress made so far, they called on the Commission and co-legislators to expedite work on all initiatives related to simplification and competitiveness. The

European Council urged the rapid adoption of additional omnibus packages covering sustainability reporting, due diligence, small and mid-cap enterprises, and digitalisation. It also requested the Commission to introduce promptly an optional 28th company law regime designed to support the growth of innovative businesses. Highlighting the importance of avoiding over-regulation and excessive administrative burdens – particularly for SMEs – EU leaders endorsed a "simplicity by design" principle and encouraged legislative restraint.

Last, they asked the Commission to seek further opportunities to simplify regulations and enhance competitiveness, streamline planning and permitting processes, intensify efforts on delegated and implementing acts, and consider withdrawing proposals when appropriate.

04 Netherlands: Withholding Tax Decree (October 2025) and 2026 Tax Plan

Revised Dutch withholding tax procedures (effective 28 October 2025)

The Dutch State Secretary for Finance issued a revised decree that standardises procedures for claiming exemptions or refunds of Dutch withholding tax under tax treaties, specifically for qualifying and portfolio dividends and interest. Notably, this decree excludes the Netherlands–United States Income Tax Treaty (1992) and the Curaçao–Netherlands Income, Inheritance and Gift Tax Arrangement (2013).

Key changes include:

- The special refund process for Dutch dividend withholding tax on portfolio dividends has been discontinued. Instead, a general refund procedure applies, allowing residents to reclaim excess dividend withholding tax if all treaty conditions are met. Importantly, applicants must now submit a residence certificate no older than two years to confirm residency in the treaty country.
- Requests for exemption on qualifying dividends must include the company's tax identification number, ensuring clearer identification and compliance.
- Refund applications for qualifying dividends are now to be submitted to the Tax and Customs Administration's Arnhem office, specifically the Dividend Tax Team.
- The APA/ATR team inspector at the Large Enterprises division (Rotterdam office) no longer has authority over refund requests for qualifying dividends under the Netherlands–Curaçao Tax Regulation, centralising decision-making.
- The decree removes the outdated clause allowing existing decisions to remain valid for up to four years from 4 February 2015.
- The government no longer supplies forms free of charge on request, as these are now readily accessible online via the Tax and Customs Administration's website.

These changes reflect a move towards streamlining and digitalising tax refund processes, reducing administrative burdens and enhancing transparency. The requirement for a recent residence certificate strengthens anti-abuse measures, ensuring that only eligible taxpayers benefit from treaty relief. Centralising refund applications and removing obsolete provisions further improve procedural clarity.

Highlights of 2026 Dutch Tax Plan (announced 16 September 2025)

The Dutch Government's 2026 Tax Plan introduces several significant tax measures effective from 1 January 2026, focusing on corporate income tax, personal income tax,

wage tax and indirect taxes. Key proposals include:

- Heavier taxation of "Box 3" income: Savings and investment income (Box 3) will face increased taxation, signalling a policy shift to generate more revenue from wealth.
- Scaling back expat benefits: The Government plans to reduce certain tax advantages previously available to expatriates, aligning with broader international trends to tighten expat tax regimes.
- Implementation of DAC9: The plan includes measures to implement the EU Directive on administrative cooperation, enhancing transparency and information exchange on digital platform operators.
- Separate Bills: Alongside the main tax plan, Bills are proposed to:
  - maintain the reduced 9% VAT rate for sports, culture and media sectors;
  - implement OECD guidance related to the Global Anti-Base Erosion Model Rules (Pillar Two) in Dutch law; and
  - ensure that the Carbon Border Adjustment Mechanism operates effectively from 1 January 2026.

The 2026 Tax Plan reflects the Dutch Government's commitment to modernising the tax system in line with international standards and sustainability goals. The heavier Box 3 taxation and scaling back of expat benefits may impact wealth management and international mobility strategies for individuals and companies. The implementation of DAC9 and Pillar Two rules demonstrates alignment with EU and OECD initiatives to combat tax avoidance and promote transparency. Maintaining reduced VAT rates for cultural sectors supports social and economic objectives.

05 Australia: High Court Decides in Favour of PepsiCo

PepsiCo has successfully appealed a protracted dispute with the Australian Taxation Office concerning royalty tax obligations. The case addressed two key issues: the applicability of royalty withholding tax and the diverted profits tax. This dispute was particularly significant as it questioned established principles around defining and classifying a "royalty" and marked the first time that the diverted profits tax was examined by the judiciary.

In a narrow, 4–3, decision in *Commissioner of Taxation v PepsiCo, Inc* [2025] HCA 30 (delivered on 13 August 2025), the High Court of Australia affirmed the Full Federal Court's June 2024 ruling. The court determined that the Australian bottler's payments for beverage concentrate did not attract royalty withholding tax and rejected the alternative argument that the transaction should be subject to diverted profits tax.

06 India: Landmark Supreme Court Ruling on Permanent Establishment

In August 2025 the Supreme Court of India delivered a significant judgment in the case of *Hyatt International Southwest Asia Ltd*, a UAE-based company, which has important implications for the interpretation of permanent establishment (PE) under the India–UAE double taxation avoidance agreement (DTAA).

Background

Hyatt entered into a 20-year strategic oversight services agreement with Asian

Hotels Ltd, an Indian company managing two hotels. Under this agreement Hyatt provided strategic planning, operational guidance and know-how, including input on design, recruitment, marketing and financial policies. Hyatt's employees made occasional visits to India, but none exceeded the nine-month threshold specified under Article 5(2)(i) of the India–UAE DTAA.

Supreme Court observations

The court emphasised that the long-term nature of the contract and continuous involvement of Hyatt's personnel in India demonstrated permanence and business continuity, even though the physical presence threshold was not met. It ruled that the absence of a dedicated office or formal rights was not decisive in determining the existence of a PE.

Key points included:

- Hyatt exercised control over critical hotel functions such as human resources, marketing, procurement and pricing.
- The company had the right to appoint and manage senior personnel.
- Fees paid to Hyatt were linked to the hotel's revenues and profits, indicating deep operational and financial involvement.

The court held that PE profits are taxable in India even if the foreign entity incurs global losses.

This ruling signals a shift towards a "substance over form" approach in assessing PE risk, focusing on actual control and operational involvement rather than formal contractual terms or physical presence alone.

07 Kenya: Significant Economic Presence Tax Introduced

The Kenyan Government has issued draft regulations introducing the significant economic presence (SEP) tax, which supersedes the earlier digital service tax. This tax targets non-resident companies offering digital services to users based in Kenya.

The SEP tax is levied at 30% on the deemed taxable profit, which is calculated as 10% of the gross revenue generated from various digital services, such as downloadable content, streaming services, software applications, cloud computing and online marketplaces. A non-resident entity is considered to have a significant economic presence if it supplies digital services to Kenyan users.

Entities without a permanent establishment in Kenya are required either to register for the tax or to designate a tax representative.

VAT Cases & VAT News

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VAT Cases

01 Margin Scheme – Concept of "Supply of a Work of Art by the creator": CJEU Judgment

On 1 August 2025 the CJEU delivered its judgment in the case of ***Galerie Karsten Greve v Ministère de l'Économie, des Finances et de la Souveraineté industrielle et numérique***C433/24. The case arose out of proceedings between Galerie Karsten Greve (GKG) and the French Ministry of Economic Affairs, Finance and Industrial and Digital Sovereignty, which levied additional VAT assessments on GKG. GKG operates as an art gallery and supplied works of art that it had acquired (as an intra-Community acquisition) from Studio Rubin Gideon (SRG), a UK company. Gideon Rubin was the painter and creator of the work of art and was one of the partners in SRG.

GKG applied the margin scheme to the onward sales of the paintings from SRG, and the tax authority challenged the application of the margin scheme. The French Court of Appeal took the view that the margin scheme could not be applied by GKG as the paintings had not been supplied by the creator but were, instead, supplied by his company, which could not be regarded as the creator of the paintings. GKG argued that the court had erred on this point. The CJEU reformulated the question posed by the referring court and indicated that it is necessary to analyse not whether a legal person such as SRG may fall within the concept of "creator" within the meaning of Article 316(1)(b) of the VAT Directive but whether the supply of works of art by their creator or his or her successors in title acting through a legal person subject to VAT falls within the scope of that provision.

Article 316(1)(b) provides that Member States are to grant taxable dealers the right to opt for application of the margin scheme to the supply of works of art supplied to the taxable dealer by their creators or their successors in title. The court noted that the wording of

Article 316(1)(b) does not specify the detailed rules by which a creator or his or her successors in title must supply works of art to taxable dealers. The supply of works of art is part of the commercial activity of the creator or his or her successors in title, with the substance of that commercial activity being the sale for consideration of the works of art. Article 316(1)(b) does not expressly exclude that supply being carried out through a legal person or by a legal person. As the margin scheme is an exception to the normal operation of the VAT system, a narrow interpretation of Articles 314 and 316 is required but not in such a way as to deprive it of its effects.

The court considered the aim of the Directive and the principles governing the VAT system, i.e. the system should not distort competition or prevent free movement of goods or services, and the margin scheme was introduced to prevent double taxation and distortion of competition. If Article 316(1)(b) did not permit the supply of works of art through legal persons to the taxable dealer, then this, it observed, could undermine the objectives of ensuring fiscal neutrality, avoiding distortions of competition and promoting the introduction of new works of art to the EU market. It therefore held that Article 316(1)(b) covers supplies by a legal person provided that those supplies can be attributed to the creator or his/her successors in title. In addition, it must comprise the first introduction of the work of art to the EU market. Once these conditions are satisfied (work of art attributed to the creator and it is the first time that the work of art is brought to the EU market), the taxable dealer can opt to use the margin scheme on the subsequent supplies.

This decision recognises that legal entities are used to commercialise an artists' work, but for the supply by the legal entity to come within the scope of the margin scheme for the dealer, certain conditions must be satisfied. It also highlights that where a provision in the Directive does not exclude or prohibit a particular method of supply, guidance can be taken from the aim and purpose of the specific provisions and the Directive as a whole to assess whether such a method is permissible.

02 Correction of VAT Position – Incorrect VAT Rate Charged: CJEU Judgment

On 1 August 2025 the CJEU delivered its judgment in the case of ***Finanzamt Österreich v P GmbH*** C794/23. The case arose as the Austrian tax authority refused an application by P to adjust P's VAT return as the invoices issued by P included an incorrect rate of VAT and therefore an incorrect amount of VAT. P is an Austrian company that operates an indoor playground. In 2019 P applied VAT at the rate of 20% to the admission fees to that indoor playground and issued till receipts to its customers using the simplified invoicing rules. It included the VAT amounts in its VAT return for 2019. It later corrected the VAT return as the admission fees should have been subject to the reduced rate of VAT of 13%.

The tax authority did not take into account the correction, determined the VAT payable based on the original return and refused to correct the rate of VAT after the event. This was on the basis that it is not possible to amend the invoices or to send credit notes to the customers corresponding to the difference between the VAT at the rate of 20% and the VAT at the reduced rate. In addition, it argued that such a correction would result in the unjust enrichment of P. P argued that the services had been supplied almost exclusively to non-taxable persons (individuals with no right to deduct), so there was no risk of tax loss.

Reliance was placed by the Federal Finance Court (FFC) on the previous case involving P GmbH, *P GmbH v Finanzamt Österreich* C-378/21, where it was held that Article 203 of the VAT Directive must be interpreted as meaning that a taxable person who has

supplied a service and who has stated on the invoice an amount of VAT calculated on the basis of an incorrect rate is not liable, under Article 203, for the part of the VAT invoiced incorrectly if there is no risk of loss of tax revenue. This is on the ground that the recipients of that service are exclusively final consumers who do not have a right to deduct input VAT. The VAT assessment was therefore amended. But the FFC indicated that, since it could not be ruled out that the customers had, rightly or wrongly, deducted the VAT invoiced by P, it was necessary to estimate the invoices that were likely to give rise to a VAT debt under Article 203 (it estimated the risk of loss to be 0.5% of the total turnover). The tax authority appealed that decision.

The first question raised was whether a taxable person who has supplied a service and who has stated on the invoice an amount of VAT calculated using an incorrect rate is liable for the part of the VAT that was incorrectly invoiced to a non-taxable person, even if similar services were supplied to other, taxable persons. Article 203 of the VAT Directive provides that "VAT is to be payable by any person who enters the VAT on an invoice". With reference to earlier case law (mentioned above), the CJEU noted that VAT indicated on an invoice is payable by the issuer of the invoice even if there is no VATable transaction, and therefore Article 203 applies where VAT has been invoiced incorrectly and there is a risk of loss of tax revenue. This risk comes from the fact that the invoice recipient has a right to deduct the VAT charged. The risk of loss of tax revenue is to be assessed on the basis of a specific invoice rather than on whether the services were supplied not only to non-taxable persons but also to other, taxable persons. The court therefore held that a taxable person who has supplied a service and who has stated on the invoice an amount of VAT calculated using the incorrect rate is not liable for the part of the VAT that was incorrectly invoiced to a non-taxable person, even if similar services were supplied to other, taxable persons

The second question referred related to the classification of "final consumers who do not have a right to deduct input VAT" (as per C–378/21). Does this classification cover not only non-taxable persons but also taxable persons who, in a given situation, do not have a right to deduct input VAT? The court indicated that the concept should be given a strict interpretation and held that it is appropriate to classify the concept as relating only to non-taxable persons and not including taxable persons who do not have right to deduct.

The third and final question related to whether a tax authority is precluded from estimating the proportion of invoices that the taxable person is liable for where the incorrect VAT amount was invoiced (where simplified invoicing is used). In this case the volume of invoices issued was significant, and as simplified invoicing was used, the identity of the recipients was not known. So what methodology is to be used to assess the liability of the taxable person vis-à-vis supplies made to taxable persons? The court indicated that it is up to the Member State to set out the criteria for this assessment, subject to adhering to the principles of equivalence and effectiveness.

It observed that the taxable person must not be deprived of the possibility of adjusting or refunding the amount of VAT paid in error (particularly if there is no risk of a loss of tax revenue). It will be up to the national court to assess whether there is a risk of loss of tax revenue based on each specific invoice and whether taxable persons were recipients of the invoices, taking all the circumstances into account. Using an estimate of such invoices issued is not precluded by the Directive, provided the principles of fiscal neutrality and proportionality are observed.

This case clarifies that a seller who incorrectly charges excess VAT is not liable for the differential/excess where the customers are non-taxable persons (as there is no risk to the Exchequer). The position is different, of course, if the supplies are to taxable persons, as there is a risk of recovery of the incorrect VAT amounts, and corrections may be required.

03 Transfer Pricing – Acquisition of Intra-group Management Services: CJEU Judgment

The judgment in the case of ***SC Arcomet Towercranes SRL v Direcția Generală Regională a Finanțelor Publice București, Administrația Fiscală pentru Contribuabili Mijlocii București*** C–726/23 was delivered on 04 September 2025 by the CJEU and related to the VAT implications of transfer pricing (TP) adjustments. SC Arcomet Towercranes SRL ("Arcomet Romania") is part of the Arcomet group, an independent global group in the crane rental sector. Arcomet Romania buys or rents cranes, which it then sells or rents to its customers. Arcomet Service NV Belgium ("Arcomet Belgium") seeks suppliers for its subsidiaries (including Arcomet Romania) and negotiates contractual terms with them. The sale and rental contracts are concluded between Arcomet Romania and its suppliers and customers.

Under the group TP rules, the subsidiaries should record an operating profit margin of between –0.71% and 2.74%. Arcomet Belgium and Arcomet Romania entered into a contract whereby Arcomet Romania was guaranteed an operating profit margin in that range, and an annual equalisation invoice was to be issued by Arcomet Belgium in the case of a surplus profit above 2.74% or by Arcomet Romania in the case of a surplus loss below –0.71%.

Arcomet Romania recorded a profit higher than the envisaged range and received from Arcomet Belgium three invoices exclusive of VAT. Arcomet Belgium declared these as supplies of services. Arcomet Romania declared the first two invoices as intra-Community purchases of services and applied the reverse-charge mechanism, and the third invoice was treated as relating to a transaction falling outside the scope of VAT.

Arcomet Romania was refused the right to deduct as it did not substantiate the invoiced supply of services or the fact that they were necessary for the purposes of taxable transactions, i.e. it did not provide supporting documents.

The first question referred was whether there was a supply of services for consideration where amounts were invoiced by a parent company to a subsidiary using the transactional net margin TP method, in accordance with Article 2(1)(c) of the VAT Directive.

The CJEU observed that a supply of services carried out for consideration is subject to VAT only if there is a legal relationship between the provider of the service and the recipient pursuant to which there is reciprocal performance, the remuneration received by the provider of the service constituting the actual consideration for an identifiable service supplied to the recipient (i.e. there a direct link between the service supplied and the consideration received).

In this case there was a legal relationship between the parties as there was a contract between Arcomet Belgium and Arcomet Romania that provided for a supply and remuneration, i.e. reciprocal commitments. Arcomet Belgium undertook to provide a certain number of commercial services and to bear the main economic risks associated with the activity of Arcomet Romania in its capacity as the operating company, and Arcomet Romania undertook to pay at the end of each year an amount corresponding to the part of the operating profit margin greater than 2.74% achieved by it. The court stated that the first condition, requiring the existence of a legal relationship between the provider of the service and the recipient pursuant to which there is reciprocal performance, appears to be satisfied.

With regard to the second condition, which requires that remuneration is received by the service provider, the court noted that it is apparent that the payments made by Arcomet Romania under the contract constituted the remuneration in respect of the activities carried out by Arcomet Belgium. In addition, the services received in return for those payments were such as to confer a specific advantage on Arcomet Romania, given that the services provided by Arcomet Belgium had an effect on Arcomet Romania's operating profit margin through the savings that it made and the improved services provided to end customers. The court stated that the second condition also seemed to be satisfied. It will be for the referring court to verify that there is a direct link between the services supplied and amounts received.

The court held in respect of the first question posed that Article 2(1)(c) of the VAT Directive must be interpreted as meaning that the remuneration in respect of intra-group services, provided by a parent company to its subsidiary and contractually detailed, which is calculated in accordance with a method recommended by the OECD Guidelines and corresponds to the part of the operating profit margin greater than 2.74% achieved by that subsidiary, constitutes the consideration for a supply of services for consideration falling within the scope of VAT.

The second question posed was whether Articles 168 and 178 (which deal with the conditions for input VAT deduction) and the principle of proportionality preclude the tax administration from requiring a taxable person requesting deduction of VAT to produce documents other than the invoice to justify the use of the services purchased for the purposes of its taxed transactions. The court reiterated that the right to deduct VAT is subject to compliance with both substantive and formal conditions. This means that the taxable person must hold an invoice and that, when required to pay VAT as a customer, the taxable person must comply with the formalities as laid down by each Member State. In addition, the principle of VAT neutrality requires the deduction or refund of input VAT to be allowed if the substantive requirements are satisfied, even if the some of the formal requirements have not been complied with.

However, this position could be different if the non-compliance with formal requirements effectively prevents the production of conclusive evidence that the substantive requirements have been satisfied. It is for the taxable person claiming the deduction to provide objective evidence to support the claim that the substantive conditions have been met. This may be documentation other than an invoice. So the tax authorities may require the taxable person to adduce the evidence necessary for determining whether the deduction requested should be granted. This would include establishing that the services relied on as the basis for claiming the right of deduction were used by the taxable person for the purposes of its own taxed output transactions. The court stated that, in making that assessment, the tax authorities are not limited to an examination of the invoice itself. That evidence may include documents held by the service provider from whom the taxable person has acquired the services in respect of which he or she has paid the VAT.

The court held the tax authority is not precluded from requiring a taxable person who seeks the deduction of input VAT paid to submit documents other than the invoice in order to prove the existence of the services referred to in that invoice and their use for the purposes of the taxed transactions of that taxable person. This is provided that the submission of that evidence is necessary and proportionate for that purpose.

This case highlights the importance of documentation – *inter alia*, intra-group agreements, TP policies and invoices – as clear evidence to substantiate an input credit claim.

04 Place of Supply of Services – Sales Through App Stores: CJEU Judgment

On 9 October 2025 the CJEU published its judgment in the case of ***Finanzamt Hamburg-Altona v XYRALITY GmbH*** C–101/24, which concerned the supply of services by an app store, the place of supply of those services and whether the app developer is liable for VAT, notwithstanding the invoicing role played by the app store. The questions referred related to the legislative position before the introduction of the e-services place-of-supply rules in 2015.

Between 2012 and 2014 Xyrality, a German company (app developer), supplied services by making available games apps for mobile devices. The apps were made available through a platform (an app store) operated by company X, an Irish company. End users downloaded the games apps free of charge, and improvements and other additional services were paid for ("in-app purchases"). The in-app purchases were also made through the app store operated by X. When the app was downloaded, end users were informed that Xyrality was the provider. In-app purchases were made on the app store platform, and company X confirmed the purchase and charged the amount payable. Xyrality was indicated only in the purchase confirmation issued to end users by the app store.

Xyrality initially paid the VAT due as it regarded itself as the supplier of services to end users, and it considered Germany to be the place of supply of services to non-taxable persons resident in the EU (by reference to Article 45 of the VAT Directive). In January 2016 Xyrality submitted corrected tax returns for prior years and declared that services had been commissioned within the meaning of Article 28 so that the supplier of services to end users had been company X. Therefore, the supply of services had taken place solely in the territory of Ireland (under Articles 44 and 45), and VAT on those supplies was not due in Germany.

Article 28 of the VAT Directive provides that "where a taxable person acting in his own name but on behalf of another person takes part in a supply of services, he shall be deemed to have received and supplied those services himself" (undisclosed agency rules). The German tax authority disregarded the corrected returns as it was of the view that company X was merely an intermediary and that the actual supplier of services to end users was Xyrality. After a number of appeals the referring court referred three questions to the CJEU.

Under the VAT rules before 2015, the identity of the supplier determines the place of supply of the services to non-taxable persons. The present case essentially concerns whether, and to what extent, an interpretation of the rules that came into effect on 1 January 2015 should be applied to this case.

The first question referred sought to determine whether Article 28 is to be interpreted as applying to the supply of services by electronic means (before 1 January 2015) consisting in making mobile apps and additional services available through an app store, with the result that a taxable person operating an app store is treated as if it had received those services from an app developer and supplied them to end users. In other words, was the taxable person operating the app store a commission agent for VAT purposes? The court noted that it will be for the referring court to consider all of the circumstances of the case and the contractual obligations to ascertain whether Article 28 applies. It stated that for Article 28 to apply there must be an agency in performance of which the agent acts, on behalf of the principal, in the provision of services. Notwithstanding this, "it is above all the powers enjoyed by that taxable person in the context of the supply of services in which he or she takes part which matter".

The court answered the first question by stating that where a taxable person established in a Member State has, before 1 January 2015, supplied services electronically to non-taxable persons established in the EU via a marketplace for apps made available by a taxable person established in another Member State, the application of Article 28 cannot be precluded solely on the ground that the order confirmations provided, by the app store operator, to end customers specify the app developer as the supplier and state the rate of VAT applicable in the Member State of establishment of that supplier.

The second question referred sought to determine whether Article 28 is to be interpreted as meaning that the place of supply of a fictitious service supplied by another person to a taxable person who takes part in the supply of services to non-taxable persons resident in a Member State is to be determined on the basis of Article 44 or on the basis of Article 45.

Article 44 of the VAT Directive provides that the place of supply of services to a taxable person acting as such is to be the place where that person has established his or her business, whereas Article 45 provides that the place of supply of services to a non-taxable person is, in principle, to be the place where the supplier has established his or her business. The court followed the Advocate-General's observation that the place of supply must be determined in accordance with Article 44 rather than in accordance with any derogation. The court therefore answered the second question along the following lines: where a taxable person established in one Member State is deemed to have received and supplied services himself or herself under Article 28, the place of supply of services fictitiously (legal fiction) provided to that taxable person by a taxable person established in another Member State must be determined in accordance with Article 44.

The final question related to Article 203, which provides that anyone who enters VAT on an invoice is obliged to pay VAT. The question posed was whether Article 203 is to be interpreted as meaning that an undisclosed agent is liable to pay VAT on the grounds that the taxable person has designated that other person, with his consent, as the supplier of services and stated the amount of VAT in the purchase confirmations transmitted electronically to non-taxable end users.

The court referred to earlier case law where it was previously held that Article 203 does not apply in a situation where there is no risk of loss of tax revenue on the ground that the invoices in question were issued to non-taxable persons, who, by definition, have no right to deduct the VAT shown on those invoices. (This provision was also a key consideration in the *P GmbH* case, referred to above.) In this case end users are mainly consumers, and only in very exceptional cases could they be taxable persons acting as such, by virtue of the type of services being supplied here.

Therefore, the court observed that there is no risk of loss of tax revenue associated with the right to deduct VAT incorrectly shown on an invoice and it followed that Article 203 does not apply. The court therefore held that:

> "where a taxable person established in a Member State has provided electronically supplied services to non-taxable persons established in the territory of the European Union by means of a marketplace for applications made available by a taxable person established in another Member State, with the result that the latter taxable person is deemed to have received those services and to have supplied them to the end customers, the first taxable person cannot be considered liable for the VAT in his or her Member State of establishment under that Article 203 on the ground that, in the order confirmations sent to the end customers, that first taxable person was designated, with his or her consent, as the supplier and that the rate of VAT applicable in his or her Member State of establishment was stated."

This case highlights the need always to understand the supply chain at issue and the roles and responsibilities of each party in the supply. This applies not only in the case of straightforward arrangements between vendor and purchaser but also, particularly, in principal-and-agency type arrangements. This is even more important in cross-border scenarios, as the place-of-supply rules add a further layer of complexity.

05 Surrender of an Option Agreement – Input VAT Recovery: TAC Determination

This is a determination by the Tax Appeals Commission of 10 July 2025 regarding an appeal by a limited liability company against Revenue's refusal of a VAT input credit claim related to the surrender of an option agreement for apartments.

The appellant claimed a VAT input credit that related to the surrender of an option agreement in the amount of €459,000, but this was later revised to €441,414. Revenue refused the claim on the basis that it did not meet the "direct and immediate" link test for VAT deductibility and that it was the actual use of the apartments (exempt letting) that took precedence over any intended use.

The appellant is a limited liability company and part of a group that includes the developer. The developer built the apartments in 2006/2007, and these are considered capital goods for VAT purposes. The appellant acquired the apartments from the developer on 23 December 2014, taking over the Capital Goods Scheme obligations (as the developer had reclaimed the VAT on the construction costs).

On 22 December 2014 the appellant entered into an option agreement with the MFP (beneficial owner of the appellant and the developer) granting the MFP the right to purchase the apartments within a 10-year period for their market value of €6.2m (at date of option agreement). Eight years later the MFP released the appellant from the option agreement for a fee of €3.4m plus VAT.

The appellant reclaimed the VAT charged on the release fee. It argued that the intention was always to sell the apartments, which would enable it to generate funds for further investments, and that the surrender of the option agreement was linked to future taxable supplies. Additional expenditure had been incurred on the refurbishment of the apartments.

Revenue maintained that the VAT incurred was not deductible as it was linked to exempt activities and argued that the appellant's economic activity at the time was the letting of apartments (VAT exempt). Therefore, it argued that the cost of the option agreement surrender was directly linked to maintaining the appellant's exempt letting activity, and it had also emphasised the lack of objective evidence of the appellant's intention to sell the apartments at the time of the VAT claim.

The Commissioner assessed whether the surrender of the option agreement constituted a supply of capital goods or immovable goods and concluded that the surrender did not involve the transfer of rights to dispose of immovable goods and, accordingly, was not a capital good for VAT purposes. The Commissioner found that the actual use of the apartments for exempt letting took precedence over any intended future sale (by reference to the *Sonaecom* CJEU decision). The Commissioner held, in disallowing the appeal by the appellant so that the refusal by Revenue stands, that she:

> "is satisfied that the surrender of the Option agreement allowed the Appellant to continue to carry on its exempt activity, namely residential lettings. Furthermore, the Commissioner is satisfied that there was no evidence adduced to support a finding that the Appellant intended to sell the apartments in March/April 2022, the relevant period. Even so, the Commissioner is satisfied that the actual use which was a VAT exempt activity, takes precedence over any intended use."

VAT News

Ireland

Finance Bill 2025

The Finance Bill 2025 was published on 16 October 2025 and contained a number of measures relating to VAT and proposed amendments to the Value-Added Tax Consolidation Act 2010 (VATCA 2010). Amendments made in the Select Committee on Finance, Public Expenditure, Public Service Reform and Digitalisation, and Taoiseach to the Finance Bill 2025 were published on 4 November 2025.

Section 65 of the Finance Bill amends various provisions of VATCA 2010 to align the time period to be reviewed when assessing the VAT registration of farmers with all other businesses and provides that turnover from activities excluded from the flat-rate addition (per an s86A VATCA 2010 order) should be included in the review period.

VAT rate amendments are made in ss66, 67 and 68 to extend the 9% rate of VAT on the supply of gas and electricity until 31 December 2030; to introduce a 9% rate on the sale of certain apartments as part of a social policy* (effective from 8 October 2025 until 31 December 2030, as per a Financial Resolution published on Budget night); and to apply from 1 July 2026 the 9% rate of VAT to the supply of hairdressing services, and food and drink supplied in the hospitality sector, excluding soft drinks and alcoholic beverages but including hot tea and coffee.

Sections 69 and 70 are also VAT rate amendments – with effect from 1 January 2026 the standard rate of VAT (currently 23%) will apply to the hire of rooms in hotels and guesthouses for use other than as accommodation, and the flat-rate addition for farmers is to be decreased to 4.5%.

Section 71 contains important amendments to the waiver-of-exemption provisions that provide for the removal of the VAT-on-property waiver-of-exemption provisions, and the cancellation of all waivers from that date (which will be the date of the passing of the Finance Act 2025). These changes follow recent guidance from Revenue concerning the cancellation amount that arises on the cancellation of a waiver of exemption (Tax and Duty Manual, "Waiver of Exemption – Transitional Measures", which follows the High Court judgment in the case of *Killarney Consortium v Revenue Commissioners* [2024] IEHC 732).

Section 73 deals with penalties applicable to payment service providers for failure to report data on cross-border payments and the date from when that penalty applies.

Section 74 amends Schedule One to provide that the supply of financial services that

consist of the managing of the Automatic Enrolment Retirement Savings System is exempt from VAT.

* *Amendments were made to s67 of the Finance Bill 2025 in the Select Committee on Finance, Public Expenditure, Public Service Reform and Digitalisation, and Taoiseach. The amendments now include a definition of apartment block covered by the rate change, together with clarification on the provision of construction services provided in relation to apartment blocks (until completed) in the period after 25 November 2025 to 31 December 2030*.

Tax and Duty Manuals

Revenue eBrief No. 196/25 was published on 22 October 2025 and highlights updates to the Tax and Duty Manuals "VAT and Employer's Income Tax Direct Debit Guidelines" and "Preliminary Income Tax Direct Debit Guidelines" as part of Revenue's modernisation of the direct debit payment option. The updates reflect the introduction of the new Payments Hub in ROS (previously named Payments and Refunds). By using the Payments Hub, customers and agents can set up and manage a variable direct debit for VAT and a direct debit for payment of preliminary income tax, in addition to managing bank account details for payments and refunds.

VAT Modernisation

On 8 October 2025 Revenue published "VAT Modernisation Implementation of eInvoicing in Ireland". The document sets out Revenue's phased implementation plan in three phases, which includes the timeline and scope of the phase (i.e. who will be impacted at each phase). It highlights the current e- invoicing landscape across Europe and outlines the benefits for business. Importantly, it highlights the next steps to be taken by Revenue and indicates that Revenue "has started detailed analysis and technical work on the legislative changes, strategic and operational processes, and IT systems required for successful implementation". It confirms that Revenue "will engage with relevant stakeholders, and subsequently publish detailed guidance and technical specifications well in advance of each implementation phase, ensuring adequate time for system preparation and testing". There is a dedicated webpage, "ViDA and VAT Modernisation", on the Revenue website, and this will be used to provide further guidance and highlight engagement opportunities.

EU

ViDA Updates

On 24 September 2025 the European Commission published its implementation strategy for the VAT in the Digital Age (ViDA) package, presenting actions to support businesses and Member States with the practical implementation of the EU's VAT framework updates. The press release notes that the implementation strategy provides a roadmap with key action points and dates, ensuring coordinated and effective application. The new implementation strategy highlights the different steps required for the ViDA measures (new digital reporting requirements, platform economy changes and single VAT registration process) to enhance the transparency of digital transactions, aligning them with the EU's broader digital policies and simplifying compliance for businesses operating across borders.

On 28 October 2025 the European Commission hosted an Implementation Dialogue on the ViDA package with the European Commissioner for Climate, Net Zero and Clean Growth, Wopke Hoekstra. This was a discussion forum between the Commissioner and representatives from businesses and organisations that will be directly affected by ViDA. The summary conclusions from the forum can be found on https://taxation-customs.ec.europa.eu/ and in TaxFax published on 31 October 2025.

Accounting Developments of Interest

Aidan Clifford,
Advisory Services Manager, ACCA Ireland

Annual Review of Corporate Reporting

The UK's Financial Reporting Council (FRC) published its Annual Review of Corporate Reporting. The report shows that the quality of corporate reporting across FTSE 350 companies is being maintained. The three areas identified as in need of improvement are impairment, cash-flow statements and explanations of key assumptions, and the FRC also identified a lack of internal consistency within the annual report as being an issue.

- Cash-flows triggered a "substantive question" letter from the FRC in almost one in 10 of all cases that it reviewed. The main item identified was misclassification errors.

- Impairment of assets also triggered a 10% query rate, with inconsistent assumptions, incomplete or missing sensitivity analysis, and issues with the discount rate used being the most common issues arising. Recoverability of investments in subsidiaries was also a cause of queries being raised.

- Financial instruments raised questions in the areas of repurchase of company shares, warrants, the accounting treatment applied to embedded derivatives and the application of the expected credit loss model to group-company loans.

- Revenue recognition disclosures caused issues owing to the lack of an explanation of the accounting policies applied to a significant revenue stream, how the effect of variable consideration had been considered and the rationale for recognising revenue over time.

The UK is not yet mandating the disclosure of sustainability information, but the report notes that the UK Government is consulting on the use of UK Sustainability Reporting Standards. UK companies must still, however, make climate-related financial disclosures.

The Irish Auditing and Accounting Supervisory Authority (IAASA) published the results of a similar exercise in Ireland. The report notes that 2025 was the first year in which issuers were required to publish sustainability reports and the IAASA said that it is planning to undertake a minimum of two unlimited examinations of the sustainability statements of issuers in 2026. The IAASA plans to focus on the connectivity between the sustainability statement and the financial report and evaluate the double materiality assessment.

The report identified weaknesses in reporting in the areas of asset impairments, provisions, contingent liabilities and recoverability of deferred tax assets, highlighting these as areas that will require additional attention owing to the current economic uncertainty. The impact of tariffs on possible impairment triggers and calculations, global minimum tax rules on current and deferred

taxation, and the geopolitical risks affecting recoverability of deferred taxation assets are all discussed in the report. The IAASA report can be watched as a YouTube video at IAASA's YouTube Channel.

SME Sustainability Reporting

The European Financial Reporting Advisory Group has released a summary report on the outcomes of its symposium on sustainability reporting standards for SMEs.

Updated Audit Report Guidance

The Irish Auditing and Accounting Supervisory Authority (IAASA) has published an updated edition of its Compendium of Illustrative Reports. The update reflects the auditing standards and legislation in effect at 30 June 2025.

The compendium includes example audit reports for:

- financial statements of a private company,
- financial statements of a private group,
- financial statements of a micro company,
- revised financial statements,
- abridged financial statements,
- financial statements of a qualifying partnership,
- financial statements of an industrial or provident society and
- financial statements of a friendly society.

Key changes in this edition include an updated and simplified link to the description of the auditor's responsibilities on the IAASA's website and updated language in the auditor's opinion section to refer to "material accounting policy information". The compendium also includes sample wording to reflect the requirements of SI 322 of 2023, the European Union (Disclosure of Income Tax Information by Certain Undertakings and Branches) Regulations 2023. For reports prepared under the Companies Act 2014, the auditor must include a statement on whether the entity was required to publish a report on income tax information for the previous financial year. Finally, the compendium reflects updated legal references and amended terminology and includes new footnotes in the example reports for industrial and provident societies and friendly societies, providing additional guidance for auditors on the content and format of their report.

European Union (Disclosure of Income Tax Information by Certain Undertakings and Branches) Regulations 2023

These Regulations require EU-based ultimate-parent undertakings and stand-alone undertakings to publish a report on income tax information once their net turnover is above €750m for each of the last two consecutive financial years. EU-based medium and large subsidiaries of a non-EU ultimate-parent undertaking are required to publish a report on income tax information of the parent undertaking. Medium and large undertakings have the meaning in Article 3(4) of the Directive: medium companies do not exceed at least two of the following criteria, and large companies exceed at least two of them:

- balance sheet total €20m,
- net turnover €40m and
- average number of employees during the financial year 250.

The Regulations implement a public "country-by-country" style tax transparency regime in Ireland, requiring larger companies to disclose publicly income tax information by jurisdiction. They came into operation for financial years beginning on or after 22 June 2024. If the financial statements are audited, the auditor must state whether the undertaking was in scope in the prior year and whether the report was published.

Where the company is subject to audit, the statutory auditors' report shall include a statement on:

- whether the undertaking was required to publish a report on income tax information under the Regulations for the financial year preceding the financial year to which the report of the statutory auditors relates, and
- where the statutory auditors state that the undertaking was required to publish such a report, whether the undertaking published a report on income tax information in accordance with the Regulations.

The wording for this auditor's statement is included in the revised audit report guidance issued by the IAASA and will need to be included for all audit reports for financial statements for accounting periods beginning on or after 22 June 2024. For the avoidance of doubt, regarding smaller companies, the auditor still has to confirm that the disclosure requirements do not apply, so this new audit report wording change will apply to all audit reports. Auditors will have to check whether a company is in scope and, if it is in scope, whether it has published the information required by the Regulations.

Companies (Protection of Title: Accountant) Bill 2025

This private member's Bill was introduced to the Dáil by a Government backbencher. The concept of protecting the public by ensuring that they are not misled regarding the qualification of a service provider will be welcomed by consumers. The legislation is very short, just text protecting the term and an enforcement provision.

The enforcement of the legislation is tasked to the Irish Auditing and Accounting Supervisory Authority (IAASA), whereas all other company law enforcement is undertaken by Corporate Enforcement Authority (CEA). It is not clear why the IAASA was chosen, as it would require considerable additional resources to take on this role and the legislative structures required by the IAASA to take the prosecutions are not in place.

The proposal also does not protect the work of an accountant, just the title. Unqualified persons will still be able to perform accounting-type work. Circumventing the legislation will be easily achieved by just using a different title, or perhaps an abbreviation such as "Acct's" or the Irish version of the title, "Cuntasóir". The work that an accountant does is already quite carefully defined in a number of other pieces of legislation, so the drafting of legislation to protect the work of an accountant would be relatively easy.

A broad-stroke protection of the term accountant could lead to unintended consequences. For example, would ACCA have to change how it describes the organisation in Ireland because the last word in its name is "accountants". There are also very many companies registered with the Companies Registration Office with the word "Accountant" in their name, and many Government offices have the title "Accountant".

The Minister responsible for this area of law, in an answer to a Parliamentary Question some weeks ago, said that there was "no evidence of public demand, or evidence of abuse of the term to justify the introduction of such a protection", although she also added that "the Department remains open to further engagement". The IAASA in a report a few years ago also rejected the proposal. Private members' Bills are rarely successful in Ireland, and given some of the issues outlined above, this Bill will face an uphill struggle. Although the profession strongly supports the concept behind the Bill and congratulates the TD for sponsoring it, it will need some work at Committee Stage if it is to be successful.

Charity Sector in Ireland

The Charities Regulator has published a report on the charity sector in Ireland. The report found that about half of charities say that they are in a stronger position than two years ago, although about one-third report that they believe trust in the sector has declined since 2022. The research found that many charities do not include their Registered Charity Number (RCN) on fundraising materials, and this has implications, as the new Charities (Amendment) Act 2024 requires it.

For accountants, the report identifies the need for financial statements to reflect increasing cost pressures and risk assessments should include likely impacts of inflation, staffing and funding uncertainty. In terms of governance, accountants could have a supporting role in board training in the areas of financial literacy, succession plans, and designing and implementing policies around risk and conflict of interest. In terms of funding mix and reserves, the report identifies the importance of understanding income streams, ensuring diversified revenue, planning for lean years and managing reserves.

New Factsheets on FRS 102

The UK's Financial Reporting Council has issued two new factsheets to support entities applying FRS 102:

- FRS Factsheet 12, 'Presentation of the Financial Statements' sets out the options available to entities applying FRS 102 (including small entities) for presenting the financial statements, particularly in relation to the "statutory" and "adapted" formats for the balance sheet and the profit and loss account.
- FRS Factsheet 13, 'The Going Concern Basis of Accounting for Small Companies and Micro-entities' will support directors of small companies and micro-entities as they perform their going-concern assessments and disclose their conclusions, including how these conclusions were reached.

Small-Company Auditors

The Financial Reporting Council has published a Practice Note Exposure Draft, Guidance for Audits of Smaller and/or Less Complex Entities, to help auditors deliver more proportionate audits of small and medium-sized enterprises.

Audit Versus Assurance

The Financial Reporting Council has issued a podcast titled "In Conversation: What's the Difference Between Statutory Audit and Assurance?".

Sustainability

The European Securities and Markets Authority has issued a thematic note on sustainability-related claims used in non-regulatory communications. The note concludes that sustainability claims by companies should be clear, fair and not misleading, and it provides examples of good and bad disclosures.

Audit of Opening Balances

The requirements in ISA 710 regarding disclosure for the audit of opening balances are sometimes confusing. Paragraphs 10 to 14 (and A2 to A7a) deal with "corresponding figures", and paragraphs 15 to 19 (and A8 to A12) deal with comparison figures. In Ireland the corresponding figures method of presentation is usually required.

"Comparative information" is defined as the amounts and disclosures included in the financial statements in respect of one or more prior periods in accordance with the applicable financial reporting framework.

"Corresponding figures" means comparative information where amounts and other disclosures for the prior period are included as an integral part of the current-period financial statements and are intended to be read only in relation to the amounts and other disclosures relating to the current period (referred to as "current-period figures"). The level of detail presented in the corresponding amounts and disclosures is dictated primarily by its relevance to the current-period figures.

The following are the disclosure requirements and options for corresponding figures.

Scenario	Must disclose (mandatory under ISA 510/710 and ISA 705, if relevant)	May disclose (professional judgement/ optional)
Last year's FS audited (by predecessor) and sufficient evidence obtained on comparatives	Nothing must be disclosed about the predecessor auditor (ISA 710.10)	Auditor may include an "other matters" paragraph stating: • that the prior-year FS were audited by another auditor, • the type of opinion given and • the date of that report (ISA 710.13)
Last year's FS audited, errors found, management corrected, and auditor obtained sufficient evidence on revised comparatives	Nothing must be disclosed about the predecessor auditor if no modification required to current year's opinion (if errors corrected) (ISA 710.A3)	As per above, plus if prior-year accounts are not revised, auditor may also decide to include detail in an "emphasis of matter" paragraph describing the circumstances and referring to where relevant disclosures that fully describe the matter can be found in the financial statements (ISA 710.A6)
Last year's FS unaudited, but auditor obtained sufficient evidence on comparatives	Auditor must state, in an "other matters" paragraph, that the corresponding information is unaudited (ISA 710.14)	
Last year's FS unaudited, and auditor could not obtain sufficient evidence on comparatives	Auditor must include an "other matters" paragraph stating that the prior FS were unaudited. Normal consideration of limitation of scope – "except for" or disclaimer.	

Scam Emails About Trademarks

Some practices have been targeted by emails stating that some other person is attempting to register a trademark in the practice's name. The email then encourages the practice to make contact and to engage the trademark agent to remedy the issue. See more details at Misleading scam emails targeting IP applicants and rights holders – IPOI.

Sustainability-Linked Financing

These are financing instruments that link their pricing, i.e. interest rates or coupons, to the attainment of predefined environmental or social targets. The Irish Auditing and Accounting Supervisory Authority has undertaken a thematic desktop examination of sustainability-linked

debt and the related disclosures presented in a sample of issuers' annual reports. The full report is here.

Filing with Companies House in the UK

Companies House (in the UK) will shortly require third-party agents who file information on behalf of clients to be registered as Authorised Corporate Service Providers (ACSPs). ACSPs are referred to as TCSPs in Ireland. Irish accounting practices filing information for UK clients with Companies House will be required to register. However, to be an ACSP, you currently need to have a UK address. The profession is engaging with the UK Government and Companies House to amend the regulation to allow Irish practices to register. See Identity verification – Changes to UK company law and Authorised Corporate Service Providers – Changes to UK company law for more information. The solution now is for a practice to open a UK/NI branch for their practice or to enter a business relationship with a UK ASCP to do the practice's UK filing. Note that the UK is changing its anti-money-laundering (AML) supervisory model. A new Government Single Professional Services Supervisor will take over supervision of accounting practices for both their accounting and ACSP businesses, and professional bodies will cease supervising their members for AML.

Operational Resilience

The Central Bank of Ireland has updated the "Cross Industry Guidance on Operational Resilience" to align with the Digital Operational Resilience Regulation and Directive (DORA). The document seeks to require financial institutions to address existing vulnerabilities and weaknesses and mitigate risks in the financial system to ensure that they can better withstand future shocks and crises and to limit the impact of such events.

Credit Union Lending Rules Changed

In a move that will be welcomed by credit unions and their customers, the Central Bank of Ireland has announced changes to credit union lending regulations. House lending will now have a limit of 30% of total assets, and business lending will have a limit of 15% of total assets, a change that the Bank says will increase lending capacity in the sector by €7bn. In a separate, but apparently connected, report, according to the Central Bank of Ireland, the "additional credit" (i.e. development finance) needed to help meet housing demand in Ireland is "estimated at about €6.5 billion to €7 billion" above current levels.

Credit unions only have on-demand deposits and under the new rules will have substantial lending over 30 years, an asset/liability mismatch that will need to be monitored and managed. Management techniques that are likely to be used by credit unions include corporate credit unions and securitisation of their mortgage books. Very few credit unions are expected to finance their increased mortgage lending solely from their on-demand deposit base.

Involuntary Strike-Off

The Companies Registration Office has recommenced the involuntary strike-off process. Approximately 35,000 companies are facing involuntary strike-off owing to failure to file annual returns. See Involuntary Strike-Off – CRO.

The "Starbucks" Case

In a case that was widely reported in the press as the "Starbucks case" the operators of various Irish franchises, including several Starbucks cafes, TGI Fridays, Mao and the Hard Rock Cafe, were recently restricted from acting as company directors for five years. The judge's decision in the case of *Downtul Limited (in liquidation)* [2025] IEHC 358 has now been published. The decision includes an extensive examination of the grounds for restricting a director under s819 of the Companies Act 2014.

The three cumulative statutory criteria are that a person will not avoid restriction unless the court is satisfied that:

- they acted honestly and responsibly in relation to the conduct of the affairs of the company (before or after insolvency), and that includes there not being any irresponsible conduct;
- they cooperated with the liquidator as much as could reasonably be expected when asked to do so; and
- there is no other reason why it would not be just and equitable to impose restriction.

These principles are to be applied objectively and without hindsight. The standard of care, skill and diligence required of a director depends on that person's particular experience and qualifications. This effectively imposes a higher standard of care on a qualified professional. The fact that a restriction would have significant consequences for a director is not relevant.

SME Sustainability Reporting Using VSME

The European Financial Reporting Advisory Group has released two reports to support the application of the Voluntary Sustainability Reporting Standard for SMEs (VSME). The first report provides practical support to SMEs that wish to report their greenhouse gas emissions, with links to a number of online tools that allow an SME to calculate its emissions. One of the links is to the Irish Government Climate Toolkit. The second report provides an overview of the 223 platforms and initiatives to support VSME reporting.

IAASA Reports on Audit of Financial Statement Disclosures

A recurring theme from the review of audits in public-interest entity audit firms is weaknesses in financial statement disclosures. To address this, the Irish Auditing and Accounting Supervisory Authority has released a publication focused on Auditing of Financial Statement Disclosures.

Billing in SMPs Needs a Rethink

The total annual bill for technology and software in a small accounting practice is now about the same as the wage bill for a good mid-level employee. The software makes every employee more efficient and greatly reduces the time on jobs, but many practices are still billing clients only for the actual time spent on the job and are effectively giving away the cost of the technology for free. It has become standard in some practices to add a €50 to €300 (depending on client

services) to every bill, which is described as “technology software licensing”, “technology support services” or similar. A €300 charge will just about recover software costs in an average small or medium practice (SMP).

In general terms, practices cannot keep selling just time. A practitioner will point out the error in an AI-generated tax or company law answer in two minutes, but it takes ten years of practical experience and training to be able to deliver that answer. The value of the training and experience has to be billed for as well. In an era of automation SMPs need to move away from time-based toward value-based billing.

Beware of Using AI

An accountant recently produced an answer to a company law question on audit exemption supplied by a commonly used AI package. The AI answer referred to the correct section of the Irish Companies Act 2014 and then proceeded to quote sections of the UK Companies Act 2006. The answer was clearly incorrect but looked convincing. If the accountant had specified “Irish law”, they would also have had a better chance of getting a correct answer. AI is very good at simple things, such as finding sections of the Companies Act or a precedent or information sheet published on www.revenue.ie about a specific tax issue, but the search criteria need to specify which country the query refers to and then the references need to be checked.

Navigating Companies Act Changes

Many accountants need to refer to the Companies Act 2014 on a regular basis and do so by looking up www.irishstatutebook.ie. The issue with looking at the legislation as passed by the Dáil is that, in the case of company law, there have been multiple amendments, and amendments to amendments, to the original, 2014 text. There is a resource at the Law Reform Commission’s website where old legislation is annotated with all subsequent amendments. A version of the Companies Act 2014, updated for the nearly annual updates, including Statutory Instruments, is available at Companies Act 2014. Updated anti-money-laundering legislation is available at Criminal Justice (Money Laundering and Terrorist Financing) Act 2010, and the credit union legislation is at Credit Union Act 1997.

Charity SORP Amendments Proposed

Although it is still not compulsory in Ireland, many Irish charities voluntarily comply with the Charities Statement of Recommended Practice (SORP). The SORP is expected to become compulsory for the larger Irish charities once the remaining sections of the Charities Act 2024 are commenced; see this summary of the changes that the Act will require. The charities SORP-making body in the UK is considering amendments to the SORP to provide sector-specific guidance on leasing and revenue recognition and other matters of relevance to charities. The proposed changes are listed here. By the time that this article is published, the changes should have been finalised and issued.

Statutory Duty Reports Are not Always Needed for Insurance Brokers

Insurance brokers can have multiple different authorisations from the Central Bank of Ireland, and depending on which authorisations they have, they may or may not require a statutory duty report. Practices should check the CBI registers to see which authorisations the broker has. The most common are:

- Registered as an insurance, reinsurance or ancillary insurance intermediary under the European Union (Insurance Distribution) Regulations 2018: does not require a statutory duty report.
- Mortgage credit intermediary authorised pursuant to s31(10) of the European Union (Consumer Mortgage Credit Agreement) Regulations 2016 and s151A(1) of the Consumer Credit Act 1995: does not require a statutory duty report.
- Authorised as an investment business firm under s10 of the Investment Intermediaries Act 1995: requires a statutory duty report.

Sanction-Checking New and Existing Clients

Practices are being asked on their anti-money-laundering (AML) monitoring visits how they "sanction-test" their new and existing clients. AML rules include a prohibition on doing business with certain named individuals and certain persons or entities established in Russia. But how does a practitioner screen a new client? Some practices have purchased AML compliance software that does the task automatically, but most are still doing it manually. One relatively effective way of sanction-testing is to ask AI; a generative AI or LLM can be asked, for example, to "check if (named people) or (named businesses) or (parent entities) are sanctioned by the EU or are in any way connected to a person or business established in Russia". The result may not be perfect – you may obtain false negatives – but you should not get any false positive results. In one search the free version of ChatGPT (other generative AI software is available) was able to identify that the entity's links with a sanctioned country had recently been removed from its website. Most practices doing a general internet search as part of their sanction-screening process would not have searched the internet caches and would have missed this reference. The other benefit of using generative AI is that it provides a report that can be printed as proof of the search.

Sustainability Reporting

The European Financial Reporting Advisory Group (EFRAG) has published revised ESRS Exposure Drafts. The amended drafts propose a simplified set of European Sustainability Reporting Standards, reducing data points by 57%. The reduction in requirements includes streamlining the double materiality assessment, reducing overlaps across standards, clarifying language and structure, and removing all voluntary disclosures. New relief mechanisms have also been introduced, such as exemptions where reporting would cause undue cost or effort. The EFRAG has reported that the overall length of the standards has been shortened by more than 55%. Each of the 12 Exposure Drafts is accompanied by a log of amendments, which will make it easier for users to identify the changes.

Sanction Breaching

The penalties for sanctions breaches in Ireland have not kept pace with international developments and probably reflect the more benign political landscape extant at the time that the legislation was passed. However, with a reported nine ongoing wars, some of which may or may not be solved, sanction breaching has moved up the political agenda with the publication of the General Scheme of the Criminal Justice (Violation of EU Restrictive Measures) Bill 2025. Head 10 of the Bill proposes to make sanction busting punishable, on conviction on indictment, to an unlimited fine or imprisonment for a term not exceeding 10 years, or both.

For industry, the list of prohibited exports and customers is extensive and is being added to almost weekly. For accountants in practice, there is a list of persons for whom the accountant may not act and a general prohibition on the provision of accounting, audit or taxation services directly or indirectly to a client with an establishment in Russia.

In the UK, a company called Colorcon Limited has just been fined £152,750 for breach of the UK's Russia financial sanctions. The penalty relates to payments made by Colorcon's Moscow office to accounts held at designated Russian financial institutions, in breach of the Russia financial sanctions regime, namely, having "knowledge or reasonable cause to suspect that their actions would make funds available to designated persons". Colorcon had self-reported the payments, which were predominantly to pay Moscow office employee salaries. Colorcon's UK employees, who did not initiate but approved the payments, were focused on checking the details of the sums to be paid and that the payees were accurate and did not undertake a review of the sanctions status of the bank at which the recipient account was held.

AML Identification Documents

There is a UK-based website that, when prompted to do so, will produce a bank statement in the style of any named Irish or UK or international bank with a specified address and specified lodgements and withdrawals. The site claims that the service is for "novelty purposes". The site can also do fake utility bills for any named utility. The documents produced are identical to the real thing, and although the website discourages their use as anti-money-laundering identification documents, it is hard to see any legitimate use for the documents. Anybody performing customer due diligence (CDD) should be aware of such forgeries. It is harder, but still not impossible, to fake an online bank or utility log in that is "shoulder surfed" by the person performing the CDD. The level of CDD required for a particular client is based on the risk associated with that client and the degree of reliance that can be placed on their identification documents.

GoAML and ROS Reporting of Suspicions of Money Laundering

Best viewed using a YouTube premium account because otherwise the number of advertisements is quite distracting, this video will assist accountants who have to make a Suspicious Transaction Report.

Joint Practices Group

The JPG is a consultative group that facilitates regular meetings between the accounting profession and the Garda Financial Intelligence Unit and Garda National Economic Crime Bureau. This allows for information sharing and the onward dissemination of warnings on developments in money laundering and related crime. At the recent meeting, we were informed of:

- an increase in investment fraud, sometimes using cloned websites or AI-generated celebrity endorsement;
- a trend whereby the mass resignation of or rapid changes in directors of a company are a "red flag" indicator of breach of sanctions or of criminal activity;
- the new EU sanctions helpdesk will undertake customer due diligence on a new client for a practice where the practice is finding it difficult to obtain sufficient reliable information about the client; and
- forewarning of major changes to the Register of Beneficial Owners necessitated by the Sixth Anti-Money Laundering Directive.

There is probably a role for accountants in practice to warn clients about investment fraud, and investment business authorisation is not required to advise the client on how to check that an investment is legitimate and to explain the risks attaching to an investment. Investment business authorisation is required to advise on specific investment products, but the provision of generic information is unregulated. The Investor Compensation Fund will cover certain losses incurred, but it is limited to certain categories of investor and is capped. Property investments are unregulated and do not have a safety net of the investor compensation fund.

AML/CTF Risk in Banks

The Europe Banking Authority published its 2025 Opinion on money-laundering and terrorist-financing (ML/TF) risks affecting the EU's financial sector. The Opinion concluded that careless use of innovative compliance products can lead to ML/TF risks. It also identified that some banks "prioritise growth over compliance". Other findings include:

- Over half of serious compliance failures involved the improper use of regtech tools.
- Many crypto-asset service providers lack effective systems to combat ML/FT, and some attempt to bypass regulatory oversight.
- Criminals are increasingly using AI to automate laundering schemes, forge documents and evade detection.
- The complexity of EU sanctions regimes poses compliance challenges.

18th EU Package of Sanctions Against Russia

The EU adopted these measures on 18 July, which are aimed at “cutting Russia’s energy revenues, hitting Russia’s banking sector, further weakening its militaryindustrial complex, strengthening anticircumvention measures, and holding Russia accountable for its crimes against Ukrainian children and cultural heritage”. The EU Sanctions helpdesk also provided guidance on the meaning of “ownership and control” in the context of the sanctions.

Sector-Specific Anti-Money-Laundering Risk Evaluation Questionnaire

The Central Bank of Ireland is adapting its supervisory approach to AML/CFT risk. This initially involves replacing the current AML/CFT Risk Evaluation Questionnaire (REQ) with sector-specific REQs to capture more detailed and pertinent risk data. More detail is available at this link.

Legal Monitor

James Quirke
Partner, McCann FitzGerald LLP

Selected Acts Signed into Law from 1 August to 31 October 2025

No Acts were signed into law during this period

Selected Bills Initiated from 1 August to 31 October 2025

No. 57 of 2025: Housing Finance Agency (Amendment) Bill 2025

This Bill aims to amend the Housing Finance Agency Act 1981 to increase the borrowing limit of the Housing Finance Agency from €12,000,000,000 to €13,500,000,000 in s10(3).

No. 60 of 2025: Finance Bill 2025

This Bill aims to provide for the imposition, repeal, remission, alteration and regulation of taxation, of stamp duties and of duties relating to excise and otherwise to make further provision in connection with finance; and to provide for related matters. Notable changes include an extension of entrepreneur relief from €1m to €1.5m, an increase in the research and development tax credit from 30% to 35%, a VAT rate decrease from 13.5% to 9% on food and catering services, an extension of the Special Assignee Relief Programme and an extension of the Key Employee Engagement Programme, among other changes usually expected in the Finance Acts.

No. 62 of 2025: Companies (Protection of Title: Accountant) Bill 2025

This Bill aims to regulate the use of the title "accountant" to establish criteria for recognition of the title, to provide for offences and penalties for misuse of the title, and to provide for related matters.

Selected Statutory Instruments from 1 August to 31 October 2025

SI 419 of 2025: European Communities (Cross Border Payments) (Amendment) Regulations 2025

These Regulations amend the European Communities (Cross Border Payments) Regulations 2010 by expanding the scope of the monitoring role of the Central Bank of Ireland to include persons providing currency conversion services at ATMs or at points of sale. They also create new criminal offence provisions for providers of currency conversion services who fail to comply with key articles of the EU Regulation regarding transparency of currency conversion charges. On conviction and indictment, the offence carries a fine of up to €100,000.

SI 439 of 2025: Automatic Enrolment Retirement Savings System Act 2024 (Commencement) Order 2025

This order appoints 30 September 2025 as the day on which Chapters 1 and 4 of Part 3 of the Automatic Enrolment Retirement Savings System Act 2024 shall come into operation and appoints 1 January 2026 as the day on which the following provisions of that Act shall come into operation: Chapters 2 and 3 of Part 3, and Parts 4, 5, 8 and 9.

SI 462 of 2025: Finance Act 2024 (Chapter 1 of Part 2) (Commencement) Order 2025

SI 462 of 2025 appoints 1 November 2025 as the day on which Chapter 1 of Part 2 of the Finance Act 2024 came into operation. Chapter 1 relates to the taxation on e-liquid products known as e-liquid products tax.

SI 464 of 2025: Credit Union Fund (Stabilisation) Levy Regulations 2025

These Regulations appoint 30 September 2025 as the day on which the Credit Union Fund (Stabilisation) Levy Regulations 2025 came into operation. The Regulations apply to every applicable credit union and apply a levy to be paid, depending on the levy period, up to 28 February 2029.

SI 465 of 2025: Credit Institutions Resolution Fund Levy (Amendment) Regulations 2025

These Regulations amend the Credit Institutions Resolution Fund Levy Regulations 2012 by fleshing out the definitions of "Levy Period" and "total assets of a credit union", as well as inserting several Regulations dealing with levy periods and payment deadlines.

SI 472 of 2025: National Minimum Wage Order 2025

This order appoints 1 January 2026 as the date on which the National Minimum Wage Order 2025 comes into operation. The national minimum hourly rate of pay is increased from €13.50 to €14.15.

SI 475 of 2025: Automatic Enrolment Retirement Savings System Act 2024 (Establishment Day) Order 2025

This order appoints 14 October 2025 as the "establishment day" for the purposes of the Automatic Enrolment Retirement Savings System Act 2024. The Act seeks to establish a new pension scheme, and the establishment of a new State body called the National Automatic Enrolment Retirement Savings Authority, and the establishment day is the date on which the National Automatic Enrolment Retirement Savings Authority is formally established in law.

Tax Appeals Commission Determinations

Catherine Dunne
Barrister-at-Law

Published from 1 August to 31 October 2025

Income Tax

188TACD2025

Appeal regarding application of the four-year statutory limitation period

s865 TCA 1997

Case stated requested: Unknown

189TACD2025

Appeal regarding application of the four-year statutory limitation period

s865 TCA 1997

Case stated requested: Unknown

192TACD2025

Appeal regarding entitlement of married couple to joint assessment where only one spouse is resident in the State and has income chargeable to tax in the State

s1016 TCA 1997; s1017 TCA 1997; s1032 TCA 1997

Case stated requested: Unknown

195TACD2025

Appeal regarding the refusal to allow tax relief on set-up costs of a PRSA AVC account

s787A TCA 1997; s787C TCA 1997

Case stated requested: Unknown

196TACD2025

Appeal regarding whether the appellant was engaged in a trade of land development and entitlement to deduct trading losses

s3 TCA 1997; s381 TCA 1997

Case stated requested: Unknown

197TACD2025, 198TACD2025, 199TACD2025

A series of appeals linked to determination 42TACD2024 regarding assessment to income tax in respect of liquidation proceeds received from company not tax resident in Ireland

s740 TCA 1997; s743 TCA 1997; s745 TCA 1997

Case stated requested: Unknown

200TACD2025

Appeal regarding application of the four-year statutory limitation period

s865 TCA 1997

Case stated requested: Unknown

211TACD2025

Appeal regarding income tax liability after failure to report Department of Social Protection pension when filing returns

Part 41A TCA 1997

Case stated requested: Unknown

224TACD2025

Appeal regarding application of the four-year statutory limitation period

s865 TCA 1997

Case stated requested: Unknown

Income Tax, Corporation Tax & USC

215TACD2025

Appeal regarding treatment of expenses and charitable donations

s112 TCA 1997; s114 TCA 1997; s117 TCA 1997; s848A TCA 1997

Case stated requested: Unknown

Income Tax & DWT

204TACD2025

Appeal regarding treatment of a share subscription as a distribution

s172B TCA 1997; s130 TCA 1997

Case stated requested: Unknown

USC

218TACD2025

Appeal regarding application of the reduced charge to USC

s531AN TCA 1997

Case stated requested: Unknown

Corporation Tax

216TACD2025

Appeal regarding treatment of interest payments on a parent-company loan to reduce rental income for the purposes of corporation tax returns

s97 TCA 1997

Case stated requested: Unknown

222TACD2025

Appeal regarding a surcharge imposed for the late filing of financial statements in iXBRL format

s884 TCA 1997; s917EA TCA 1997; s959K TCA 1997

Case stated requested: Unknown

VAT

187TACD2025

Appeal regarding application of the four-year statutory limitation period

s119 VATCA 2010

Case stated requested: Unknown

191TACD2025

Appeal regarding the refusal by Revenue to register the appellant for VAT owing to insufficient documentary evidence of trade or of capacity to trade to be regarded an accountable person

s5 VATCA 2010

Case stated requested: Unknown

202TACD2025

Appeal regarding VAT refund claim by a flat-rate farmer on purchase of an automatic calf feeder Value-Added Tax (Refund of Tax) (Flat-rate Farmers) Order 2012; s2 VATCA 2010

Case stated requested: Unknown

203TACD2025

Appeal regarding classification of services provided by a taxi company, primarily use of wheelchair-accessible vehicles

s3 VATCA 2010; Sch. 1 VATCA 2010

Case stated requested: Unknown

209TACD2025

Appeal regarding VAT treatment of a surrender of an option agreement involving letting of apartments

s2 VATCA 2010; s19 VATCA 2010; s20 VATCA 2010; s59 VATCA 2010; s64 VATCA 2010; s94 VATCA 2010; s95 VATCA 2010; s97 VATCA 2010

Case stated requested: Unknown

219TACD2025

Appeal regarding application of the four-year statutory limitation period

s99(4) VATCA 2010

Case stated requested: Unknown

Temporary Wage Subsidy Scheme

186TACD2025

Appeal regarding liability to tax on payments received under the Temporary Wage Subsidy Scheme

s28 Emergency Measures in the Public Interest (Covid-19) Act 2020

Case stated requested: Unknown

190TACD2025

Appeal regarding liability to tax on payments received under the Temporary Wage Subsidy Scheme

s28 Emergency Measures in the Public Interest (Covid-19) Act 2020

Case stated requested: Unknown

VRT

205TACD2025

Appeal regarding the open-market selling price in respect of the calculation of VRT

s133 Finance Act 1992

Case stated requested: Unknown

213TACD2025

Appeal regarding the open-market selling price in respect of the calculation of VRT

s133 Finance Act 1992

Case stated requested: Unknown

Stamp Duty

206TACD2025

Appeal regarding application of the four-year statutory limitation period

s83D SDCA 1999

Case stated requested: Unknown

221TACD2025

Appeal regarding claim for repayment of stamp duty outside the 30-month time limit owing to land rezoning

s83D SDCA 1999

Case stated requested: Unknown

225TACD2025

Appeal regarding application of the four-year statutory limitation period

s159A SDCA 1999

Case stated requested: Unknown

Artists' Exemption

207TACD2025

Appeal regarding the application of the artists' exemption

s195 TCA 1997

Case stated requested: Unknown

210TACD2025

Appeal regarding the application of the artists' exemption

s195 TCA 1997

Case stated requested: Unknown

PAYE

193TACD2025

Appeal regarding application of the four-year statutory limitation period

s865 TCA 1997

Case stated requested: Unknown

212TACD2025

Appeal regarding treatment of backdated State pension

s112 TCA 1997; s126 TCA 1997

Case stated requested: Unknown

214TACD2025

Appeal regarding application of relief for third-level fees

s473A TCA 1997

Case stated requested: Unknown

PAYE, PRSI & USC

223TACD2025

Appeal regarding claim for PAYE/USC credit as deducted from the salary of a director that was not remitted by the company to Revenue

s997A TCA 1997

Case stated requested: Unknown

CGT

194TACD2025

Appeal regarding the refusal of a claim for negligible-loss relief

s538(2) TCA 1997

Case stated requested: Unknown

217TACD2025

Appeal regarding disposal of shares between connected parties

s10 TCA, s549 TCA 1997

Case stated requested: Unknown

CAT

201TACD2025

Appeal regarding the denial of dwelling-house exemption on an inheritance

s86 CATCA 2003

Case stated requested: Unknown

Help to Buy

208TACD2025

Appeal regarding application of clawback provisions

s477C TCA 1997

Case stated requested: Unknown

220TACD2025

Appeal regarding application of clawback provisions

s477C TCA 1997

Case stated requested: Unknown

UK and Northern Ireland Tax Update

Marie Farrell
Tax Director, KPMG Ireland (Belfast Office)

Introduction

At the end of November the Chancellor of the Exchequer delivered Autumn Budget 2025, which has provided the main UK tax law developments since the last UK tax update and is the focus of this article. Speculation around what tax measures would be included in Budget 2025 was at fever pitch in the weeks and months leading up to what has been widely referred to as a historical, extraordinary and unprecedented Budget and budgetary process.

Most of the significant tax rises in Budget 2024 were targeted at capital gains tax and inheritance tax, with the overarching aim of not increasing the tax burden on "working people". However, 12 months on, the Chancellor now accepts that reducing the large funding shortfall requires "everyone to make a contribution". Rather than focusing on a well-trialled increase in income tax to achieve this, the Chancellor decided on a range of tax rises impacting workers, businesses and certain asset holders.

For businesses in Northern Ireland, a region with substantial economic growth potential, evidence increasingly suggests that stimulating economic expansion and enhancing public revenue are best achieved not through tax increases but by reducing corporation tax to match the rate applied to businesses in the Republic of Ireland (ROI).

An overview of the main changes in the Budget is given below.

Key Autumn Budget Announcements

Income tax and national insurance

The income tax personal allowance, the higher and additional rate thresholds, and the relevant national insurance thresholds will remain frozen for an additional three years, until April 2031, meaning more individuals will be pulled into higher tax bands. The Chancellor may have kept her manifesto promise of not raising the rate of income tax or national insurance, however freezing the threshold means that individuals will ultimately pay more tax.

From April 2026, income tax rates for dividend income will be increased to 10.75% (basic rate) and 35.75% (higher rate). The additional rate remains unchanged at 39.25%. These increases will particularly affect private company owners who extract profits via dividends and investors holding shares outside tax-efficient structures such as ISAs and pensions.

From April 2027, income tax rates for savings and property income will be increased by 2% for all tax bands. This income will be taxed at 22%, 42% or 47%. For property landlords, the increase compounds existing pressures from loss of mortgage interest relief and stamp duty surcharges. However, many commentators have suggested that landlords will simply increase rent to balance out the tax increase, which would completely defeat the purpose of the measure framed by the Chancellor as a "fairness initiative".

Pensions

A £2,000 cap on pension contributions made under a salary sacrifice scheme will be introduced from April 2029: employees and employers will be subject to national insurance on contributions above this amount. Employers that offer salary sacrifice schemes are strongly advised to revisit their reward strategies, and higher earners should review their remuneration package to balance current income against their retirement planning.

A number of hotly tipped measures that were not included in Reeves's Budget are also worth a mention. Notably, standard employer pension contributions will continue to be exempt from national insurance, and no modifications were announced regarding the tax-free lump sum available from pensions on retirement.

Inheritance tax

Despite extensive lobbying from the business and farming communities, the changes announced in Budget 2024 to business property relief and agricultural property relief will go ahead as planned from April 2026. The only small concession the Chancellor introduced was to enable the £1m agricultural property relief/business property relief allowance to be transferrable between spouses. A review of existing UK inheritance tax exposures is strongly recommended for those potentially impacted by the measures, which should include consideration of making lifetime gifts, using family trusts and taking out/reviewing appropriate forms of life cover.

The Chancellor also announced that the inheritance tax thresholds will remain frozen for an additional three years, until April 2031 (previously, frozen until 2028), and from 6 April 2026, UK agricultural land and buildings held through non-UK companies or similar bodies will be brought within the scope of UK inheritance tax.

Business taxes

Major changes to the corporation tax system were not anticipated, and this proved to be the case. Most of the business tax-related documents released after the Chancellor's speech focus on implementing policies outlined in earlier consultations. However, one item of note is that late-filing penalties for corporation tax returns are to be doubled for returns due to be filed on or after 1 April 2026, meaning that the standard late-filing penalty increases to £200, and where there are three successive filing failures and the return is more than three months late, the penalty increases from £1,000 to £2,000.

Although there were limited business tax measures, businesses will be affected by other tax measures announced, including increases in the national living wage. However, the certainty already brought via the 2024 Corporate Tax Roadmap and a commitment to retain the 25% rate of corporation tax, alongside enhanced allowances and reliefs intended to stimulate growth, will likely be received positively by the business community. These are discussed in more detail below.

Tax incentives

Taking effect from 1 January 2026, a new 40% first-year allowance has been announced in respect of assets that are currently outside the scope of full expensing, including assets purchased by unincorporated businesses and assets acquired with the intention of being leased (but excluding assets leased overseas). The Government has been exploring the case for expanding the scope of full expensing to include assets for leasing with an industry working group for some time now, and this development will be welcomed by companies in the leasing sector as a step forward, as it shows that the principle of including leasing within full expensing has now been accepted by the Government. However, it is hoped that it is only an interim measure, to be followed by the inclusion of leased assets in the full expensing regime in the not-too-distant future.

There was also a reduction in the writing-down allowance rate for the main rate capital allowance pool from 18% to 14%, taking effect from 1 April 2026 for corporation tax and 6 April 2026 for income tax. This should only affect businesses with historical expenditure on

plant and machinery on which upfront reliefs were not available (e.g. cars or second-hand assets) or where first-year allowances were not claimed.

Employment taxes

The employment tax measures announced in Budget 2025 deliver a mixed outcome for UK businesses and their workforce.

National living wage and national minimum wage

From April 2026 the national living wage will increase by 4.1%, to £12.71 per hour, for employees aged 21 and over. This represents an annual pay rise of almost £1,000 for a full-time worker on the minimum wage. For employees aged 18–20 the national minimum wage will increase to £10.85 per hour, and for 16–17-year-olds and apprentices it will increase to £8 per hour. Although this is positive news for low-paid workers struggling to keep pace with the cost of living, the benefit will be eroded by the continued income tax and national insurance threshold freezes, not to mention adding significant cost pressures for businesses whose staff costs continue to increase.

Enterprise Management Incentive

The Government announced an increase in company eligibility limits for the EMI, allowing larger and growing businesses to offer tax-advantaged incentives. Key changes effective from 6 April 2026 (and retrospectively for existing EMI contracts that have not yet expired or been exercised) include:

- company options limit rising from £3m to £6m,
- gross assets limit increasing from £30m to £120m,
- employee cap raised from 250 to 500 and
- exercise period extended from 10 to 15 years.

The increase in EMI thresholds is a welcome development, strengthening the ability of employers to attract and retain talent in a competitive labour market through equity participation.

Indirect taxes

The Budget introduced several minor indirect tax changes, some of which will, however, significantly affect businesses. Buried in the documents was the announcement on e-invoicing. A roadmap outlining the implementation will be published next year, with a firm commitment to stakeholder engagement. The introduction of mandatory e-invoicing for all VAT invoices by 2029 represents a substantial change and comes earlier than anticipated. The transition will have a considerable impact on all businesses trading in the UK, necessitating updates to software systems to ensure that all invoicing is conducted in the required electronic format in just over three years.

The new excise duty for electric cars was another key indirect tax measure announced, with the objective of establishing a more equitable system for all motorists by ensuring that electric vehicle (EV) owners also contribute to the maintenance of the road network. From 1 April 2028 the duty will be levied annually in conjunction with vehicle excise duty, at a rate of 3 pence per mile for electric cars and 1.5 pence per mile for plug-in hybrid vehicles. As businesses move their fleet to include more EVs, this is another measure that will increase their overall cost base.

Other Developments

Registration of tax advisers with HMRC

As part of HMRC's plan to raise standards in the tax advice market and protect taxpayers from tax advisers who are unable to meet the eligibility conditions/minimum standards, accountants and tax advisers will have to register with HMRC from May 2026.

The obligation to register is on the individual where he or she is a sole practitioner. However, where the individual "works for" an organisation and provides advice in the course of a business carried on by the organisation, the obligation to register is on the organisation. "Interacting" with HMRC is defined as including filing returns but also communicating with HMRC in any way.

If these rules are adopted as proposed, they will place heavy burdens on professional firms, especially those with ROI-headquartered clients with cross-border NI/UK operations. It may create a barrier for these firms and potentially lead to their stopping direct dealings with HMRC.

Reminder: HMRC late-payment interest rates

From 6 April 2025 the rate at which HMRC charges interest on most taxes and duties paid late increased to the Bank of England (BOE) base rate plus 4 percentage points. Late-paid corporation tax quarterly instalment payments increased to BOE base rate plus 2.5 percentage points, and late-paid customs duty increased to BOE base rate plus 3.5 percentage points. It is evident from practice that businesses are paying HMRC significant amounts of interest that, with better planning and payment management, could be minimised or even avoided. As the cost base of doing business continues to increase, this is one area where the power is in the hands of the taxpayer to take appropriate action.

Tax Technology Update: Navigating Data Challenges in BEPS Pillar Two Compliance

Caitriona McConnell
Associate Director, Tax, KPMG Ireland

Introduction

The global tax landscape is undergoing a seismic shift with the implementation of the OECD's Base Erosion and Profit Shifting (BEPS) Pillar Two rules, which are designed to ensure that large multinational enterprises pay a minimum effective tax rate of 15% in every jurisdiction in which they operate. Pillar Two introduces new compliance challenges, including a significant departure from traditional entity-based reporting, and brings with it a series of data-related challenges that tax and finance teams must address to remain compliant. To understand these challenges in more detail, it is important first to recognise the group in scope of Pillar Two and then the data requirements to support operational complexities needed for Pillar Two compliance.

Understanding BEPS Pillar Two Scope and Complexity

The starting point for Pillar Two compliance is understanding the group structure. This may sound straightforward, but it is often a significant challenge. Organisations must identify all constituent entities, including joint ventures (JVs), minority interests and entities owned further up the chain, such as those controlled by private equity or financial institutions. The first pages of the GloBE Information Return require granular data points for every entity in the group, making accurate scoping essential.

Special rules apply to JVs. Even if a JV operates independently and has revenues below €750m, it may be brought into scope if accounted for as a JV by a parent group that is above the threshold. The JV is treated as its own Pillar Two group, with implications for both parent entities and the JV itself. Calculations may be performed under different accounting standards than that of the parent group, adding further complexity.

Pillar Two does not operate on an entity-by-entity basis but blends results across all the entities in a jurisdiction. Each entity prepares calculations of GloBE income and "adjusted covered taxes", which are aggregated to determine the jurisdictional effective tax rate (ETR). This blending can have unexpected impacts, as adjustments in one part of the group affect the top-up tax for others. For groups with complex structures or non-local parents, managing this process is particularly challenging.

The Data Challenge: Collection, Processing, and Reporting

One of the most pressing challenges of Pillar Two compliance is the sheer volume and complexity of data required. Compliance under Pillar Two demands between 250 and 300 distinct data points for each calculation, spanning tax, accounting, payroll and legal systems. Alarmingly, only a fraction of these data points – approximately 25% – are readily available in existing systems. The remainder often requires manual sourcing or adjustments, creating a substantial burden on organisations. Furthermore, the granularity of data needed,

such as ownership interests defined under GloBE rules, physical asset locations and payroll details for substance-based exclusions, is rarely captured in standard accounting structures. This lack of readily available information exacerbates the challenge of meeting compliance deadlines.

Fragmentation of data across multiple systems adds another layer of complexity. Information resides in ERP (enterprise resource planning) platforms, consolidation tools, local ledgers and even spreadsheets, often without standardisation. Tax teams typically do not own all of the necessary data, leading to dependencies on finance and HR functions. These silos increase the risk of errors and inefficiencies, particularly when manual collation becomes the default approach. In addition, inconsistent data quality across jurisdictions and systems further complicates aggregation and reporting, making it difficult to produce accurate and timely filings.

Regulatory divergence and tight timelines compound these operational challenges. Countries are adopting Pillar Two rules at varying speeds, creating uncertainty and requiring organisations to maintain agile reporting processes. The limited time available to prepare for initial filings – often within 15 to 18 months of fiscal year close – places immense pressure on tax departments to adapt quickly. Without clear governance structures defining roles and responsibilities, such as ownership of qualified domestic minimum top-up tax reporting, organisations risk inefficiencies and compliance failures.

From Chaos to Clarity: Mitigating Data Challenges

The first year of implementing Pillar Two compliance will undoubtedly be a learning curve for organisations worldwide. Many will find themselves in "firefighting" mode, working under pressure to meet complex requirements while simultaneously building sustainable processes for the future. This transitional phase is not just about meeting deadlines – it is about laying the groundwork for long-term efficiency and accuracy.

To mitigate data challenges presented by Pillar Two compliance, organisations must adopt a proactive and structured approach. The first step could be conducting a comprehensive data mapping and gap analysis. By identifying all required data points early and mapping them to existing systems, companies can pinpoint deficiencies and develop remediation plans. Building a centralised data repository is another critical measure. This repository should integrate with source systems and automate data transfers to compliance tools, reducing reliance on manual processes and improving accuracy. Where newly designed processes are introduced, organisations must ensure that they are well documented and adaptable to evolving regulatory requirements.

Technology enablement plays a pivotal role in addressing Pillar Two requirements. Excel remains a default tool for finance or tax teams to gravitate towards but quickly becomes inefficient as data volume grows. Using advanced tools for data processing and mapping – such as Alteryx for automation, smart questionnaires for structured data collection and Python for custom analytics – can significantly reduce manual effort and improve accuracy. These solutions enable organisations to manage large volumes of data efficiently, ensuring compliance without sacrificing operational agility. As organisations mature in their compliance processes, automation and artificial intelligence can further enhance efficiency by handling repetitive tasks and improving data integrity.

Several software solutions are emerging to address Pillar Two compliance, each catering to different organisational types and integration needs. These software solutions might be able to automate data ingestion, streamline GloBE ETR and top-up tax computations, and support meeting reporting requirements. However, not every product will meet your unique needs. Before making a purchase, it is critical to invest time in thorough research to ensure that the solution fits your requirements, delivers value and supports long-term success.

Training centred on understanding Pillar Two cannot be overlooked. The multi-layered

structure of Pillar Two adds significant complexity. The framework comprises several interdependent rules, including the income inclusion rule, the undertaxed payments rule and the qualified domestic minimum top-up tax. Each rule operates under different conditions and triggers, requiring organisations to understand not only individual provisions but also how they interact globally. This layered approach means that compliance cannot be achieved through simple calculations but demands a holistic understanding of tax positions across multiple jurisdictions. This compliance requirement forces organisations to maintain parallel data sets and apply different adjustments, depending on the rule being triggered. Incorrect interpretation or application of these rules could lead to inaccuracies in compliance requirements, resulting in penalties and financial exposure.

In addition to technical training on Pillar Two rules, formal training on new tools and processes will be essential for any stakeholders engaged in supporting compliance obligations. Any training should be coupled with effective communication of requirements and timelines, which will empower stakeholders and reduce the risk of last-minute challenges. Cross-functional collaboration is equally essential. Tax, finance and HR teams must work together to align on data ownership, timelines and governance. Clear communication and defined responsibilities will help to avoid bottlenecks and ensure smooth execution.

Ultimately, year 1 is about balancing immediate compliance needs with strategic investments in process and technology. Organisations that approach this period proactively will not only meet regulatory requirements but also position themselves for future success. By combining these strategies – data mapping, technology adoption, collaboration and training – organisations can transform Pillar Two compliance from a daunting obligation into a manageable process.

Revenue Commissioners' Update: VAT Modernisation

Davena Lyons
Principal Officer in the Collector General's Division, Revenue Commissioners

Following Minister Donohoe's Budget Day announcement, Revenue is embarking on a programme toward VAT modernisation through eInvoicing and real-time reporting. This change will reshape how businesses handle VAT compliance and will be the most significant change to VAT administration since 1972.

The European Context and Opportunity

The EU's VAT in the Digital Age (ViDA) Directive, adopted in March 2025, establishes a clear mandate for Ireland. From 1 July 2030, businesses wishing to retain 0% VAT arrangements for cross-border EU trade must use structured eInvoices and report to tax authorities in real-time. The European Commission estimates this transformation will:

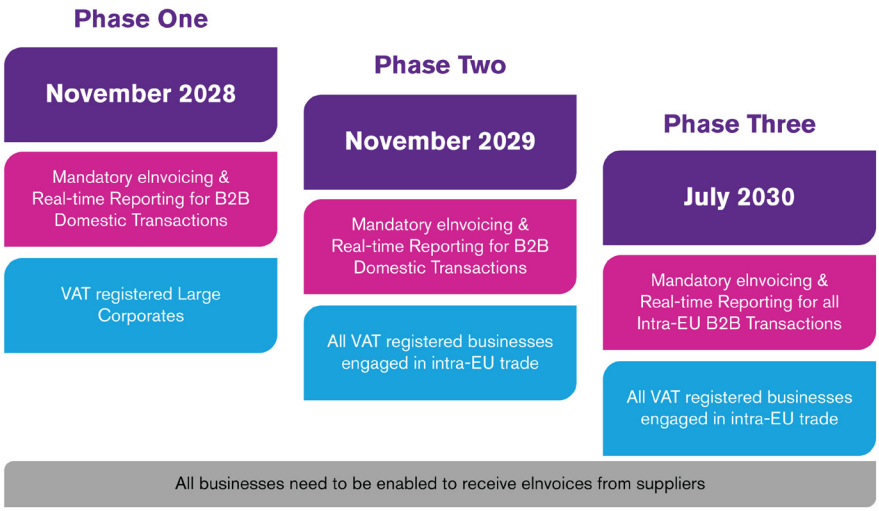
- reduce VAT fraud by up to €11 billion annually
- lower compliance costs by over €4.1 billion over ten years

and

- address a VAT gap of €89.3 billion.

A Phased Implementation Strategy

Revenue has outlined a structured three-phase rollout to build capability and confidence across the business community.



Phase 1 (November 2028) introduces mandatory domestic B2B eInvoicing with real-time reporting for VAT-registered large corporates, positioning these businesses as transformation leaders.

Phase 2 (November 2029) extends domestic obligations to all VAT-registered businesses engaged in intra-EU trade. This ensures businesses gain essential experience ahead of EU-wide requirements.

Phase 3 (1 July 2030) implements full ViDA compliance for all cross-border EU B2B transactions.

Importantly, all businesses will need the capability to receive structured eInvoices. Many SMEs will have to address this requirement before they begin issue eInvoices themselves.

Technical Foundation and Business Benefits

The system requires structured eInvoices to comply with European standard EN16931. PDFs or scanned documents will not meet ViDA requirements. Revenue expects significant utilisation of existing technical infrastructure, particularly the Peppol network, working closely with the Office of Government Procurement, Ireland's designated Peppol Authority.

The business case for digitalisation is compelling. eInvoicing automates routine tasks, improves data quality, and reduces manual processing costs. Standardised digital invoices facilitate cross-border trade while reducing fraud and errors. Enhanced data quality enables Revenue to accelerate VAT repayments, resolve discrepancies early, and focus resources on higher-risk areas. This will improve the experience for compliant businesses overall.

Collaborative Implementation

Revenue recognises the critical change management role that tax practitioners play in delivering a smooth transition.

Active engagement with service providers, software developers, practitioners, representative bodies and the broader business community is essential. Revenue invites feedback on invoicing processes, transaction patterns, document types, and sector-specific practices through a dedicated communication channel - vatmodernisation@revenue.ie. Revenue will also engage through the Tax Administration Liaison Committee and dedicated stakeholder forums.

Looking Forward

This transformation aligns Ireland's business environment with international best practice and OECD Tax Administration 3.0 principles, moving from after-the-fact reporting to real-time, reliable data flows. The transformation programme aims to create a comprehensive digital ecosystem where:

- eInvoicing becomes the default
- tax becomes part of the fabric of business operations

  and

- compliance happens naturally within existing business processes.

Revenue has a VAT Modernisation webpage (revenue.ie/vatmod) which will be updated with timelines, technical materials, and engagement opportunities as the programme progresses.

The success of this ambitious transformation depends on continued collaboration. Together, we can deliver a system that is efficient, value-added, and positions Ireland at the forefront of digital tax administration for decades to come.

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Disclosure Opportunity to Regularise Misclassification of Self-Employment

Introduction

On 11 September 2025 the Revenue Commissioners issued a press release announcing an opportunity for businesses to correct payroll tax issues for 2024 and 2025 arising from the bona fide misclassification of workers. Businesses that acted in good faith, relying on the case law and guidance available prior to the Supreme Court judgment in *Revenue Commissioners v Karshan (Midlands) Ltd t/a Domino's Pizza* [2023] IESC 24 ("Karshan"), but that may have misclassified employees as contractors are encouraged by Revenue to take this opportunity to regularise their tax affairs.

Employers will be permitted to enter into settlement terms in respect of the relevant payroll tax issues, without imposition of interest or penalties, where they engage with Revenue before Friday, 30 January 2026, on the issue. Any necessary adjustment to income tax, USC or PRSI liabilities due in respect of 2024 and 2025 will be treated as a "technical adjustment" under the Code of Practice for Revenue Compliance Interventions.

In conjunction with this announcement, Revenue has published "Revenue Guidelines: Settlement Arrangement Arising from Revenue v Karshan (Midlands) Ltd. Trading as Domino's Pizza" ("the Settlement Guidelines").

Revenue's Reaction to Karshan Case

Revenue previously issued a press release on 27 October 2023, after the publication of the *Karshan* judgment a week earlier, in which it encouraged businesses, and any agents representing them, that were engaging contractors, sub-contractors or other workers on a self-employed basis to familiarise themselves with the detail of the judgment and to review their workforce model in light of same. Where a business considered that it may have previously misclassified a worker as self-employed, rather than as an employee, and wished to regularise its position, it was advised to do so in accordance with section 2 of Revenue's Code of Practice for Revenue Compliance Interventions ("the Code").

In May 2024, to assist businesses in carrying out this review, Revenue published detailed guidance for determining employment status for taxation purposes (Tax and Duty Manual Part 05-01-30) and set out a number of practical examples to assist businesses determine the taxation status of workers that they engage.

In October 2024 to assist with the application of the test in *Karshan*, Revenue, the Department of Social Protection and the Workplace Relations Commission jointly published the Code of Practice on Determining Employment Status. The publication was a joint initiative because, although the question of employment status in *Karshan* was determined in the context of tax treatment by Revenue, it is intended that the test would also be consistently applied by the Department of Social Protection and in the Workplace Relations Commission, subject to differences in legislative frameworks. That being said, it cannot be assumed that a decision by Revenue, the Department of Social Protection or the Workplace Relations Commission will necessarily be followed by the others.

It may be reasonable to conclude that the press release of 27 October 2023 and the subsequent publication of guidance did not result in the level of self-review by businesses, and related disclosures, that Revenue had anticipated. For this reason a more structured and incentivised opportunity is now being afforded to businesses to review the status of workers engaged by them and regularise the tax position for 2024 and 2025.

I would recommend that any agent advising a client business on the features and merits of this disclosure opportunity listen to episode 23 of the ITI's TaxTalk podcast, from 17 October 2025. As part of the podcast, host Donal O'Donovan spoke with Sarah Waters (Revenue's Accountant General's and Strategic Planning Office), Sinéad McNamara (Revenue's Personal Tax Policy and Legislation Division) and Aidan Lucey (PwC). In providing some context for affording taxpayers this disclosure opportunity, Revenue accepted that there may have been a degree of confusion surrounding this issue and that businesses may have experienced difficulties in regularising their payrolls in the two years since the *Karshan* decision. Revenue is now offering this settlement arrangement for businesses, which have acted in good faith, to regularise their payroll in a standardised way.

How Did We Get Here?

The *Karshan* judgment clarified the area of law relating to employment status and whether a worker is a contractor or an employee. The case was an appeal taken by Revenue of a Court of Appeal decision that found delivery drivers for Karshan to be independent contractors rather than employees, overturning the original decision of the Tax Appeals Commission.

The Supreme Court reassessed the importance of mutuality of obligation, previously considered a cornerstone of the employment relationship, as now being one factor to be considered in the overall assessment of the contractual relationship. Instead, it should be viewed as doing no more than describing the consideration that has to be present before

a working arrangement is capable of being categorised as an employment contract.

The decision reaffirms the position as set out by the Supreme Court in *Henry Denny & Sons (Ireland) Ltd v Minister for Social Welfare* [1997] IESC 9 and confirms that the factors, which have developed in case law over 50 years, are still of relevance and should be used as guidance in determining employment status. A holistic assessment of the actual relationship between the parties is still required.

To be clear, the *Karshan* decision did not introduce new principles but, rather, clarified the test that existed pursuant to previous case law. In this respect, Murray J stated "the method I have proposed is no more than a reduction of the existing case law".

Five-Question Framework

The court set out a five-question framework to guide any assessment of employment status, but this is not to be considered a legal test per se. Murray J said that it was useful to identify "factors that will be usually be relevant to the inquiry".

Question 1 – Remuneration and contract type

"Does the contract involve the exchange of wage or other remuneration for work?"

The first question that must be asked is whether the relationship is one of labour in exchange for payment. In furtherance of this question, the contract type must be identified and fall into one of the following categories:

- a contract for a regular wage for work with ongoing obligations to pay and work,
- a series of employment agreements governing the discharge of particular tasks,
- an agreement to complete one identified task,
- an ongoing agreement defined by an umbrella contract,
- any combination of the above, or
- is the agreement one for the exchange of labour for pay at all?

Question 2 – Personal services

> "If so, is the agreement one pursuant to which the worker is agreeing to provide their own services, and not those of a third party, to the employer?"

If the contractual relationship for labour has been established, then the next factor to be considered is whether it is one in which the worker is agreeing to provide their own services, and not those of a third party. The court found that personal service is a requirement and not merely a factor. Although some degree of substitution is permissible, such as where the worker is unable to carry out work, it must be consistent with personal performance to be an employment relationship. Any significant qualification placed on substitutes or discretion to refuse any proposed substitutes is more consistent with an employment relationship.

Question 3 – Control

> "If so, does the employer exercise sufficient control over the putative employee to render the agreement one that is capable of being an employment agreement?"

This question relates to the party deciding the who, what, where, when, how, as follows:

- who determines the way in which the work is to be done,
- what work is required to be done,
- where the work is to be done,
- when the work is to be done and
- how the work is to be done.

The question is whether the business imposes control over the worker such as working hours, location of work and methods of completing the work. In most employment situations the employer has residual authority over how work is done. However, independent contractors usually retain autonomy in deciding the method, and this is often linked to completing the task in the most efficient manner, to the satisfaction of the other party, to maximise the

return for the contractor. Therefore, it is often difficult to look at control without looking at whether the contractor is carrying on business on their own account.

Murray J also commented that the level of control is often determined by how integral the work carried out is to the business.

Question 4 – Working arrangement

> "If these three requirements are met the decision maker must then determine whether the terms of the contract between employer and worker interpreted in the light of the admissible factual matrix and having regard to the working arrangements between the parties as disclosed by the evidence, are consistent with a contract of employment, or with some other form of contract having regard, in particular, to whether the arrangements point to the putative employee working for themselves or for the putative employer."

It is only if Questions 1 to 3 are answered in the affirmative that this question needs to be considered. This question requires the evaluation of the actual dealings between the parties and the working arrangements in practice, rather than the label placed on them. Important here is the contractor's ability to make a profit from their own skills and the need for investment on the part of the contractor, particularly in terms of tools and equipment used to carry out the work. Which party drafted the agreement and whether it was negotiated will be also important. The tax affairs of the contractor are of relevance but only marginally, according to Murray J.

Question 5 – Legislation

> "Finally, it should be determined whether there is anything in the particular legislative regime under consideration that requires the court to adjust or supplement any of the foregoing."

This question relates to the specific piece of legislation in which the employment status is being determined, for example, any difference in the definition of employee, employer and contract of services under the relevant piece of legislation.

The first three questions are to be viewed as a filter. If any of these are answered negatively, there cannot be a contract of employment. If the first three questions are answered affirmatively, Questions 4 and 5 must then be considered to determine whether a contract of employment exists. It is interesting to note that the test was employed in the decision of the Tax Appeals Commission in 148TACD2024, where the Commissioner considered that the evidence before him suggested that none of the three above steps had been met in respect of the appellant in that case.

Findings

In finding in favour of Revenue, the Supreme Court overturned the Court of Appeal decision and found that the *Karshan* drivers were employees. However, the court was keen to stress the limited application of this decision and warned against its broad application to delivery drivers and workers in the "gig economy". Any determination of employment status will still depend on the facts of the individual case. In fact, the court only went as far as determining that the *Karshan* delivery drivers were employees for taxation status only and that employment status, for the purposes of employment laws, would have to be determined in the relevant forum.

Making the Disclosure

In respect of the years 2024 and 2025, where an employer identifies that there has been a misclassification of an employee as a "contractor", an unprompted disclosure of the misclassification can be made in accordance with the Settlement Guidelines, via ROS, to Revenue. Revenue has stated that a disclosure under the Settlement Guidelines is not a disclosure under the framework set out in the Code.

For the purposes of the settlement, the Settlement Guidelines note that employees will be treated as if they have been paid "gross" by the employer, without deduction of income

tax, USC or PRSI. The employer will be required to calculate the applicable income tax, USC and PRSI liabilities for the impacted employee, to be submitted as part of the disclosure. In circumstances where a business is not in a position to discharge the relevant liability, an application for a phased payment arrangement can be submitted to Revenue.

The Settlement Guidelines provide guidance on calculating the settlement figure (due for submission by 30 January 2026) and note:

- Income tax is to be calculated at the standard rate of 20% on the gross amount paid to the employee during the relevant year. The provisions of s968A TCA 1997 in respect of re-grossing of payments made without deduction of income tax should therefore not apply (see Revenue's Tax and Duty Manual Part 42-04-06).
- USC is to be levied at a "blended rate" of 3.5% on the gross amount paid.
- PRSI is to be calculated on an actual basis.
- Credit will be available for income tax paid by the employee through the self-assessment system in respect of 2024, where an individual has already filed a return for 2024.
- Settlement for 2025 is required before the self-assessment deadline for that year. This means that there may be no "credit" for tax paid through the self-assessment system by employees available to employers that are availing of these settlement terms. Credit will, however, be available for any relevant payments of preliminary income tax.

Revenue has advised that the misclassification and resulting tax issues will be treated as a "technical adjustment", and no penalties, either tax-geared or fixed, will apply.

In respect of PRSI, the employer will also be required to create a PRSI record for the impacted employee for 2024 and 2025. Guidance on creation of the PRSI record is provided in the Settlement Guidelines.

In the author's opinion, the standardised approach set out in the Settlement Guidelines represents a real opportunity for businesses to address classification issues for the years 2024 and 2025 in a pragmatic and cost-efficient manner.

Preliminary Work

As an initial step in the decision-making process about whether a business intends to avail of the disclosure opportunity, it will be necessary to review all aspects of the relationship between the business and the individuals concerned. This exercise should be carried out using the guidance issued by Revenue after the publication of the *Karshan* decision.

Once a decision is made to avail of the opportunity, a business will then need to engage with the individual or individuals concerned. To maximise the potential credits that might be available, a business should seek to establish whether the individual has:

- filed their personal tax returns and paid income tax/USC and PRSI in respect of 2024 and 2025,
- suffered withholding tax, such as PSWT or RCT, on payments and
- charged VAT on invoices that have been raised.

Revenue has stated that it wishes only to "collect tax once", in which case all available credits should be claimed, and such claims will be considered on a case-by-case basis. Where VAT has been charged by an individual on invoices raised for services provided to a business that is entitled to full VAT recovery, no adjustment may be required. However, if the activities carried on by the business are wholly or partially exempt from VAT, it may be necessary for credit notes to be issued etc.

When communicating with relevant individuals, businesses should also consider the non-tax issues arising from a potential change in status from that of a self-employed contractor to employee.

What Are the Implications from an Employment Law Perspective?

When revising the characterisation of workers from a tax perspective, businesses should also consider the implications of characterising workers as employees from an employment law perspective. Although the *Karshan* decision was a Revenue decision, the intention is that the Workplace Relations Commission would apply the same test, subject to any differences in the legislative frameworks. This means that, as a general rule, businesses would take a uniform approach to the characterisation of workers from both a tax and an employment perspective.

Practically, if employers re-characterise contractors as employees, they should consider implications for workers' employee entitlements during the period of engagement, such as minimum wages, annual leave, sick leave and notice period, as well as maximum working week, breaks, redundancy pay and protections pursuant to the unfair dismissal jurisdiction. All of these entitlements will necessarily be determined by reference to workers' period of continuous service, which will generally be from when they first commenced work (unless there was a significant shift in the way they have been engaged). Employers may also consider whether it is appropriate to issue relevant workers with a new contract that accurately reflects the employment relationship.

Re-characterisation is likely to raise some complex technical issues for retrospective employee entitlements – for example, where a worker was absent on occasions because they were unfit for work when they may have been entitled to sick leave as an employee, or where a worker was previously absent owing to being a parent when they may have been entitled to parental leave as an employee.

Some careful strategic thinking should be applied to rectify issues associated with mischaracterisation from an employment law perspective – in particular, where issues of mischaracterisation are far-reaching or apply to workers who are no longer in the employ of the business.

Significance of the Deadline

Where an employer fails to take this opportunity to review its workforce practices and to avail of the settlement option by the 30 January 2026 deadline in respect of any tax implications arising from a misclassification of workers for 2024 and/or 2025, this will be treated as a complete failure to operate fiduciary taxes by Revenue, resulting in tax, interest and penalties applying in accordance with the Code. Re-grossing will also apply in these circumstances.

What About Tax Issues for Periods Before 2024?

Section 2 of the Settlement Guidelines states:

> "These settlement terms explicitly do not apply to any intervention which was open prior to 20 October 2023. Furthermore, they do not apply to any individual who, under the Code of Practice on Determining Employment Status in effect prior to October 2023, should have been classified as an employee. Likewise, they do not apply to any individual who should have been classified as an employee based on any published decision or determination of the Department of Social Protection, the Workplace Relations Commission, the Tax Appeals Commission or a court. As such, where Revenue is of the opinion that the misclassification has arisen from either careless or deliberate behaviour, the full liability to Income Tax, USC and PRSI and interest and penalties will be pursued as provided for under the terms of all relevant legislation."

However, when asked a question in episode 23 of the ITI's TaxTalk about the implications for

pre-2024 periods, Revenue replied that where bona fide classification errors were made by businesses, Revenue would not seek to open earlier years. The implications for earlier years would therefore seem to depend on the extent to which businesses acted in good faith, which by its nature is quite a subjective test.

To the extent that they have not already been made subject to a compliance review by Revenue on the issue, an employer who identifies employment classification issues arising before 2024 should still have an opportunity to submit an unprompted qualifying disclosure to Revenue. Although an unprompted qualifying disclosure will not provide the total relief from penalties offered under the settlement terms, it may result in a significant reduction of the applicable penalties when coupled with the full cooperation of the employer in the matter.

Conclusion

In framing the Settlement Guidelines, Revenue has provided a genuine incentive to businesses to review and regularise employment classification issues for 2024 and 2025. By applying the standard rate of tax to the gross payment and a blended rate of USC, allowing credits for tax paid and not seeking to collect interest or penalties, Revenue has certainly taken a practical approach. However, the broader implications of a change in classification would need to be considered carefully. The timeline in which to avail of the disclosure opportunity is tight, so any business considering the option would need to act quickly!

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Wardship: The Impact of the Assisted-Decision Making (Capacity) Act 2015, as Amended

Background

The Assisted-Decision Making (Capacity) Act 2015 (the "2015 Act") was commenced on 26 April 2023. To provide a meaningful account of the main changes to the existing systems brought into effect by this legislation, it is important to understand legislation governing "capacity" before the enactment of the 2015 Act.

The primary regimes governing capacity were wardship and enduring powers of attorney (EPAs). Section 9(1) of the Courts (Supplemental Provisions) Act 1961 formally vested the jurisdiction of wardship in the High Court, and this jurisdiction is exercisable by the President of the High Court. The principal legislation applicable to the wardship of incapacitated persons was the Lunacy Regulation (Ireland) Act, 1871. Order 67 of the Rules of the Superior Courts sets out the main practices and procedures relating to wardship for adults. EPAs were legislated for under the Powers of Attorney Act 1996.

The 2015 Act introduced a new regime that has substantially amended previous concepts, processes and procedures. Wardship was abolished by the 2015 Act, and the current wards of court must be discharged from wardship within three years of the date of commencement of the 2015 Act, which is 26 April 2026.

The wards-of-court system was generally regarded as a patriarchal and outdated regime, governed by Victorian legislation dating back to 1871. There certainly is no place in a modern democracy for a person to be described as a "lunatic", and the need for the legislation to be overhauled is not in dispute.

The President of the High Court determined the capacity of a person for the purpose of bringing a person into wardship and discharging them from wardship. The President makes the major decisions regarding personal welfare, such as surgery, and estate management – for example, the sale or purchase of house or lands – on the advice of the Registrar of Wards of Court and/or Medical Visitors.

Since 2015, considerable changes were made to how the wards-of-court system was run, with the ethos, guiding principles and preamble of the 2015 Act adopted despite the Act's not having been commenced. The President of the High Court adopted and developed a modern jurisdiction within wardship that was more compliant with the Constitution and with the European Convention on Human Rights. Emphasis was placed on ensuring that the vulnerable person's voice was heard by encouraging their participation in person, online, through court-appointed guardian ad litems, social workers and independent solicitors.

Capacity Assessment

One of the main features of wardship was that a "status"-based approach was adopted in determining a person's capacity, and if a person was found to lack capacity, they were deemed to lack capacity in all areas of their life. The decisions were all reaching: it was an "all or nothing" jurisdiction. The ultimate deciding factor in any decision on behalf of the adult ward was a "best interests" approach. The Court's Medical Visitor, in preparing a capacity report before a wardship application, must consider if the person is "of unsound mind and incapable of managing his/herself and his/her affairs".

The 2015 Act has introduced a new regime and legal framework for supported decision making in respect of vulnerable adults with a rights-based approach to decision-making capacity, substantially altering the previous processes and procedures.

The substituted decision making under wardship has been replaced by assisted decision making and is based on the adult's ability to make a specific decision at a specific time. The new 2015 Act does not apply to minors, save for those who turn 18 within a specified period of time from the Act's date of commencement. Any minor who is aged less than 18 at the date of commencement of Part 6 will not be affected by the Act until they reach the age of 18.

The 2015 Act was a long time in the making; it was first signalled by the Law Reform Commission as far back as 2003. The Mental Capacity and Guardianship Bill 2008 followed, which, after many amendments, ultimately resulted in the 2015 Act.

Section 3 sets out that a functional capacity assessment will be undertaken when assessing the capacity of a person known as a "relevant person" (RP) and stipulates the test for capacity:

> *"[Section 3(1)] Subject to subsections (2) to (6), for the purposes of this Act, a person's capacity shall be assessed on the basis of his or her ability to understand, at the time that a decision is to be made, the nature and consequences of the decision to be made by him or her in the context of the available choice at that time.*
>
> *[Section 3(2)] A person lacks the capacity to make a decision if he or she is unable –*

(a) to understand the information relevant to the decision,

(b) to retain that information long enough to make a voluntary choice,

(c) to use or weigh that information as part of the process of making the decision, or

(d) to communicate his or her decision (whether by talking, writing, using sign language, assistive technology, or any other means) or, if the implementation of the decision requires the act of a third party, to communicate by any means with that third party."

Guiding Principles: Section 8 of the 2015 Act

Section 8 sets out the guiding principles of the Act; these principles guide interactions, decisions and interventions with a person whose capacity is in question or will shortly be in question, and with a person who lacks functional capacity to make a specific decision. The guiding principles will apply to all interveners under the legislation. As the principles are based on human rights principles, they create best-practice guidance for all interactions with a person whose capacity is in question or may shortly be in question and with a person who may be in vulnerable circumstances. They may be summarised as follows:

- presumption of capacity unless the contrary is shown,
- all practicable steps to support decision making,
- right to make unwise decisions,
- intervene only where necessary,
- an intervention is least restrictive of rights and freedoms,
- an intervention gives effect to the person's will and preferences,
- consider the views of others,
- consider the likelihood of recovery and urgency of the matters and
- obtaining, using and storing relevant information.

Three Tiers of Decision-Making Support

The 2015 Act establishes a new legal framework to support decision making set out in a three-tier system:

- Decision-making assistance agreement: This is the lowest tier; the RP makes the decision with support from their appointed decision-making assistant. An application to court is not required.
- Co-decision-making agreement: This is the second tier, where the RP makes the decision jointly with the co-decision-maker.
- Decision-making representative (DMR): This is the third tier, and an application must be made to the Circuit Court for the appointment of the DMR. The DMR makes decisions for the RP in accordance with the terms of the decision-making representative order.

I will set out below the procedure for applying for the appointment of a DMR in the Circuit Court. There is a separate procedure applicable to persons who are existing wards of court in order for them to be discharged from wardship and transferred to the 2015 Act, and I will deal with this under separate heading.

The individuals who are providing decision-making support will be supervised by the Decision Support Service (the DSS).

Decision-Making Representative

Under the former wardship regime, applications for capacity review were made to the President of the High Court, whereas now all applications are made to the Circuit Court under Part 5 of the 2015 Act.

How to make an application for a DMR to be appointed

- Capacity application is commenced in the prescribed Form 55A.
- File and serve originating notice of motion to commence Part 5 proceedings.

- Statement of Particulars – Form 55B: in this form you set out the relationship between the parties and the reason the application is being made. Consideration must be given to whether a less restrictive application could be made – for example, an assisted decision-making agreement or a co-decision-making agreement. The RP's will and preference must be set out, as well as their assets and liabilities. Set out also if a DMR or a co-decision maker has been agreed or it is necessary to go to the panel DMRs.
- File a Grounding Affidavit – Form 55I: this must be sworn by the applicant and exhibit the following:
  - capacity report from the medical/ healthcare professional,
  - Form 55,
  - Form 55B if an ex-parte consent is required and
  - supporting documentation such as existing orders and co-decision-making agreements.
- When the notice of motion has issued from the Circuit Court Office, it must be served on the RP
- Affidavit of Service in Form 55D must be sworn: this must be personally served on the RP and a proper explanation provided to them.
- The RP is entitled to object and complete a Form 55C.
- An independent solicitor from the Legal Aid Board panel will be appointed to represent the RP. The independent solicitor will meet the RP and explain the process, procedure and legal implications in an appropriate manner.
- In some cases an advocate is also required to attend with the RP.
- The matter will be set down for hearing before the Circuit Court, and under s139 an RP should be encouraged and facilitated to attend the hearing if possible, either in person or online with suitable supports.

Current Wards of Court and the 2015 Act: Exit from Wardship

Wardship came to an end for adults on 26 April 2023, and since that date no new applications can be made to admit an adult to wardship. All current adult wards of court must exit wardship by 26 April 2026, and at the time of writing, there are no plans to extend this deadline. It is likely that such persons (current wards of court) will require the appointment of a DMR.

Many persons who are currently wards of court are in wardship as a result of suffering from an injury for which they received an award of damages; often, substantial financial awards are lodged in court and managed by the Wards of Court Office on their behalf.

The new Act has brought about a fundamental change in the State's relationship with some of the most vulnerable people in the country, as far as their financial and property affairs are concerned. In wardship the ward's funds are held in court and are managed and invested by the Courts Service. When the person is discharged from wardship, they will have their finances managed by their DMR, who may be a close friend or family member or an independent person from the DMR panel established and regulated by the Decision Support Service.

There is considerable worry among families of current wards of court around the management and investment of such funds when a person exits wardship. The burden of managing funds will, in many cases, fall away from the State and be placed firmly on the shoulders of the family, who may already be fulfilling a considerable emotional and caring role for their loved ones. Such family members generally have no formal training or experience in investments or the financial markets.

The application consists principally of a capacity assessment in which a medical professional gives their opinion on whether the current ward of court, or "relevant person",

will require the appointment of a decision-making assistant, a co-decision-maker or a decision-making representative under the 2015 Act, together with an oral hearing in the High Court when the person will be discharged from wardship.

As the April 2026 deadline approaches, wards and their committees (usually a family member) are under increasing pressure to initiate a discharge application whether they wish to do so or not. The main concerns for current wards of court, their committees and family members can be summarised as follows:

- The investment of funds by the Wards of Court Office tends to produce significant investment returns owing to the large funds being managed (figures of up to €2bn have been reported) and the close oversight maintained by the Courts Service.
- There is a "safety" for vulnerable people and their families in the current system whereby the State has responsibility for and oversight of the investment of the ward's funds.
- DMRs may individually need to engage experts to develop an investment strategy and manage the RP's funds, and, given the factors highlighted earlier, the individual costs are likely to be higher and the returns lower. A significant responsibility and burden are placed on DMRs to ensure the appropriate strategic investment for the RP in the short, medium and long term for the funding of care for the RP.
- Decision Support Service independent panel members must be insured, and the State's approach might best be described as regulation without responsibility. This contrasts not only with wardship but also with pre-enactment versions of the legislation, in which the State continued to play a public guardian role.
- There may be a taxation issue when withdrawing funds from the current strategies, to include exit charges and disposal of investment holdings.

Conclusion

This fundamental change in policy appears to have lacked clear public understanding, and many of those affected are only beginning to realise the impact that it will have on them. It is easy to understand why the number of voluntary discharge applications is extremely low, and complying with the April 2026 deadline will be challenging.

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The Remittance Basis of Tax: Pitfalls and Opportunities

Introduction

In recent years Ireland has seen an increase in the number of retirees, relocating families and non-nationals coming to settle here. According to the Central Statistics Office, in the 12 months to April 2024, 149,200 people moved to Ireland, consisting of 30,000 returning Irish citizens and 119,200 non-Irish citizens.

A significant number of these individuals present with unique circumstances and a particular set of tax questions. Commonly they are non-Irish domiciled, or their spouse may be. The aim of this article is to outline how correct application of the remittance basis for non-domiciled clients can offer scope for income tax and capital gains tax (CGT) savings.

A Refresher: The Basics

Irish-domiciled clients are taxed on worldwide income and gains when they trigger Irish tax residency. Tax residency is triggered when an individual spends either:

- 183 days in Ireland in a calendar year or
- 280 days over the course of two consecutive years.

If an individual spends 30 days or fewer in the State in any one of the two years, these days will be ignored for the purpose of the aggregation test.

Presence at any time in a day counts, and tax residency applies on a "whole-year" basis. For example, an individual arriving in April who meets the 183-day test will be regarded as resident from 1 January.

A review of the relevant double taxation agreement is required in these situations to determine whether pre-arrival income and gains can be excluded from the charge to Irish tax with reference to a non-treaty residence position in the pre-arrival period.

Ordinary residency also gives rise to a charge to tax on a worldwide basis for income and gains, albeit with the well-known exceptions, e.g. income from employment carried on wholly outside the State.

Domicile: A Key Concept

Domicile is a legal concept that is enshrined in our tax system and is particularly important to consider when determining a client's exposure to income, CGT and capital acquisitions tax (CAT). In Irish law every person has a domicile.

In this article we refer, briefly, to two of the domicile types:

- domicile of origin and
- domicile of choice.

The term "domicile" is not defined in the Taxes Consolidation Act 1997, and therefore case law is generally considered when interpreting it.

At birth, a person attains a domicile of origin, usually with reference to their father's domicile, if born to parents in wedlock. Many clients arriving in Ireland for the first time, whether accompanying an Irish spouse or otherwise, have a non-Irish domicile of origin.

It is possible to abandon a domicile of origin in favour of a domicile of choice. A domicile of origin is more tenacious than a domicile of choice, and if there is a break in domicile of choice such that it has been abandoned but no new domicile of choice acquired, then the domicile of origin revives.

However, establishing a domicile of choice is challenging, and case examples demonstrate that even a prolonged period of residence, whether considered alone or in context, does not necessarily result in the acquisition of a domicile of choice.

In discerning whether an individual has abandoned their domicile of origin in favour of a new domicile of choice, there must be a proven intention to remain, or *animus manendi*, in the jurisdiction that they intend to make their permanent home. As LJ Buckley succinctly stated in *Commissioners of Inland Revenue v Bullock* [1976] 51 TC 522:

> "In my judgement, the true test is whether he intends to make his home in the new country until the end of his days unless and until something happens to make him change his mind".

A statement of intent alone is not sufficient to prove that an individual has abandoned his or her domicile of origin. The intention must be buttressed by the individual's actions, which on careful consideration of the particular facts and circumstances of the case, would be an inference that the individual had acquired a new domicile of choice (*Re Sillar* [1956] IR 344).

If the individual's statement of intention is at odds with the "natural result of his acts" (*Moffett v Moffett* [1920] 1 IR 57), then there is a reasonable inference that the individual has not acquired a new domicile of choice. The courts have generally not placed significant weighting on statements of intent, as highlighted by the comments of Geoghegan J in *C. (M.) v C. (M.)* (unreported, High Court, 20 January 1994)

while recognising that some weight must be attached to a statement of a person who is alleging a change of domicile, although such evidence should be viewed with "scepticism".

In summary, non-domiciled clients relocating to Ireland must understand the concept of domicile and recognise the importance of regularly reviewing their circumstances, particularly as their intentions and plans evolve.

Charge to Irish Tax for Non-domiciliary

Non-domiciled clients are liable to Irish tax on worldwide income and gains; however, the timing of their income tax/CGT exposure differs compared to domiciled clients, who are assessed to tax on an arising basis. This is due to the remittance basis of tax, which is set out for income tax in s71(2) & (3) TCA 1997 and for capital gains in s29(4) TCA 1997.

From an income tax perspective the liability to tax arises for a non-domiciled client as per s71(3) TCA 1997:

> *"on the full amount of the actual sums received in the State from remittances payable in the State, or from property imported, or from money or value arising from property not imported, or from money or value so received on credit or on account in respect of such remittances, property, money or value brought into the State in the year of assessment without any deduction or abatement".*

The language used here is broad and operates to catch both "sums" of foreign income received (e.g. by way of money wire/bank transfer) and also effective use and enjoyment of the foreign income by other means, e.g. using a foreign debit card funded with foreign income to settle Irish expenses. Withdrawal of cash from an ATM located in Ireland using a foreign credit card is a remittance. Furthermore, the use of a foreign credit card to purchase goods in Ireland gives rise to a remittance.

Therefore, taxpayers must be mindful that remittances can be actual or constructive.

For CGT, s29(4) applies the remittance basis as follows:

> *"Subsection (2) shall not apply in respect of chargeable gains accruing from the disposal of assets situated outside the State [...] to an individual who satisfies the Revenue Commissioners that he or she is not domiciled in the State; but –*
>
> *(a) the tax shall be charged on the amounts received in the State in respect of those chargeable gains,*
>
> *(b) any such amounts shall be treated for the purposes of the Capital Gains Tax Acts as gains accruing when they are received in the State, and*
>
> *(c) any losses accruing to the individual on the disposal of assets situated outside the State [...] shall not be allowable losses for the purposes of the Capital Gains Tax Acts."*

A few key takeaways from this section are:

- The remittance basis extends to capital gains for non-domiciled clients.
- Foreign income can be considered remitted if foreign property (purchased using foreign income) is sold in Ireland.
- Section 29(4)(b) treats gains as arising when received in the State as computed under the rules that existed in the year of disposal. The rate of CGT applying is specified in paragraph (b) as being the date of receipt of the gain in the State. Therefore, it is possible for a disposal to be calculated in year one using the law that existed in that year and for the gain to be taxed at the rate that applies two years later in year three when the gain is actually remitted to the State.
- Non-domiciled clients are not entitled to capital losses on disposals of foreign assets. This is an important, and sometimes overlooked, point to consider when advising clients.

The "Mixed-Fund" Dilemma

A "mixed fund" is a non-Irish bank account that holds a mix of any of the following: post-residency income, post-residency capital gains and pre-residency capital. Unlike the detailed rules that existed until recently in the UK, Irish legislation does not include specific statutory rules that deal with the identification of remittances from "mixed-fund" accounts. This can mean that a practitioner analysing such accounts must look to Revenue guidance on the matter and relevant UK cases, given that there is no Irish case law in this area.

Revenue's Tax and Duty Manual (TDM) Part 05-01-21a, "The Remittance Basis of Assessment", states:

> "Any remittances out of an account containing capital and income are treated as first coming out of the income part of the fund until such income is fully remitted (see the tax case of *Scottish Provident Institution v Allen* 4 TC 409)."

Helpfully, the TDM also states:

> "Since 2006, an income account or a mixed (capital and income) fund account may include – (a) income from a foreign employment that is chargeable to tax under Schedule E whether or not remitted; and (b) income from a foreign employment that is chargeable to tax under Case III of Schedule D and to which the remittance basis of assessment may apply, and, possibly, other income.
>
> A remittance from such an account may be treated as coming in the first instance from the income described at (a) as such income is taxable in full whether remitted or not."

Unfortunately, Revenue's published guidance on how mixed remittances out of capital should be treated is limited, and the position has not been considered by the Irish courts.

The UK case of *Scottish Provident v Allen* [1903] 4 TC 409 serves as a useful reference point for practitioners who are analysing complex mixed-fund scenarios – it does not, however, offer clarity when remittances are made from accounts including capital gains and capital. In this case the court held that a person can demonstrate the source of remittances, be it income or capital. Using this rationale, clients should proactively segregate their non-Irish bank accounts.

Where staggered remittances out of a mixed fund (i.e. one comprising income and capital gains) are made, those amounts first remitted are considered to be income, based on Revenue guidance and established case law. Only when amounts being remitted begin to exceed what could constitute income is the remainder capable of being brought into the charge to CGT. Where remittances are made from a foreign account that holds a capital gain, various issues need to be considered when the income has been fully exhausted, such as:

- How much of the original capital is remitted?
- Is the gain portion remitted in priority to the underlying capital?
- Does a remittance of a portion of capital and gain occur simultaneously?

Efficient Remittance Basis Strategies

Of course, a review of the specific facts and circumstances of each client is required when determining how the remittance basis applies. However, in many cases, a combination of the following commonly applies to any non-domiciled individual taking up Irish residency:

- Remitting a level of income to maximise the standard rate cut-off point annually, along with pre-residency savings. For jointly assessed couples this can sometimes involve both spouses remitting foreign income to maximise the benefit of the married rate band., The transfer of certain pre-residency savings or capital can be made without Irish tax arising. For instance, Revenue guidance in TDM Part 05-01-21a states: "there is a long-standing Revenue practice to the effect

that for individuals moving to Ireland for the first time, or Irish citizens returning to live in Ireland having been non-resident and non-ordinarily resident when the income was earned, funds accumulated from income earned abroad prior to 1 January in the year that the individual becomes Irish resident will not be liable to income tax even if remitted after that date".

- Segregating different types of post-residency income abroad to facilitate remittances of income that may be exempt in Ireland, e.g. certain government service pensions are exempt under the terms of the relevant DTA in Ireland and attract lower rates of tax in the other jurisdiction. The overall worldwide effective tax rate is reduced in this case.
- Removing investments that do not qualify for the remittance basis of tax on disposal (e.g. offshore funds), ideally before Irish tax residency is triggered.

To improve future outcomes from a CGT perspective the following approaches can work well:

- rebasing assets before Irish tax residency is triggered and
- utilising capital losses before entering the Irish tax net. As non-domiciled clients do not qualify for capital losses on foreign disposals, a client may choose to "harvest" their foreign losses before Irish tax residency is triggered.

Foreign tax advice should be obtained to align with any Irish advice.

A Gifting Window

For CAT purposes, a non-domiciled individual is not subject to CAT in Ireland unless he or she has been resident in Ireland for five consecutive years immediately preceding the year of assessment and is resident or ordinarily resident at the date of the gift or inheritance. A non-domiciled client therefore has a window of opportunity where they can potentially make or receive gifts that are outside the charge to Irish tax.

Example 1

Ben relocates to Ireland from Spain in 2023 having never resided here previously. He is non-domiciled and has a Spanish property. He wishes to help his daughter to get on the property ladder. As Ben is non-domiciled, he can gift the Spanish property to his daughter without Irish CAT arising.

Such gifts are ignored for Irish tax purposes and do not erode the relevant CAT thresholds.

Irish-Resident Taxpayers: Remittance Basis Application

When applying the remittance basis of taxation, both advisers and taxpayers should be aware of the nuances in how the regime operates.

Crypto-assets

The remittance basis of taxation, as provided under s29(4) TCA 1997, applies to gains on the disposal of assets that are "situated outside the State". However, Revenue guidance clarifies that crypto-assets, including crypto-currencies, existing in the cloud are not considered to be situated in any specific location. Consequently, the remittance basis cannot apply to gains accruing from disposals of such assets. For a non-domiciled individual to avail of the remittance basis of taxation, it would be necessary to demonstrate that the gain accrued from an asset that is definitively situated outside the State.

Foreign currency balances

Foreign currency cash balances do not qualify for the remittance basis of tax. This means that disposing of foreign currency (other than in the course of a trade) – i.e. spending it or converting it to euro – can be, under first principles, a disposal for CGT purposes.

An exception exists per s541(6) TCA 1997 where the account:

> *"represents currency acquired by the holder for the personal expenditure outside the State of the holder or his or her family, dependents or civil partner, or any child of his or her civil partner (including expenditure on the maintenance of any residence outside the State)".*

Gains on offshore funds

A non-domiciled client arriving in Ireland to live will commonly have brokerage accounts containing a variety of investments, including foreign investment funds. These typically require detailed consideration of the fund prospectus documents to understand how the Irish offshore fund regime will apply once tax residency has been triggered. Some of the interactions between the remittance basis of taxation and offshore fund rules can be counterintuitive and therefore merit thorough analysis.

"Good" offshore funds

The term "good" offshore funds broadly refers to investment products that are established in the EU/EEA or in an OECD jurisdiction with which Ireland has a DTA and that are similar in all material respects to Irish-regulated fund products. Payments from such funds are currently subject to income tax at a special 41% rate under Schedule D, Case III, with no USC or PRSI applying. Income from these funds qualifies for the remittance basis of taxation. Subject to passing of the Finance Bill, Budget 2026 proposed a reduction in tax rate on these investments to 38%.

However, the disposal of an interest in the same fund results in a gain taxed as income under Schedule D, Case IV, at the 41% income tax rate. As this gain is taxed under Case IV, the remittance basis is not available, and non-domiciled taxpayers are subject to Irish tax on the full gain, with no availability of loss relief. This often catches clients off guard if they have not planned for it and they expect the remittance basis to apply.

Deemed-disposal rules

Deemed-disposal rules also apply to non-domiciled holders of offshore funds, even if they were not Irish residents at the time of acquisition. This means that the holder will be treated as having disposed of their interest in an offshore fund on the eighth anniversary of acquisition. In practice this can mean that non-domiciled individuals who have recently arrived in Ireland may face a significant and unexpected tax liability.

For example, a US-domiciled individual who acquired an interest in a US-regulated mutual fund in 2017 and become Irish resident in 2025 could have an Irish income tax liability on a notional gain in her US brokerage account in their first year of residency. As no actual disposal has taken place, there is a risk that there is no corresponding US tax to credit on the event; the application of this "dry" tax can be a harsh introduction to the Irish tax system.

Death of a holder

The death of a holder of an offshore fund is also treated as a deemed-disposal event, giving rise to an income tax charge.

Depending on who the fund is passed to on death consideration needs to be given to a CAT charge. CAT will arise where:

- The beneficiary is resident or ordinarily resident; or
- The disponer is resident or ordinarily resident; or
- The subject of the gift or inheritance is an Irish situate asset.

Therefore, inheriting a fund may trigger an Irish CAT charge. However, if the investments are retained by the beneficiaries for a period of 2 years, credit is available for exit tax against CAT under the CAT/CGT offset rules. It may make sense to pass the fund on death to specific legatees – with reference to the anticipated resulted offset.

However, for a non-domiciled individual who is outside the scope of Irish CAT (as they have not been resident in Ireland for five consecutive

tax years) and whose beneficiaries are not Irish residents or ordinarily resident, there is no opportunity to avail of this credit.

"Bad" offshore funds

A "bad" offshore fund may, in some cases, be the optimal choice for those entitled to remittance basis taxation. A "bad" offshore fund refers to a product that is not located in the EU/EEA or in an OECD jurisdiction with which Ireland has a DTA. Income and gains from these non-distributing offshore funds are taxed as income at marginal rates, with USC and PRSI also applying. The lack of a DTA can impact entitlement to tax credit relief, so care is needed in advising clients on these investments; however the remittance basis applies to both income (taxed under Schedule D, Case III) and gains.

In practice, these types of investments are less common and may attract higher investment fees, so any tax advantages would need to be weighed against the non-tax considerations.

Unregulated funds in a "good" jurisdiction

Income and gains on disposals from this type of investment are subject to normal income tax and CGT rules and therefore are taxed on the remittance basis for non-domiciled individuals.

It is strongly recommended that any changes to foreign investments or holdings be reviewed and approved by a qualified tax adviser in all relevant jurisdictions to ensure compliance and optimal tax planning. Ideally, this should be completed before tax residency is triggered.

Adequate Record Keeping

Taxpayers commonly expect to have to actively "elect" for the remittance basis and fail to understand that it automatically applies insofar as they are non-domiciled. However, that is not to say that adequate record keeping should be overlooked.

Non-domiciled clients would do well to:

- monitor and record all entries and exits from the country if residency is not established in the year of arrival;
- routinely document their non-domicile position in conjunction with their tax adviser (e.g. after 7–10 years of long-term residence in Ireland);
- maintain records of pre-residency capital held immediately before arrival in Ireland;
- segregate their non-Irish bank accounts (e.g. by maintaining a foreign account into which foreign income is deposited and a separate account to hold capital gains);
- create a financial strategy for managing income and gains generated outside of Ireland, e.g. spending income outside of Ireland, all the while being cognisant that foreign-source income does not lose its character as income simply because it is invested in a capital asset;
- seek guidance from their foreign tax adviser regarding the application and availability of foreign tax credit claims in the foreign jurisdiction if amounts are brought into and taxed in Ireland in future years; and
- ensure that they accurately complete the Form 11 to denote their non-domicile status.

Exceptions and Potential Pitfalls

When advising clients who are non-domiciled and applying the remittance basis, the following points are noteworthy.

Transborder worker relief

Section 825A(2)(a) TCA 1997 provides that an individual who is taxable on the remittance basis is precluded from availing of transborder worker relief.

Age income exemption

To determine whether the age income tax exemption applies, s188 TCA 1997 outlines that "total income" cannot exceed the stated amount, which is currently €36,000 for a jointly assessed married couple or €18,000 for a single person. The definition of "total income" means that where a non-domiciled client has overseas foreign income that has not been remitted, this income must be considered when determining whether the age income exemption applies.

Duties of a foreign employment exercised in the State

Income arising from the exercise of employment duties in the State is considered Irish-source income and therefore does not qualify for the remittance basis. The relevant DTA should be reviewed to determine whether any form of relief applies.

Foreign trades

When clients relocate to Ireland from abroad and carry out a trade here, it is their common misconception that the income paid by overseas clients qualifies for the remittance basis, if deposited to a foreign bank account. However, a foreign trade is one that is carried on wholly outside the State. Case law has indicated that where a trade is carried on partly in Ireland and partly abroad, it is not considered a foreign trade (*Colquhoun v Brooks* [1889] 2 TC 490).

If the trade is partly carried on in Ireland and partly carried on abroad, the full amount of profit comes within the charge to Irish tax. In the case of *The Egyptian Hotels Ltd v Mitchell* [1915] 6 TC 542 Lord Parker succinctly summarised the issue:

> "in considering whether the principle of *Colquhoun v Brooks* applies to any particular circumstances it is also necessary to bear in mind your Lordships' decision in the case of *The San Paulo (Brazilian) Railway Company Ltd v Carter* 3 TC 407 to the effect that a trade or business cannot be said to be wholly carried on abroad if it be under the control and management of persons resident in the United Kingdom although such persons act wholly through agents and managers resident abroad. **Where the brain which controls the operations from which the profits and gains arise, is in this country, the trade or business is, at any rate partly, carried on in this country** [emphasis added]."

Limitation of benefits

The majority of clients who benefit from the remittance basis of tax ask Irish practitioners to work in conjunction with their foreign counterparts to ensure that an aligned cross-border approach is taken. A working knowledge of international tax treaties is required even when a client is applying the remittance basis and is not actively remitting taxable income or gains.

Generally, Ireland has taxing rights on income that a resident receives from foreign sources under the terms of the DTAs concluded with partner countries. From a domestic perspective, if a client is chargeable to tax in Ireland on the remittance basis but has not remitted the income, then no Irish tax charge is due in that tax year.

In these cases it is worthwhile being aware of and understanding the "limitation of benefits" articles that exist in some of the DTAs, such as those with the US and the UK. Some States consider it inappropriate to give non-domiciled clients the benefit of the provisions of the DTA on unremitted income. This prevents cases of double non-taxation.

In the UK DTA, Article 6 reads:

> "Where under any provision of this Convention income is relieved from tax in a Contracting State and, under the law in force in the other Contracting State, an individual, in respect of the said income, is subject to tax by reference to the amount thereof which is remitted to or received in that other Contracting State, and not by reference to the full amount thereof, then the relief to be allowed under this Convention in the first-mentioned Contracting State shall apply only to so much of the income as is remitted to or received in that other Contracting State."

Therefore, if a UK non-Irish-domiciled client has unremitted UK income, the normal treaty provisions do not apply. This is best illustrated by way of an example.

Example 2

Dan has UK dividends from UK companies. He is Irish tax resident and non-domiciled. He deposits the dividends in a UK bank account and uses his UK bank card to pay for costs relating to meals and excursions when on family holidays in Italy.

Dan has not remitted the income to Ireland, and therefore an Irish tax charge does not arise. Under the terms of the Irish–UK DTA, the UK is not required to offer DTA benefits to Dan on the dividends.

This highlights the importance of working with foreign advisers when clients are applying the remittance basis in their Irish tax returns to ensure that the Irish and foreign tax returns are aligned and prepared correctly.

Section 72: Complex Legislation, Common Pitfalls

Section 72 TCA 1997 treats the repayment of certain loans as a remittance of foreign income. The section aims to prevent individuals who are taxed on the remittance basis avoiding income tax by taking out an overdraft or loan, using the borrowed funds in Ireland and then repaying the overdraft or loan with foreign income. This practice is commonly known as a "constructive remittance".

Section 72 applies to activities such as the use of an Irish credit card in Ireland to pay for day-to-day living expenses. If the credit card bill is paid using foreign income (or foreign gains), then the legislation imposes a charge to Irish tax.

Section 72 is incorporated in the CGT rules through s29(5) TCA 1997. As a result, under certain conditions, s72 can subject unremitted income and capital gains to Irish tax.

To summarise

It is now well publicised that the UK remittance basis of taxation has undergone significant changes. From 6 April 2025 the remittance basis was abolished for UK-resident non-domiciled individuals. The 2024/2025 tax year will be the last year in which the remittance basis can be claimed. It has been replaced with a new temporary repatriation facility (TRF), which will allow individuals who previously claimed the remittance basis to designate untaxed foreign income and gains (FIG) that arose before 6 April 2025 for a reduced tax rate of 12%, applicable for three tax years starting from 6 April 2025. The changes aim to simplify the tax system and ensure clarity in the treatment of foreign income and gains. (See also article by Aisléan Nicholson and Lyn Barry "UK Inheritance Tax vs Irish Capital Acquisitions Tax", in this issue). In the face of these changes instigated by our close neighbour, Ireland remains an attractive location for non-domiciled clients to relocate to (from a tax perspective, at least).

Correct application of the remittance basis requires an adviser to understand how foreign investments are taxed in Ireland, how to apply DTAs correctly and how to navigate complex legislative provisions. The remittance basis provides non-domiciled individuals with an opportunity to move to Ireland without facing significant income or CGT liabilities. Its value should not be underestimated.

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Time to "Waive" Goodbye to the Waiver

Introduction

In its recently delivered judgment in *Killarney Consortium C v The Revenue Commissioners* [2024] IEHC 732, the High Court upheld a determination by the Tax Appeals Commission (TAC) that a feature of the "old" VAT-on-property rules was contrary to EU law. This article examines the background to the judgment and what it means for impacted property owners.

Background

Before 1 July 2008 the "waiver of exemption" was the right of a property owner who made lettings of less than 10 years to waive their exemption and account for VAT on the rents received. The reason for doing so was that the otherwise exempt letting became taxable, with the consequence that VAT incurred on the acquisition, development or enhancement of the property, which would otherwise be irrecoverable, became recoverable. A taxpayer's decision to waive an exemption before 1 July 2008 therefore had a similar effect to a landlord's "opting to tax" a lease after 1 July 2008, which was to convert an exempt supply into a taxable one.

As the new VAT-on-property rules became effective from 1 July 2008, no new waivers could be exercised in respect of commercial

property from that date. Similarly, no new waivers were permitted for residential property after 2 April 2007 owing to the phased reform of the VAT-on-property rules in Ireland whereby there was no longer a distinction between short-term lettings and leases for over 10 years.

A striking difference arises between the waiver and the current "option to tax" rules, however, in that the waiver applies to the landlord whereas the option applies to the letting. Essentially, therefore, where a person had a waiver of exemption in place before 1 July 2008, the waiver will apply to all lettings in properties owned by the landlord if the property that is let was acquired before 1 July 2008 and not developed to completion since 1 July 2008.

Another striking difference is around the process and implications of cancelling a waiver, pursuant to s96 of the Value-Added Tax Consolidation Act 2010 (VATCA 2010). This is, in effect, a transitional provision, applicable only to those persons who had exercised their right to waive the exemption under the old rules under s7 of the Value-Added Tax Act 1972 (VATA 1972). Essentially, the rules provide that on cancellation of a waiver a balancing payment (known as a "cancellation amount") must be calculated to ensure that the amount of VAT recovered in relation to the properties does not exceed the amount of VAT paid over on rents. A payment is due to Revenue if you recovered more VAT than you paid; however, any amount due as a "capital goods scheme" adjustment is subtracted when calculating the cancellation amount (to ensure that there is no double charge to VAT under the two regimes).

A waiver could be cancelled in several ways, including where a taxpayer elects to do so or in respect of certain connected-party lettings. Based on the effective clawback of VAT pursuant to the calculation of a "cancellation amount", there are, however, a limited number of scenarios where it would make economic sense to cancel the waiver by election.

Before Finance Act 2009, if you made an exempt sale of a property that was covered by a waiver of exemption, there was no provision for a clawback of VAT under the "capital goods scheme". Equally, no clawback would arise under the wavier-of-exemption rules unless the waiver was cancelled by election. This allowed a taxpayer to defer perpetually any sort of clawback scenario by not formally cancelling their waiver. This loophole was closed when Finance Act 2009 introduced sub-sections 7B(7), (8) and 10 of VATA 1972, as incorporated into s96(12) VATCA 2010. Thereafter, where you no longer have any interests in property that are subject to the waiver of exemption, your waiver will be treated as being cancelled and a cancellation amount could potentially arise.

Many property owners and investors were left in a state of purgatory by consequence of the new "deemed cancellation rules". Take, for instance, a property investor who built up a portfolio of residential properties during the Celtic Tiger era, having waived their exemption before 2008 and recovered substantial VAT on acquisition and development along the way. Said investor may have disposed of various properties in later years, possibly at an overall loss due to the downturn. This type of investor will have needed to hold and maintain the last property subject to the waiver to avoid triggering a cancellation amount. Of course, their cancellation amount would reduce each year by the amount of any VAT being charged to a tenant of the remaining property. Undoubtedly, however, bridging the gap between VAT recovered and VAT paid proved too difficult for many taxpayers in this position, as many properties were purchased at inflated prices around the turn of the century, with the VAT subsequently paid on the letting or sale of those properties often being substantially less as a result of the subsequent downturn in the property market. Therefore, significant VAT liabilities would be triggered when their waiver was cancelled.

There is a perceived injustice in the cancellation amount, which is, in essence, a restriction in the right to a VAT deduction where assets have never been used for VAT-exempt, non-VATable or personal purposes. The point had previously been raised with Revenue that the rules

offended the principle of fiscal neutrality. Until recently, Revenue's view was that the legislation was fully compliant with Council Directive 2006/112/EC ("the 2006 Directive"). This view has now been successfully challenged, as explained below.

TAC Decision

The Tax Appeals Commission determination 40TACD 2023 involved an appeal by Killarney Consortium C ("the Consortium") against a Notice of Assessment to VAT of €593,979. The principal facts were that the Consortium had purchased a property in December 2004 to develop it and grant lettings. The Consortium exercised a waiver of exemption and in 2006 reclaimed €717,750 of VAT paid on acquiring the property. Thereafter, €41,384 of VAT was paid to Revenue on rents and a further €6,820 of VAT was reclaimed on other development. The property was then sold at a loss by the Consortium in 2017 for €750,000, and VAT of €89,207 was paid to Revenue.

Revenue issued the assessment claiming a sum of €593,979, representing the difference between the total amount of VAT reclaimed or deducted by the Consortium and the total amount of VAT paid. The amount of the assessment was, in effect, a balancing payment, or "cancellation amount", calculated to ensure that the amount of VAT deducted does not exceed the amount of VAT paid.

The TAC Commissioner issued his determination on 5 January 2023 and ruled that the provisions of s96(12) VATCA 2010 should be disapplied as being in breach of EU law and that, accordingly, the assessment should be reduced to zero. The Commissioner considered that none of the decisions of the Court of Justice of the European Union (CJEU) were precisely on point. Some cases are concerned with the right to deduct tax, whereas others concern transactions that are prima facie subject to tax but in which the right to deduct, contained in Articles 167 and 169 of the 2006 Directive, is said to have been infringed. However, he considered that the principles were sufficiently well identified and established to be capable of application in this case. The main case law references of interest are summarised below.

Belgocodex SA v Belgian State C-381/97

In this case ("*Belgocodex*") a Belgian taxpayer claimed deductions of VAT for works on a building that was intended to be let. The deductions were disallowed after the Belgian provisions were repealed with retrospective effect. The taxpayer effectively challenged this decision, and the CJEU made it clear that it is impermissible to interfere with a right to deduct that has been lawfully exercised.

État du grand-duché de Luxembourg v Vermietungsgesellschaft Objekt Kirchberg SARL C-269/03

The case of "*VOK*" involved the provisions of the law of Luxembourg that imposed a condition on the exercise of the option to tax which required that any party exercising the option must submit a written declaration to the effect for approval and that approval must have been obtained before any transaction was undertaken. The CJEU held that the relevant rule did not improperly undermine the right to deduct.

Turn- und Sportunion Waldburg v Finanzlandesdirektion für Oberösterreich C-246/04

In "*Sportunion*" the CJEU was asked to consider whether it was permissible to extend the option to tax only to particular types of transactions or groups of taxable persons. At issue was a sports club that sought to exercise an option to tax in respect of an annexe to the club that it had constructed with the intention of letting it as a café. However, under the relevant Austrian law, although an option to tax was available to some, sports clubs were not permitted such an option. The CJEU held that this restriction was permissible, acknowledging that "in exercising their discretion with regard to the right of option, the Member States may also exclude certain transactions or certain categories of taxable persons from the scope of application of that right".

Investimentos Imobiliários SA v Autoridade Tributária e Aduaneira C-672/16

"*Imofloresmira*" concerned provisions of Portuguese law that permitted a taxable person to opt to tax in relation to the letting of immovable property. However, where a deduction was made in respect of such property and the property was not used for its intended purpose for more than two consecutive years, even where this failure was outside the control of the taxpayer, i.e. because it could not find a tenant, an adjustment was required to be made to that deduction. In the context of a taxpayer challenge the Portuguese court asked the CJEU to consider whether the Portuguese law provisions were compatible with the principal VAT Directive. The CJEU held that the provisions were incompatible with EU law, emphasising that the discretion afforded to Member States in setting rules for the option to tax could not be relied on to impose rules that resulted in the revocation or limitation of a right of deduction already acquired. The court stressed that the use, or intended use, of the goods or services acquired determines the extent of the initial deduction, or subsequent adjustment, and that this remained true even where the goods or services were not used as intended for reasons "beyond the control" of the taxpayer.

Skatteverket v Skelleftea Industrihus AB C-248/20

In this case ("*Skelleftea*") the taxpayer, planned to construct a building to be used as offices, that it intended to let out. It opted to tax under the relevant Swedish legislation and made deductions in relation to, for instance, the purchase of architectural services required for the planned building. However, with the loss of a potential future tenant, the project became unviable and was abandoned before construction commenced. Under the relevant Swedish law, all the deductions that had been made had to be repaid. The CJEU ruled that the 2006 Directive precluded such a law as it could not be shown that the adjustment of deductions fell within the provisions of the 2006 Directive.

UAB 'ARVI' ir ko v Valstybinė mokesčių inspekcija prie Lietuvos Respublikos finansų ministerijos C-56/21

At issue in "*Arvi*" was a provision in Lithuanian law that prevented the company in question claiming a VAT deduction in relation to a transaction that had occurred before it opted to tax. The CJEU considered that this was compatible with EU law and consistent with the requirement for fiscal neutrality.

TAC determination

The written determination of the Commissioner did not draw many clear parallels or distinctions from the body of EU case law that was summarised in the main body of his determination. Instead, he distilled his determination in favour of the Consortium, and the basis for same, down to the following main points:

- The limitation imposed by s96 concerns the consequences of exercising the right to opt for taxation, rather than any curtailment on the scope of the right. Consequently, the Commissioner rejected Revenue's arguments that s96 was enacted with the discretion afforded to the Irish legislature under the 2006 Directive, such discretion being confined only to restricting the scope or access to the right in the first place.
- He disagreed with Revenue's interpretation of the "fiscal neutrality" concept, the purpose of which, as explained in *Imofloresmira*, is to "relieve the trader entirely of the burden of the VAT payable or paid in the course of all his economic activities". He therefore rejected the contention that the Irish rules were designed to ensure fiscal neutrality in the sense of equality of treatment between persons who exercise the waiver and those who do not.

The High Court Decision

At the request of Revenue, the TAC Commissioner in the Consortium hearing agreed to state a case for the opinion of the High Court on various points of law. Without setting out all of the questions of law in full,

the three main issues in dispute between the parties are distilled as follows:

- Are the provisions of s96 permissible in the exercise of the discretion afforded to the State by Article 137(2) of the 2006 Directive?
- Do the provisions of s96 respect the principle of fiscal neutrality?
- Does the structure of s96, which imposes only a requirement to make a balancing payment after cancellation of a waiver from exemption, have a bearing on the compatibility of the legislative scheme with EU law?

Relying on the *VOK* and *Sportunion* decisions, Revenue argued that the Commissioner erred in law in failing to have regard to the discretion afforded to Member States when providing an option to tax. Revenue also sought to draw a distinction between the Consortium and the taxpayer in *Imofloresmira*, highlighting the difference between a change in use for reasons "beyond the control" of the taxpayer in *Imfofloresmira* compared with a change in use owing to deliberate behaviour of the Consortium, i.e. the deliberate sale of the building.

In addition to reiterating its arguments from the TAC hearing, the Consortium opened a number of new cases before the court, which were decided after the Commissioner's determination, including *Feudi di San Gregorio Aziende Agricole SpA* ("*Feudi*") C-341/22, *'Balgarska telekomunikatsionna kompania' EAD* ("*BTK*") C-127/22 and *C SPRL* C-696/22. In *Feudi* the CJEU emphasised that no provision of the 2006 Directive makes the right of deduction conditional on a requirement that the amount of output transactions subject to VAT carried out by a taxable person in a given period must reach a certain threshold. The *BTK* decision concerned a company, BTK, which had acquired certain telecommunication goods with the intention of reselling them. BTK claimed a VAT deduction for the goods, which were subsequently written off, thereby giving rise to an adjustment payable under Bulgarian law. The CJEU held that such an adjustment was impermissible and "could only be allowed when changes to factors which were taken into consideration for the determination of the amount of that deduction occurred after the VAT return". In *C SPRL*, in the course of being asked to consider the evidence necessary to establish a link between an input transaction and the output transactions giving the right to deduct, the CJEU held that the "2006 Directive does not in any way make the exercise of the right to deduct subject to a criterion relating to the increase in the turnover of the taxable persons or, more generally, to a criterion of the economic profitability of the input transaction".

In his High Court judgment Mr Justice Rory Mulcahy made a number of interesting observations and was critical of most of the arguments raised by Revenue. He made specific reference to the following points:

- Critically, Revenue did not argue that the mechanism in s96 is a permitted adjustment mechanism under the 2006 Directive. In this regard, broadly, it is permissible to apply one of the adjustment mechanisms in the 2006 Directive where there is a change in the basis on which a VAT deduction was made. However, there is nothing in the 2006 Directive that requires or permits a deduction to be restricted by reference to the amount of output supply, or economic activity.
- Revenue had placed some emphasis on the fact that taxpayers knew in advance the conditions that would apply if they opted to tax. Justice Mulcahy rejected this view, stating that the fact that the provisions of legislation are known in advance could never be an answer to a claim that the legislation is contrary to EU law.
- The case law does not identify any basis for Revenue's approach in distinguishing between taxable persons who had opted to tax in respect of otherwise exempt transactions and taxable persons who are subject to the VAT rules automatically.
- He highlighted that there was no basis for Revenue's assumption that an equivalent

taxpayer who did not waive its entitlement to an exemption gained no advantage from so doing, i.e. from not having to apply VAT to any letting of its property and, as a consequence, was at a disadvantage as compared to a taxpayer, such as the Consortium, who opted to tax.

- He acknowledged Revenue's "skillful" attempts to distinguish the cases in which the CJEU had found restrictions on the right of deduction to be incompatible with the EU law. In Justice Mulcahy's view, however, the alleged distinctions did not reflect any difference in principle.

In summary, the High Court considered that the TAC Commissioner had correctly applied the relevant principles of EU law and was correct in exercising his jurisdiction to disapply the provisions of s96 on the basis that they are incompatible with EU law. Suffice to say, none of the posed questions of law were answered in Revenue's favour.

Update to Guidance and Legislation

Revenue's Tax and Duty Manual "Waiver of Exemption – Transitional Measures" was updated in June 2025 after the *Consortium* decision. The main update states:

> "Following the judgement of the High Court in the case *Killarney Consortium v. The Revenue Commissioners* [2024] IEHC 732, and with effect from 20 December 2024, Revenue will no longer collect the payment of a cancellation amount that may have been due on the cancellation of a waiver."

It appeared that from Revenue's perspective, therefore, the High Court decision in the *Consortium* case should be followed on a go-forward basis effective from 20 December 2024. As expected, Finance Bill 2025 contains measures that will result in all remaining waivers being automatically cancelled on the date of passing of the Finance Act and, importantly, no cancellation amount being due.

Where Next?

The removal of the cancellation amount has released the shackles for many property owners who may have retained properties (or indeed a single property) to avoid triggering a cancellation amount by their disposal. It would be curious to know how many new property sales over the next few years have been influenced as a result.

Interestingly, the deemed cancellation on the date of the Finance Act will have a knock-on impact on the VAT recovery position of a landlord, due to the overnight conversion of a taxable letting into an exempt letting. Where legally permissible, some landlords may "opt to tax" impacted lettings to preserve their VAT recovery position and in so far as this strategy is commercially sound, e.g. given any pushback from tenants with no VAT recovery.

The Finance Bill 2025 amendments and Revenue's published change in approach do not have retrospective effect. However, taxpayers will still be encouraged to pursue a refund of VAT previously paid in connection with a waiver cancellation, subject to the four-year statute of limitations for such claims. It seems unlikely that those taxpayers would have a right to receive interest on VAT repayments in accordance with s105 VATCA 2010, on the basis that Revenue correctly applied the legislation as it existed at the relevant time. In the authors' view, time-barred taxpayers who sit outside the four-year statute of limitations would be entitled to feel aggrieved, notwithstanding the previously iterated views of the CJEU that an absence of temporal limits on refunds would be contrary to the principle of legal certainty (*Alstom Power Hydro* [2010] C-472/08, ECR 1-623). The technical merits of those views are beyond the scope of this article. A theoretical question arises, however: if the domestic VAT charging provision is incompatible with EU law to begin with, should "out of time" taxpayers be content with a "waiver" of their right to a VAT repayment?

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From Succession to Sustainability: The Full Spectrum of Agricultural Tax Reliefs

Introduction

The "Commission on Generational Renewal in Farming" report was published on 16 September 2025. Publishing the report, Minister Heydon said:

> "Farm succession is a complex issue and there are many factors that impact farmers' decisions. That is why the Commission was established and they have produced a thorough analysis and made 31 recommendations across a wide range of areas including CAP Supports; Pensions; Taxation; Access to Finance; Access to Land; Collaborative Arrangements; Advisory Services; Education and Training; Gender Balance; and the Overall Attractiveness of the Sector. An implementation group within my department will now carefully consider these recommendations and will engage with agricultural stakeholders and the relevant public bodies."

I was a member of the seven-member Commission and noted with special interest the aspect dealing with agri-taxation. The report notes that the State's largest support for generational renewal in agriculture is through the taxation system, providing around €325m annually through targeted reliefs that encourage farm succession, land mobility and early transfer of family farms. Although no major new measures are proposed, the Commission emphasised retaining these supports, careful stakeholder consultation on any changes and considering modest updates, such as extending favourite nephew or niece relief to grandchildren. Given the significant agri-taxation reliefs available it is timely to set out the extent of those reliefs in this article.

Income Tax Measures

Exemption of certain income from leasing of farm land

This is a long-standing relief, designed to encourage longer-term leases of farmland. Finance (No. 2) Act 2023 introduced a seven-year holding requirement for individuals purchasing land from 1 January 2024, i.e. they cannot avail of the relief until they have owned the land for at least seven years. This does not apply to land acquired by gift or inheritance. The lease must have a minimum definite term of five years to qualify for relief. Where one or more qualifying leases are entered into, some on or after 1 January 2015 and some at any other time (i.e. before 1 January 2015), the amount of the exemption is limited, in aggregation, to the following:

- €18,000 per annum where leases are for 5 or 6 years,
- €22,500 per annum where leases are for 7 but less than 10 years,
- €30,000 per annum where leases are for 10 but less than 15 years and
- €40,000 per annum where leases are for 15 years or more.

For jointly owned land, each individual is entitled to a separate maximum reduction of the appropriate amount listed above against their share of the rent from a qualifying lease.

A qualifying lessee is an individual who is not connected with the lessor (or with any of the lessors, if there is more than one). Effectively, this means that a lessor is not entitled to relief where the land is let to immediate family members or to immediate family members of their spouse or civil partner. Immediate family members include grandparents, parents, brothers, sisters, children and grandchildren. A company may be an eligible lessee provided it is not connected to the lessor.

Lease income can include income from land and BISS (Basic Income Support for Sustainability) entitlements; therefore, when leasing land, the landowner/lessor may negotiate a value into the lease in return for also leasing out the existing entitlements to the farmer/lessee.

Income averaging

Income averaging allows farmers to pay tax on the averaged profits and losses of their farming trade over a five-year period. This scheme is intended to help farmers to deal with the income volatility associated with the farming industry by providing a mechanism to even out taxable income over a number of years.

Before 2019 a farmer could not elect to average if he/she or his/her spouse/civil partner carried on another trade or profession or was a director of a company carrying on a trade or profession. These restrictions were removed with effect from 1 January 2019.

A farmer must elect in writing, within 30 days of the date of an assessment, to participate in the averaging regime. An election for averaging can be made only where the farmer has been charged to tax under s65(1) TCA 1997 in respect of farming profits for each of the four years immediately preceding the year of assessment in which the election is made. This means that an individual is not entitled to make an election for income averaging for a tax year if a tax loss was incurred in any of the four preceding tax

years and no tax was charged in respect of any profits for any of the four preceding years. Capital allowances and relief for losses carried forward are allowed as an offset against taxable profits. Therefore, where the taxable profits are reduced to nil by capital allowances or losses carried forward, an election for averaging may still be made. In commencement situations, the first two years are charged to tax under s66 TCA 1997; therefore a newly commenced farming business would be in year 7 before becoming eligible to make an election.

With effect from the 2016 year of assessment and subsequent years, farmers may avail of an option to step out of the income averaging regime for a single year. This allows them to pay tax based on the actual profits of the particular year, as opposed to the average amount that would normally be due. The resulting deferred tax will be payable in instalments over the following four years. An individual shall only be entitled to make an election to opt out of averaging once every five years. Any outstanding deferred tax becomes due and payable immediately if a farmer elects or is deemed to have elected to opt out of averaging permanently.

Capital allowances

Capital allowances are granted for tax purposes in lieu of a deduction for depreciation and are available in respect of certain qualifying expenditure incurred in the provision of certain assets in use for the purposes of a trade or rental business. They effectively allow the write-off of the cost of an asset over a period of time. Listed below are capital allowances that are specific to the primary agriculture sector.

Capital allowances for farm buildings and other works

An allowance is available for capital expenditure on the construction of farm buildings (excluding dwelling house), fences, farm roadways, holding yards, drains, land reclamation and other, ancillary works, such as walls and water and electrical installation, as a relief against income tax over a seven-year period.

The rate of the farm buildings capital allowance is 15% of the capital expenditure for each of the first six years of the seven-year period, with the balancing 10% allowed in year 7.

Accelerated capital allowances for slurry storage facilities

This allows for qualifying capital expenditure incurred on the construction of slurry storage buildings and associated equipment to be written off at a rate of 50% per annum over a period of two years for persons carrying on a trade of farming. The expenditure must be incurred in the period from 1 January 2023 to 31 December 2025, and was extended for another four years, to 31 December 2029, in the most recent Budget.

Accelerated capital allowances for energy-efficient equipment

This allows for qualifying capital expenditure incurred on the purchase of energy-efficient equipment to be written off at a rate of 100% in the year in which the equipment is first used for the purposes of the trade. The scheme runs until 31 December 2025, and was extended to 31 December 2030 in the most recent Budget.

Accelerated capital allowances for farm safety equipment

This allows for qualifying capital expenditure incurred on the purchase of farm safety equipment to be written off at a rate of 50% per annum over a period of two years for persons carrying on a trade of farming. The expenditure must be incurred in the period from 1 January 2023 to 31 December 2026, and the Minister for Agriculture Food and the Marine must certify the expenditure.

Relief for increase in carbon tax on farm diesel

An income tax or corporation deduction is allowed for computing the profits of a farming trade to offset the increased costs of green (agricultural) diesel used in that trade that are attributable to the increase in the rate of carbon tax from 1 May 2012.

Agricultural diesel used by a farmer in the course of a farming trade is a deductible cost, including the full carbon tax component, as it is a legitimate business expense. In addition farmers are entitled to a further deduction for a substantial part of the carbon tax. This additional deduction is equal to the difference between the carbon tax charged and the carbon tax that would have been charged had it been calculated at the rate of €41.30 per 1,000 litres (the rate from 1 May 2010 to 30 April 2012). For reference, the current rate is €151.81 per 1,000 litres. The effect of this is that farmers are entitled to a double deduction for the portion of the carbon tax they incur on farm diesel that arises from rates higher than the 2010–2012 baseline.

Stock relief

Stock relief is a relief given on income tax in respect of increases in the value of a farm's trading stock. It is calculated by reference to the increase in value of the trading stock over an accounting period. The relief takes the form of a deduction, to be allowed in computing the trading profits of an accounting period, of a defined percentage of the increase in value of trading stock and work-in-progress at the end of the accounting period over and above the opening value.

Where stock relief is claimed, the following general principles apply:

- unused losses from a previous year are not available subsequently;
- unused capital allowances for the year of claim, including any capital allowances brought forward and treated as capital allowances for the year of claim, are not available to carry forward to subsequent years;
- unused capital allowances for the year of claim cannot be used to create or augment a loss.

A standard stock relief rate is available to all farmers, with enhanced rates provided for in certain circumstances. Further details of these are outlined in brief below.

25% general stock relief on income tax

All farmers are allowed a relief on income tax of 25% on the increase in value of trading stock and work-in-progress at the end of the accounting period over and above the opening value. This long-standing measure is currently available until 31 December 2027.

100% stock relief on income tax for certain young trained farmers

Young trained farmers who meet minimum academic and training requirements are allowed a relief on income tax of 100% of the increase in value of trading stock and work-in-progress at the end of the accounting period over and above the opening value. To be eligible for the 100% rate of relief, the farmer must be less than 35 years of age before the commencement of the accounting year of tax assessment. Young farmers in registered farm partnerships are eligible to claim the 100% stock relief. The enhanced, 100% relief is available for up to four years to young farmers qualifying in the period on or before 31 December 2027.

Stock relief of 100% for young trained farmers is subject to an upper limit of €40,000 in any one year and €100,000 over any four years, with a requirement to submit a business plan before 31 October in the year after the first year of assessment. These additional criteria were introduced as part of EU State Aid requirements.

50% stock relief on income tax for registered farm partnerships

Farmers in registered partnerships are allowed a relief on income tax of 50% of the increase in value of trading stock and work-in-progress at the end of the accounting period over and above the opening value, for a four-year period up to 31 December 2027. As outlined above, certain young trained farmers in registered farm partnerships are allowed to claim 100% stock relief; thus, the 50% rate is available to all other categories of farmers participating in registered farm partnerships.

The legal basis for the 50% stock relief was Commission Regulation (EC) 1535/2007 on the

application of the EC Treaty to *de minimis* aid in the sector of agricultural production, which sets out that the total *de minimis* aid to any individual farmer shall not exceed €7,500 over any three-year period, with the total increasing to €15,000 over three years from 1 January 2014 and to €20,000 over three years from 1 January 2024. The net effect of these EU requirements is that stock relief claims by individuals in registered farm partnerships must now comply with the de minimis €20,000 rolling three-year limit for assessment years 2024 onwards. It is important to note that the upper aid limits quoted in the *de minimis* Regulation apply to payments for all schemes and measures that have the *de minimis* Regulation as their legal basis.

Relief for stock transfer owing to discontinued farming trade

This relief on income tax allows a special method of valuing a farm's trading stock that is transferred to another farmer by a farmer who is ceasing farming. The parties to the transfer have the option of electing to have the trading stock transferred at its book value (instead of at market value, which would be the normal valuation used), thereby cancelling the profits that would otherwise have arisen to the transferor.

Profits from occupation of woodlands

Income from woodlands managed on a commercial basis and with a view to the realisation of profits is exempt from income tax and corporation tax but not USC and PRSI. Exempt woodlands income is a specified relief for the purposes of the high-income earner restriction and as such an individual who receives such exempt income will also have to consider whether those provisions apply.

Special treatment of profits from compulsory disposal of livestock

A special treatment is available in respect of profits arising from the disposal of livestock owing to statutory disease eradication measures. Two types of relief are provided for: income averaging and stock relief.

Income averaging for compulsory disposal of livestock

Under the income averaging provisions for compulsory disposal of livestock, the farmer may elect to:

- have the profits excluded from their taxable income in the assessment year in which the disposal arises and to have the profits taxed in four equal instalments in each of the four following assessment years; or
- have the profit treated as arising in equal instalments in the assessment year in which the disposal actually arose and the following three assessment years.

Stock relief for compulsory disposal of livestock

Where the receipts from the disposal of livestock are reinvested in livestock, the farmer may elect to claim stock relief equal to the difference between the amount of compensation received and the opening stock value of the stock disposed of. This figure is called the "excess". There is a four-year reinvestment period, and if the full proceeds of the compulsory disposal, i.e. compensation and sales proceeds, are reinvested within the four years, then 100% of the "excess" may be claimed by way of stock relief. Where the full proceeds are not reinvested, the stock relief is reduced proportionately.

Tax credit for succession farm partnerships

The succession tax credit is an annual €5,000 tax credit for succession farm partnerships over a five-year period. It was introduced to encourage experienced farmers to form partnerships with young trained farmers and to transfer ownership of their farms to those young trained farmers. The €5,000 is divided according to their profit-sharing ratio. To be entered on the register of succession farm partnerships, a registered farm partnership must comply with the following conditions:

- there must be at least two members in partnership,
- one partner ("the farmer") must farm at least three hectares (owned/leased for two years before partnership), and
- the other partner ("the successor"), or partners, must be under 40 years old with a qualification in agriculture and be entitled to at least a 20% share of profits.
- the "farmer" must enter an agreement to transfer at least 80% of the farm assets to which the farm partnership applies to the successor (or successors), at some point in the period beginning three years after and ending ten years after the date on which the application to enter the partnership on the register of succession farm partnerships is made.

Capital Gains Tax Measures

Retirement relief from capital gains tax

Retirement relief from capital gains tax (CGT) is available where an individual who is at least 55 years of age (with some exceptions, such as chronic ill-health) disposes, by way of sale or gift, of the whole or part of his/her qualifying assets. Although the relief is commonly known as "retirement relief", a claimant does not have to retire to qualify. Retirement relief from CGT is also available to non-agricultural businesses.

Qualifying assets

Qualifying assets relevant to the farming sector include:

- The chargeable business assets of the individual that he/she has owned for at least ten years up to the disposal date and that have been his/her chargeable business assets throughout that ten-year period.
- Single Farm Payment entitlements where they are disposed of at the same time and to the same person as land, to the extent that the land would support a claim to payment in respect of those payment entitlements.
- Land leased under the Scheme of Early Retirement from Farming, where for a period of not less than ten years before the land is leased it was owned by the individual claiming relief and used by him/her for the purposes of farming throughout that period.
- Land that was let during the five-year period before its disposal under a compulsory purchase order for the purpose of road construction and certain related activities but before its first letting was farmed for ten years by the person making the disposal.
- Land that was let at any time during the 25 years before disposal but before its first letting was farmed for ten years by the individual making the disposal, and the disposal is to a child.
- Land that was leased out on a long-term basis (for a minimum of five years and a maximum of 25 years) but before its first letting was farmed for ten years by the owner, and the disposal is to a person other than a child. Finance Act 2015 introduced temporary qualifying arrangements for those who have let land out on a conacre basis; see the section "Retirement relief from CGT: transfers other than to a child" below for details.
- The entitlement to relief is not affected by the fact that solar panels are installed on land that is suitable for farming where the area of the land on which the solar panels are installed does not exceed half of the total area of the land concerned. In this context a solar panel means ground-mounted equipment used to capture solar energy and convert it into electrical energy, together with ancillary equipment used to harness, store and transfer the electrical energy.

The amount of retirement relief from CGT available depends on whether the transfer of qualifying assets is a parent-to-child transfer or a transfer to persons other than to a child

Retirement relief from CGT: parent-to-child transfers

Before 1 January 2025, irrespective of the amount of consideration for the disposal, full relief could be claimed by an individual aged 55–65 years of age on the disposal of the whole or part of his/her qualifying assets

to his/her child. Relief could be claimed in respect of the consideration for the disposal of qualifying assets worth up to €3m in the case of individuals aged 66 years or more.

For disposals made on or after 1 January 2025 a limit of €10m applies where the assets are transferred by an individual aged 55–69 years to a child and a €3m limit applies to persons aged 70 years or over at the date of disposal.

The relief is clawed back where the child disposes of the asset within six years of the date of acquisition from his/her parent. For parent-to-child transfers, a child can include a child of a deceased child. Foster child or nephew/niece transfers may also qualify in certain circumstances, provided further specific qualifying criteria are met.

Retirement relief from CGT: transfers other than to a child

For disposals made before 1 January 2025, where the disposal consideration did not exceed €750,000, relief from CGT is given in respect of the full amount of tax chargeable on the disposal in the case of an individual aged 55–65 years of age. The threshold for full relief for individuals aged 66 years was €500,000.

For disposals made on or after 1 January 2025 a limit of €750,000 applies where the assets are transferred by an individual aged 55–69 years to someone other than a child and thereafter a €500,000 limit applies to persons aged 70 years or over at the date of disposal.

Where the consideration exceeds the thresholds set out above, marginal relief applies so as to limit the amount of tax chargeable to 50% of the difference between the amount of the disposal consideration and the €750,000/€500,000 threshold.

Changes introduced in Finance Act 2015 give farmers who let their land on conacre and who ultimately dispose of their land to a person other than a child a once-off opportunity to avail of CGT retirement relief, provided they satisfy the other requirements of the relief, and where they either:

- dispose of their land on or before 31 December 2016 or
- lease their land on or before 31 December 2016 for a minimum period of five years (up to a maximum of 25 years) and ultimately dispose of the land.

Capital gains tax relief on farm restructuring

A CGT relief for farm restructuring was introduced in Finance Act 2013 and initially permitted only the purchase and disposal (or exchange) of outlying parcels from the main farm hub as qualifying transactions. It provides for a roll-over relief for farm restructuring and parcel swaps with certain conditions to ensure that a more efficient farm holding arises. To be eligible for the relief, the sale and purchase of qualifying land(s) must occur within 24 months of each other, with the initial sale or purchase of qualifying land taking place in the period 1 January 2013–31 December 2025 extended in the most recent Budget to 31 December 2029. Under the current rules, the disposal of an entire smaller or fragmented farm holding and replacement with a larger or more efficient farm holding is Farm Restructuring for the purposes of the relief. Buildings on the land are no longer eligible for the relief.

Section 50 of the Finance Bill 2025 provides that the definition of "agricultural land" is being amended to include land in the State suitable for occupation as woodlands on a commercial basis and land in the State suitable for occupation as woodlands (other than on a commercial basis) used for the purpose of conservation. The commencement of this amendment is subject to State Aid approval from the European Commission.

Relief is available only to farmers, i.e. an individual who spends at least 50% of his or her normal working time farming and who is issued with a Farm Restructuring Certificate by Teagasc.

Capital gains tax relief for transfer of site from parent to child

An exemption from CGT is available for the disposal of a site from a parent to a child where

the transfer is to enable the child to construct a principal private residence on the site. The market value of the site must not exceed €500,000. The area of the site (exclusive of the area on which the house is to be built) must not exceed 0.4 ha, or 1 acre. If the child subsequently disposes of the site without having occupied a principal private residence on the site for at least three years, then the capital gain that would have accrued to the parent on the initial transfer will accrue to the child, in addition to his/her own gain. However, a gain will not accrue to the child where he or she transfers an interest in the site to a spouse or civil partner. This measure is available to both farmers and non-farmers.

Capital gains tax relief for woodlands

The CGT relief for woodlands applies where woodlands are being disposed of. The consideration for the disposal of trees growing on the land is not included in calculating the chargeable gain, nor are insurance proceeds received on foot of destruction of or damage or injury to trees by fire or other hazard on such land. The relief applies to individuals only. CGT arises on any uplift in value of the land underneath the trees, and CGT retirement relief is not available to shelter any capital gains.

Revised entrepreneur relief

Entrepreneur relief under s597AA TCA 1997 applies a reduced CGT rate of 10% to qualifying gains up to a lifetime limit of €1m. This has been increased in the recent Budget to €1.5m, effective for disposals from 1 January 2026.

The key conditions are:

- The business must be a qualifying trade, excluding investment activities, development land and land letting.
- Qualifying assets include shares in a trading company or assets owned by a sole trader used in the trade.
- Ownership of the assets is for at least three of the five years preceding disposal.
- The individual must have been a director or employee of the qualifying company, devoting at least 50% of working time to the business in a managerial or technical role for at least three of the previous five years.
- The individual must own at least 5% of the company or of the holding company of a qualifying group.

Principal private residence relief

Section 604 TCA 1997 exempts gains on the disposal of a dwelling that has been the individual's main residence throughout the ownership period, including up to 1 acre of surrounding land. Relief is restricted where the property was not fully occupied or where the sale value includes development potential. There are often second houses on family farms historically occupied by grandparents, which may qualify for some measure of PPR relief if the house was provided rent-free to a "dependent relative".

Capital Acquisitions Tax Measures

Agricultural relief from capital acquisitions tax

Capital acquisitions tax relief is available in respect of gifts and inheritances of agricultural property, subject to certain conditions. The relief operates by reducing the market value of "agricultural property" by 90%, so that gift or inheritance tax is calculated on an amount – known as the "agricultural value" – that is substantially less than the market value. In general, the relief applies provided the beneficiary qualifies as a "farmer". To qualify for agricultural relief, the person receiving the gift or inheritance must be a "farmer" at the valuation date.

"Agricultural property" means lands in a Member State of the European Union or the UK, buildings, crops, trees, farm machinery, livestock and Single Payment Entitlements.

Land on which solar panels are installed is regarded as agricultural land for the purposes of the definition of agricultural property provided that the area of land occupied by the solar panels and ancillary equipment does not exceed half of the land comprised in the gift or

the inheritance and the remaining agricultural land is actively farmed.

For the purposes of the relief a "farmer" means an individual in respect of whom at least 80% of his/her assets, after taking a gift or inheritance, consists of agricultural property on the valuation date of the gift or the inheritance.

Targeting of agricultural relief

In addition to the above conditions, including the requirement that a farmer's agricultural property must comprise 80% by value of the farmer's total property at the valuation date, the following conditions apply to gifts or inheritances taken on or after 1 January 2015 where the valuation date also arises on or after 1 January 2015. The beneficiary must:

- farm the agricultural property for a period of not less than six years commencing on the valuation date or
- lease the agricultural property for a period of not less than six years commencing on the valuation date.

In addition, the beneficiary (or the lessee, where relevant) must

- have an agricultural qualification (a qualification of the kind listed in Schedule 2, 2A or 2B of the Stamp Duties Consolidation Act 1999) or achieve such a qualification within a period of four years commencing on the date of the gift or inheritance or
- farm the agricultural property for not less than 50% of his or her normal working time.

The agricultural property must also be farmed on a commercial basis and with a view to the realisation of profits – thus confining the relief to farmers as defined in legislation.

Where a taxable gift or a taxable inheritance is taken by a beneficiary subject to the condition that the whole or part of that taxable gift or taxable inheritance will be invested in agricultural property and such condition is complied with within two years after the date of the gift or the date of the inheritance, the gift or inheritance is deemed to have consisted at the date of the gift or at the date of the inheritance, and at the valuation date, of agricultural property to the extent to which the gift or inheritance is subject to such condition and has been so invested.

The six-year period of the lease/use of farming by the beneficiary will run from the date of the investment by the beneficiary in the agricultural property.

Treatment of farmhouse

Where a beneficiary who takes a gift or inheritance of agricultural property that includes agricultural land and a farmhouse leases the land to an individual, a partnership or a company (that will farm the land for the minimum requisite six-year period and will satisfy the farming conditions outlined above) but retains the farmhouse and resides in it as his or her only or main residence, Revenue accepts that the agricultural relief referable to the farmhouse will be allowed, provided that the land leased comprises the whole or substantially the whole (at least 75%) of the agricultural property by value.

It is the agricultural land that determines whether the relief applies; hence, the danger of separating the farmhouse and other buildings from the land by separate transfers. The farmhouse etc. without the land is not agricultural property. Therefore, if a farmhouse on its own is transferred to a farmer, it will not qualify for agricultural relief.

Similarly, if the agricultural property includes plant and machinery or livestock but a lessee requires only the land, agricultural relief will not be restricted where the land comprises substantially the whole of the agricultural property.

Business relief

Business relief is granted on the transfer of relevant business property. The relief applies to the transfer of a business, a share in a business or the shares or securities of a company

carrying on a business. The relief does not apply to individual assets, even if those assets were used in the business. Business relief reduces the taxable value of the business property on which capital acquisitions tax (CAT) is calculated by 90%. This is subject to conditions. Business relief can be used to transfer farms when some of the conditions of agricultural relief are not met. Shares in a company deriving their value from agricultural property do not qualify for agricultural relief but may qualify for business relief from CAT. A farmhouse does not qualify as a relevant business property for the purposes of business relief.

Dwelling house exemption

The dwelling house exemption under s86 CATCA 2003 provides a full exemption from CAT for an inheritance of a dwelling house and up to 1 acre of land, subject to stringent conditions, including:

- The property must have been the disponer's main residence at the date of death.
- The beneficiary must have occupied it as his or her main residence for the three years before inheritance.
- The beneficiary must not have an interest in any other dwelling.
- Occupation must continue for six years after inheritance.

The exemption is also available on lifetime gifts but only to "dependent relatives" who are either over 65 or permanently incapacitated.

Favourite nephew/niece relief

A "favourite niece/nephew" who has worked in the business for at least five years prior to the transfer and satisfies minimum working time conditions may be treated as a child for threshold purposes, allowing access to the €400,000 Group A limit. The minimum working time is 24 hours per week, or 15 hours per week where the business is carried on exclusively by the niece or nephew and the disposer or the disponer's spouse or civil partner. The Group B threshold applies to non-business assets.

Capital gains tax/capital acquisitions tax "same event" relief

If CGT and CAT are payable on the same event (for example, a gift of land by a parent to a child), any CGT paid by the parent can be used by the child as a credit against her/his CAT liability.

Lower interest rate on instalment payments for capital acquisitions tax due on gifts/ inheritances of agricultural property

It is possible for CAT to be paid in instalments in certain circumstances. This option is available where a beneficiary takes an absolute interest in immovable property and/or a limited interest in any property, whether moveable or immovable. It is also available where a beneficiary takes a gift or inheritance of agricultural property and/or relevant business property that is movable property (e.g. livestock, machinery, stock). The normal interest rate is 0.0219% per day or part of day from 1 July 2009. Where the property taken is (moveable or immovable) agricultural property, the rate at which interest on the tax is payable by instalments is reduced to a daily rate of 75% of the normal daily rate.

Stamp Duty Measures

Stamp duty consanguinity relief for non-residential transfers

Since 12 October 2017 the rate of stamp duty charged on the acquisition of non-residential property, including farmland, is 7.5% of the consideration. Consanguinity relief provides under certain conditions for a 1% rate applicable to transfers to certain close relations. Consanguinity relief is not available on leases or on transactions involving cousins and/or in-laws.

The following conditions apply:

- the instrument of conveyance or transfer must be executed on or before 31 December 2028; and
- the individual to whom the land is conveyed or transferred must either farm the land or lease it for a period of not less than six years to an individual who farms the land. Revenue

will accept that a lease may also be to a partnership or to a company (whose main shareholder and working director farms the land on behalf of the company).

The person who farms the land (including partners or working directors, as appropriate) must:

- be a holder of, or within a period of four years from the date of transfer or conveyance be the holder of, an agricultural qualification (of the kind listed in Schedule 2, 2A or 2B of the Stamp Duties Consolidation Act 1999); or
- farm the land for not less than 50% of his or her normal working time – see the section above on agricultural relief regarding the working time test".

The land must be farmed on a commercial basis and with a view to the realisation of profits – thus confining the relief to genuine farmers. The relief does not apply to forest land or woodland.

Stamp duty exemption for transfers of land to young trained farmers

This is a long-standing relief that provides for a full exemption from stamp duty for transfers of farm land to certain young trained farmers. It applies to deeds transferring land by sale or gift that are executed on or before 31 December 2025, extended in the recent Budget to 31 December 2029, subject to Commencement Order. To qualify for the relief the transferee must:

- be under the age of 35 years on the date of the transfer, validated by a copy of their birth certificate;
- hold an agricultural qualification or acquire such qualification within three years of the date the deed of transfer was executed;
- have an approved "My Farm, My Plan", which must pre-date the date of the transfer;
- farm the land for a period of five years from the date of the transfer or the date of the refund for 50% of their normal working time; and
- not have exceeded the limit of €100,000 in State Aid since 2014.

For the purposes of the relief, land occupied by or suitable for occupation as woodlands on a commercial basis is not agricultural land. However, agricultural land will include farmhouses and buildings on the land where they are considered of a character appropriate to the property.

Stamp duty consolidation relief

Consolidation relief provides for a 1% rate of stamp duty on the excess of the value of the land acquired over the value of the land disposed of where the acquisition and disposal take place within a 24-month period of each other. Consolidation relief may apply where land is disposed of and replaced with other land, with the end result of a less fragmented and more viable farming operation. The two land transactions involved in the consolidation must occur within 24 months and between 1 January 2018 and 31 December 2025, extended in the Budget to 31 December 2029. The recent Budget also expanded the scope of the relief to cover non-commercial woodland. A claim for relief may be allowed where it is the intention of the purchaser to retain ownership of his/her interest in the qualifying land and use it for conservation purposes for five years. Guidelines will be published by the Minister for Agriculture, Food and the Marine. This amendment is subject to a Commencement Order.

A certificate from Teagasc will be required, stating that the transactions involved in the consolidation meet the conditions set out in guidelines.

Stamp duty relief for commercial woodlands

A partial relief from stamp duty is available in respect of certain instruments relating to the sale or lease of land on which "trees" are growing. The partial relief is given by providing that the value of any trees growing on the land at the time the land is sold or leased will not be taken into account if:

- the trees are being managed on a commercial basis with a view to making a profit; and
- the trees are growing on a substantial part of the land (not less than 75%).

This exemption is also applicable to gifts.

Stamp duty exemption for Single Farm Payment entitlements

Section 101A SDCA 1999 provides for an exemption from stamp duty for the sale, transfer or other disposition of a payment entitlement.

Conclusion

This article highlights the wide array of tax reliefs still available for landowners and farmers. There has been a lot of focus on agri-taxation reliefs recently, as some farmers believe that these measures are being exploited by non-farmers to funnel wealth to the next generation in a tax efficient manner. Farming lobby groups had been advocating for a tightening of the rules to ensure that reliefs are ringfenced for genuine farmers. However, the amendments introduced to agricultural relief in Finance Act 2024 were met with widespread concern that the changes would negatively impact genuine farming enterprises. While some reliefs may need to be tweaked to ensure they are not subject to exploitation, The Commission on Generational Renewal highlighted that the Department of Finance should undertake significant stakeholder engagement including with tax practitioners experienced in this area before any changes are introduced.

Relevant Revenue Tax and Duty Manuals

- Part 23.01.23 – Exemption for Certain Income from Leasing of Farmland (Document last updated in May 2024)
- Part 23.01.34 – Averaging of Farm Profits (Document last reviewed in December 2023)
- Part 23.01.07 – Farm Buildings Allowances (Document last updated in June 2025)
- Part 23.01.37 – Accelerated Capital Allowances for Slurry Storage Facilities (Document last reviewed in September 2025)
- Part 09.02.04 – Accelerated Capital Allowances for Energy Efficient Equipment (Document last updated in January 2024)
- Part 09.02.07 – Accelerated Capital Allowances for Farm Safety Equipment (Document last updated in December 2024)
- Part 23.01.36 – Relief for Increase in Carbon Tax on Farm Diesel (Document last updated in May 2024)
- Part 23.02.02 – Stock Relief: Farming Trades (Document last updated in December 2024)
- Part 23.02.01 – Stock Relief: Young Trained Farmers (Document last updated in December 2024)
- CAT Manual Part 10: Chapters 1 and 2A – Agricultural Relief (Document last updated in September 2025)
- CAT Manual Part 10: Chapters 2 and 2A – Business Relief (Document last reviewed in September 2025)
- Part 19.06.03 – Disposals of Business or Farm on “Retirement” (Document last updated in June 2024)
- Part 19.07.03B – Relief for Farm Restructuring (Document last updated in January 2024)
- Stamp Duty Manual Schedule 1 – Reduced Rate of Stamp Duty on Transfers of Land Between Certain Related Persons (Consanguinity Relief) (Document created June 2025)
- Stamp Duties Consolidation Act 1999 Part 7: Section 81AA – Transfers of Land to Young Trained Farmers (Document updated June 2025)
- Part 23-01-35 – Taxation of Farm Payments: Basic Payment Scheme (Document last reviewed in August 2021)


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UK Inheritance Tax vs Irish Capital Acquisitions Tax

Introduction

Up until 6 April 2025 UK inheritance tax (IHT) was based on the deceased's domicile (broadly meaning the country that is an individual's permanent home or where they intend to return to indefinitely); on the death of a UK-domiciled (or deemed domiciled) individual, that person's entire estate (irrespective of the *situs* of such assets) was within the charge to UK IHT. For non-UK-domiciled individuals, only UK-*situs* assets were within the charge to UK IHT. UK IHT is charged at a rate of 40% on estates valued at more than £325,000, or £500,000 if the deceased's home is left to their direct descendant(s), such as children or grandchildren; no change to the UK IHT rate is expected as part of the IHT reforms being implemented in the UK.

However, as and from 6 April 2025, the UK has moved away from the concept of domicile and is now focused on residence to bring individuals within the UK tax net generally. Broadly, a person may be deemed UK resident if:

- that person is present in the UK for 183 days or more in a given tax year; or
- the person's only home was in the UK for 91 consecutive days or more in a tax year

and the person was in that home for at least 30 of those days; or

- the person worked full-time in the UK for any period of 365 days and at least one of those days was in the tax year in which residency is being checked.

An individual may also be deemed UK resident under the "sufficient ties" test, i.e. when considering that individual's connections to the UK as a whole, including family, work etc. The more ties that an individual has, the fewer days he/she can spend in the UK without risking becoming tax resident.

By contrast, Irish capital acquisitions tax (CAT) is a beneficiary-based tax that brings within its scope:

- the entire estate if the deceased was Irish resident or ordinarily resident;
- the particular benefit received if a beneficiary is Irish resident or ordinarily resident; and
- the benefit itself if it is Irish *situs*.

An individual is Irish resident if present in Ireland for a period of 183 days in a tax year, or 280 days or more in total taking the current and preceding tax year together, provided there are at least 30 days spent in each year. An individual who is tax resident in Ireland for three consecutive years will be ordinarily resident from the beginning of the fourth consecutive tax year. If leaving Ireland, an individual will continue to be ordinarily resident for three consecutive tax years after departure. The current rate of CAT is 33%, and it applies to the excess of a beneficiary's tax-free threshold amount, which varies depending on the relationship between the beneficiary and the disponer.

Although the UK IHT rate is 40%, the average effective rate of tax for UK estates was, reportedly, just 13% in the 2022/2023 tax year (Hilary Osborne, "UK Inheritance Tax: How Does It Work and What May Be Changing?", *The Guardian*, 13 August 2025). The changes outlined in this article are wide-ranging, but it is important to note that they are made in the context of a jurisdiction that, unlike Ireland, does not currently impose an immediate lifetime gift tax.

Changes Implemented on 6 April 2025: The End of the "Non-domiciled" Regime – Focus on Residency-Based Taxation Instead

Introduction of concept of "long-term resident"

One of the changes implemented on 6 April 2025 was the introduction of the concept of a "long-term resident", being an individual who is UK tax resident for either the previous 10 consecutive years or a total of 10 years or more within the previous 20 years. A long-term resident's worldwide estate will be within the charge to UK IHT.

Once an individual is classed as a long-term resident of the UK, this status can be maintained for up to 10 years after leaving the UK, although this 10-year period may be reduced if the individual has not lived in the UK for the full 20 years before leaving.

Period of time living in the UK	Loss of long-term residence status
10–13 years	3 years after departure
14 years	4 years after departure
15 years	5 years after departure

If an individual returns to the UK after 10 consecutive years of non-residence, the 10-out-of-20-years residence test is reset. Only the year in which an individual returns (together with future years of residence) count towards their UK residence. This aligns with the UK's new foreign income and gains regime (discussed below).

There are transitional rules to consider, which provide that an individual will not be a long-term resident if that individual:

- was non-UK domiciled on 30 October 2024 under common law; and

- is not UK resident from 6 April 2025 and either:
  - was not UK resident in any of the 3 tax years immediately preceding the tax year under consideration or
  - does not satisfy the existing deemed-domicile test (i.e. resident for 15 tax years out of 20).

Example 1

Claire was born in Ireland and moved to London to work in financial consulting after completing her university degree. She was UK resident for 12 years and moved back to Ireland at the beginning of the 2025/2026 tax year after acquiring a property in her hometown that she wishes to renovate.

On first principles, as Claire has been UK tax resident for more than 10 years, the long-term resident rules provide that she will retain her long-term residence status and consequently continue to be within the scope of UK IHT for a period of 3 years after leaving London. However, Claire never became deemed domiciled in the UK and is non-UK resident for the 2025/2026 tax year; therefore, the transitional provisions provide that Claire is not a long-term resident, and her estate is not within the scope of UK IHT from 6 April 2025.

Example 2

In the context of the above facts, if Claire had instead been UK tax resident for 18 years before deciding to move home to Ireland at the beginning of the 2025/2026 tax year, the transitional provisions provide that, as she was deemed domiciled on 30 October 2024, she will be a long-term UK resident until the 2028/2029 tax year, on the basis she will have satisfied the requirement of 3 years non-residency at that point. During the period for which she remains a long-term resident (i.e. until 6 April 2028), her entire estate remains within the charge to UK IHT.

Introduction of four-year foreign income and gains regime

Now that the concept of domicile is no longer relevant to the UK tax system, the remittance basis of taxation, previously utilised by non-UK-domiciled individuals, will no longer be available. Previously, foreign income and gains (i.e. non-UK-sourced income and gains) were outside the scope of UK income tax and capital gains tax provided they were not remitted to the UK.

That regime has been scrapped in favour of the 4-year foreign income and gains (FIG) regime. This regime allows individuals in their first 4 years of UK residence (having been non-UK resident in the 10 consecutive years before commencing UK residence) to make a claim to pay no UK tax on FIG arising within that 4-year period.

Two transitional reliefs are available for individuals who are tax resident before the 2025/2026 tax year and subject to UK tax on the remittance basis:

- Temporary repatriation facility: FIG arising before 6 April 2025 for non-UK-domiciled individuals taxed on the remittance basis for at least one year may be taxed at the flat rates of 12% up to 6 April 2027 and 15% up to 6 April 2028.
- Rebasing of assets: For CGT purposes, where a non-UK-*situs* asset is disposed of on or after 6 April 2025 by a non-UK-domiciled individual who has been taxed on the remittance basis for at least one year, such an asset will be rebased to its value on 5 April 2017 (subject to an election to disapply this treatment). To avail of this relief, the asset must not have been situated in the UK between 6 March 2024 and 5 April 2025.

The article "UK Foreign Income and Gains Regime for UK-Resident Individuals" by Aisléan Nicholson and Chris Bradley in this issue contains further detail on the scope and impact of the FIG regime.

Example 3

Derek is Irish domiciled and has been resident in the UK for 12 years. Over the years he has acquired a significant portfolio of stocks and shares, primarily comprising interests in US publicly traded entities. To date, Derek has availed of the remittance basis of taxation by ensuring that any income and gains earned on his US shares are held in his USD bank account with Wells Fargo.

Derek is disappointed to learn that the 4-year FIG regime will not be available to him as he is not in the first 4 years of UK residency, but he intends to avail of the temporary repatriation facility such that any foreign income and gains arising on the US shares before 6 April 2025 may be taxed at the flat rate of 12% if remitted up to 6 April 2027 and 15% if remitted up to 6 April 2028.

Example 4

In the context of the above facts, Derek decides that, rather than rely on the temporary repatriation facility, he will gift his US shares to his new girlfriend, Gianna, who is Italian and intends to move to the UK in the coming weeks. In calculating Derek's CGT liability on the disposal, the base cost of the US shares will be the value as at 5 April 2017.

On the basis that lifetime gifts are outside the UK IHT net, the benefit provided to Gianna should not trigger an immediate charge to UK IHT; however, Derek needs to survive for 7 years for the gift to remain outside the UK IHT tax net. Otherwise, the value of the gift will be brought back into his estate and subject to UK IHT.

Going forward, Gianna may be able to avail of the 4-year FIG regime provided she has not been resident in the UK for 10 consecutive years before taking up residence.

Changes to taxation of trusts

With a move towards residency and away from domicile in determining the scope of UK tax, the remittance basis of taxation previously availed of in respect of FIG arising in offshore trust structures settled by UK-resident but non-UK-domiciled settlors ("protected trusts") is no longer available from 6 April 2025. Instead, the settlor will be taxed on income and gains arising to protected trusts if the settlor, his/her spouse or the settlor's children or grandchildren can benefit. The settlor may, however, be able to claim relief under the 4-year FIG regime (discussed above).

In addition, if a settlor is a long-term resident and irrespective of whether he/she is a beneficiary, non-UK assets of protected trusts are now within the relevant property regime such that an IHT tax charge of up to 6% is triggered on each 10-year anniversary of the settlement of a protected trust (along with UK assets). If a settlor ceases to be a long-term resident, the non-UK assets will fall outside the 6% IHT charge going forward, but a deemed exit charge will be triggered (also 6% but pro-rated) on departure of the settlor from the UK.

The temporary repatriation facility, discussed above, will be available to UK-resident settlors and beneficiaries of offshore trusts for the 3-year period from 6 April 2025, provided the individual was a remittance basis user, the benefit was received during the 3-year period and the benefit is capable of being matched to FIG that arose in the protected trust before 6 April 2025.

Example 5

Conor is Irish domiciled but has been a UK resident since the 2012/2013 tax year. In the same year that he moved to the UK he settled assets on a Maltese trust as an asset protection measure; the beneficial class included Conor, his wife Beatrice and any future children they may have. The primary assets of the trust are real property assets located in Dublin, which have increased significantly in value over

the years. Two of the properties were disposed of in 2024 after a significant uplift in value; the proceeds of these sales were not remitted into the UK so as not to trigger a charge to UK tax. The remaining properties are all currently rented on a commercial basis.

On the basis that Conor has been resident in the UK for a period of 14 years, he is classed as a long-term resident and will be taxed on the income and gains arising in the Maltese trust as he is within the beneficial class of the trust. Relief under the 4-year FIG regime is not available to Conor as he is not in the first 4 years of his residency.

Conor is panicked about the financial implications of these changes and is considering moving to Ireland to start the clock on losing his long-term residence status. However, this will trigger a 6% IHT charge on the full value of the assets in the trust, irrespective of the fact that these assets are Irish-*situs* assets. The temporary repatriation facility, discussed above, should be available to Conor such that FIG arising before 6 April 2025 may be taxed at the flat rates of 12% up to 6 April 2027 and 15% up to 6 April 2028.

Going forward, Conor could consider removing himself as a beneficiary of the trust; if done appropriately, the income and gains arising in the trust should not be automatically attributed to him.

Upcoming Changes on 6 April 2026: Introduction of £1m Cap on Tax-Free Inheritance of Business and Farming Assets

Previously, agricultural property relief (APR) and business property relief (BPR) were generous in scope; provided the assets inherited were "qualifying assets" (i.e. active trading assets), relief was granted in full. These reliefs are set to be significantly curtailed on 6 April 2026. 100% relief will apply only up to a combined allowance of £1m in respect of both business and agricultural assets; once that £1m limit is reached, the relief will be 50%. This leads to an effective 20% IHT rate on any qualifying business and agricultural assets that exceed £1m in value. These new proposed rules would also apply to lifetime transfers made on or after 30 October 2024 if the donor dies within 7 years of the gift where death occurs on or after 6 April 2026; in such circumstances the gift becomes chargeable to UK IHT. Lifetime transfers where the donor survives for a period of 7 years after the gift remain the best outcome in that such transfers can be made free of IHT, and no gift tax applies.

This may be contrasted with the Irish position, which provides for an effective tax rate of 3.3% where business or agricultural relief applies; there is no cap on the value of such assets that may benefit from relief.

Example 6

Donal died a widower with five children in December 2025. The primary assets of his estate include a farm in Carlingford, which he inherited from his father (estimated value of €1.5m), and shares in his family's trading company based in Belfast (estimated value of €3m). Up until 2014 Donal resided in the farmhouse adjacent to the farm in Carlingford. On his retirement from farming, Donal's son, Kieran, continued to work the farm while Donal moved to a smaller home in Newry to be closer to his other children and grandchildren.

On the basis that Donal died a long-term resident of the UK (i.e. tax resident for 10 or more years, either consecutively or within the past 20 years), his entire estate will be within the charge to UK IHT. The transitional rules are not available to him as Donal was UK tax resident in the 2025/2026 tax year. Consequently, despite being an Irish-*situs* asset, the farm will be within the charge to UK IHT and, together with the shares, subject to the £1m combined allowance on the inheritance of business and agricultural assets.

The combined value of £4.5m (assuming £1 = €1 for the purposes of the calculation) may be taxed as follows (ignoring the tax-free threshold).

Asset	Value	IHT
Shares in trading company	£1m (100% relief) £2m (50% relief – £1m at 40%)	Nil £400,000
Farm	£1.5m (50% relief – £750,000 at 40%)	£300,000
		£700,000

The above gives an effective tax rate of 15.5%, which is still significantly lower than the headline UK IHT rate of 40%.

On the basis that the farm is an Irish-*situs* asset, the double taxation agreement between Ireland and the UK provides that Ireland will have primary taxing rights, and the UK will therefore grant a credit for any Irish CAT paid. If the conditions for agricultural relief from CAT were satisfied, the beneficiary of the farm would be liable to pay CAT of €49,500 (ignoring any available tax-free thresholds); this should be available as a credit against the UK IHT due in respect of the farm (i.e., £300,000). HMRC has confirmed that none of the UK's double taxation treaties (including those between the UK and Ireland) will be impacted by the changes implemented in respect of UK IHT and that, from 6 April 2025, individuals classed as long-term UK residents will be treated as having deemed UK domicile for the purposes of the treaties.

Example 7

Deirdre has run a successful accountancy practice in Belfast as a sole trader for the past 25 years. She is keen on retiring as soon as possible and would like to transition the business to her daughter, Chloe, who is in her final year of a 4-year commerce degree in University College Cork.

The transfer of the business to Chloe is set to complete in October 2025. As this is a gift, Deirdre has been advised by her UK tax advisers that a charge to UK IHT should not be triggered provided that Deirdre survives for a period of 7 years after the gift.

As part of her accountancy degree, Chloe has taken a module in tax and realises that, on the basis that she has been tax resident in Ireland for the duration of her time in university, the gift of her mother's business will be within the charge to Irish CAT. The transfer of the business is therefore put on hold.

Example 8

In the context of the above facts, Chloe returns to Belfast in early May 2026 after completing her university degree and ceases to be Irish ordinarily tax resident in 2029. The transfer of Deirdre's accountancy practice takes place on 6 April 2029. On the basis that both Deirdre and Chloe are now UK tax resident, the gift is made free of UK IHT.

Unfortunately, Deirdre dies 4 years later after a short illness. As she did not survive for a period of 7 years after making the gift to Chloe, the value of the business is brought back into her estate for UK IHT purposes.

Upcoming Changes on 6 April 2027: Pensions Will be Within the Scope of UK Inheritance Tax

Discretionary private pensions are the most common type of pension in the UK. If an individual dies without fully utilising the value in

that pension, that value can generally pass to his/her beneficiaries tax-free. However, that is set to change from 6 April 2027; from this date, any value remaining in discretionary private pensions will be within the charge to UK IHT. The IHT charge is in addition to income tax that may be charged on payments made to the beneficiaries of the pension, and therefore the value remaining in an individual's pension on death could be subject to an effective tax rate of up to 67%.

The UK comments and analysis contained in this article are based on UK tax legislation in force as at the time of writing, 16 October 2025, and do not reflect any subsequent changes or developments that may be brought about by the UK's Autumn Budget announcement.


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Stamp Duty on Multi-Asset Acquisitions

Introduction and Background

This article considers the stamp duty implications of the transfer of multiple assets either under the same instrument or as part of a larger transaction. Particular regard is given to the application of s31E of the Stamp Duties Consolidation Act 1999 to the transfer of multiple residential units.

Stamp duty is fundamentally a tax on documents (instruments) that transfer an interest in property, whether by way of conveyance, lease etc. Such documents range from a simple transfer of the freehold of a single house or a shareholding in a company to a complex business transfer agreement dealing with the transfer of various different types of assets and providing for different mechanisms of transfer, e.g. transfer by delivery or by deed.

In contrast to income tax or corporation tax, stamp duty does not apply to specific economic transactions, except to the extent that these transactions are effected by

written documents (or, in certain instances, by electronic transfers). As a result, stamp duty legislation has had to adapt to treat multiple acquisitions in a fair manner, while also discouraging attempts to reduce overall duty by documenting transfers in a particular way, e.g. splitting the documentation of large transactions into a series of smaller ones. In recent years the Oireachtas has also intervened to apply special provisions to certain multiple acquisitions for social and economic reasons (s31E and the changes to residential stamp duty rates introduced in Finance Act 2024).

Unless otherwise indicated, all statutory references are to the Stamp Duties Consolidation Act 1999 (SDCA 1999).

Larger Transaction or Series of Transactions

Schedule 1 of the Act sets out the rates of duty applicable to specific instruments. In some cases the duty may vary based on the consideration paid or the market value of the transaction, e.g. for residential property, rates of 1%, 2% and 6% may apply. To prevent the documentation of large transactions being split into smaller ones to avail of the lower rates on each transfer, the Schedule applies so that any conveyances forming part of a larger transaction or of a series of transactions are amalgamated for the purposes of calculating the duty.

The question of whether a transaction is part of a larger transaction or series of transactions was considered in the UK case of *Attorney General v Cohen* [1937] 1 KB 478, where the English Court of Appeal held as follows:

> "The phrase 'part of a series of transactions' is not intended to charge transactions which (by chance) happen to be close in time and space and/or to involve the same parties. The phrase is intended to charge transactions which have an integral relationship. The transactions must be interdependent in some way. The determining criterion is whether the transactions are interdependent."

This may still leave open the question of whether this interdependence must be contractual; however, it is understood that Revenue's view is that it does not:

> "The rule is that there must be some form of interdependence involved (e.g. default by the purchaser on one purchase would enable the vendor to pull out of all the purchases) but this interdependence need not be contractual (e.g. the purchaser gets a lower price by virtue of agreeing to buy 2 properties rather than one). Generally, in the case of sales by private treaty where there are a number of sales between 2 parties at or about the same time, irrespective of whether there is a single contract or several contracts, there is a strong presumption that each individual conveyance must form part of a larger transaction or series of transactions. Sales at auction, on the other hand, where the property is sold in separate lots are regarded as separate transactions." (Notes for Guidance: Stamp Duty Consolidation Act 1999, p. 6 Schedules & Appendices)

Consideration should therefore be given to all of the surrounding facts of the transaction in ascertaining whether interdependence exists.

Finance Act 2024: 6% Rate

The Finance Act 2024 introduced a new 6% rate of stamp duty, which applies to the acquisition of residential property for over €1.5m. A carve-out from this new, higher rate of duty was created in respect of the acquisition of three or more apartments in an apartment block. From the wording, it appears that all three apartments have to be part of the same apartment block. For further analysis of the meaning of "apartment" and "apartment block", see discussion of s31E below.

Where multiple apartments are acquired under different instruments, it appears possible to argue that the 6% rate should not apply, on the basis that each acquisition is part of

a larger transaction or series of transactions (, *CONVEYANCE or TRANSFER* on sale of any property other than stocks or marketable securities or a policy of insurance or a policy of life insurance" (2) Schedule 1 SDCA 1999).

Section 31 E

The article "New Stamp Duty Charge on Bulk Acquisitions of Residential Units" by Lynn Cramer and Grainne O'Loughlin in *Irish Tax Review*, Issue 3 of 2021, gives an excellent overview of this section. In this article we focus on some of the key definitions and the practical issues that may arise specifically in relation to the issue of multiple acquisitions arising out of s31E only.

Background

Section 31E SDCA 1999 was introduced to create an additional charge to stamp duty on the acquisition of significant numbers of residential properties by a single person or connected persons (other than multiple apartments within an apartment block – see below). The rationale for the introduction of the legislation was outlined by the Minister for Finance at the time when he said that it was "part of the Government's response to the recent development of commercial institutional investors bulk-purchasing homes at or near completion in competition with the owner-occupier market" (*Dáil Éireann Debate*, 19 May 2021).

Schedule 1 of the Act provides for a higher level of duty on a conveyance of a relevant residential unit. From 20 May 2021 the applicable rate was 10%. This was increased to 15% from 2 October 2024.

Meaning of residential unit

A residential unit is defined in s31E(1) SDCA 1999 as "residential property situated in the State comprising an individual dwelling". Therefore, it will be seen that a residential unit must be both a "residential property" and an "individual dwelling".

Meaning of residential property

Section 1 SDCA 1999 defines residential property as follows:

> *"'residential property', in relation to a sale or lease, means –*
>
> *(a) a building or part of a building which, at the date of the instrument of conveyance or lease –*
>
> *(i) was used or was suitable for use as a dwelling,*
>
> *(ii) was in the course of being constructed or adapted for use as a dwelling, or*
>
> *(iii) had been constructed or adapted for use as a dwelling and had not since such construction or adaptation been adapted for any other use,*
>
> *and*
>
> *(b) the curtilage of the residential property up to an area (exclusive of the site of the residential property) of one acre;*
>
> *but where –*
>
> *(I) in the year ending on 31 December immediately prior to the date of that instrument of conveyance or lease a rating authority –*
>
> *(A) has made a rate or has not made a rate in respect of any particular property falling within Schedule 3 to the Valuation Act 2001, or*
>
> *(B) has not made a rate in respect of any particular property falling within Schedule 4 to the Valuation Act 2001,*
>
> *then the whole or an appropriate part of that property as is referable to ordinary use other than as a dwelling at the date of that instrument*

of conveyance or lease or, where appropriate, when last ordinarily used, shall not be residential property, in relation to that sale or lease, or

(II) the area of the curtilage (exclusive of the site of the residential property) exceeds one acre, then the part which shall be residential property shall be taken to be the part which, if the remainder were separately occupied, would be the most suitable for occupation and enjoyment with the residential property".

Revenue's Stamp Duty Manual discussion of s31C is helpful in relation to construing the application of the above to a property that has been rated:

> "This means that, regardless of whether property is being constructed or adapted for use as a dwelling at a point in time, it is not residential property for Stamp Duty purposes where it was classified as commercial property for rating purposes on the immediately preceding 31 December.
>
> The local authority rating classification takes precedence unless a property is completed and in use or suitable for use as a dwelling." ("Stamp Duty Manual: Shares Deriving Value from Immovable Property Situated in the State – Part 5: Section 31C", pp 34)

Meaning of a "dwelling"

The term "dwelling" is not defined in the Act, nor is it a legal term of art. The term's meaning was discussed in the Tax Appeals Commission determination 09TACD2019, which dealt with student accommodation in the context of local property tax (LPT). The determination contains a useful summary of the case law on the meaning of a dwelling. The taxpayer had argued, *inter alia*, that on the basis of *Twomey (Inspector of Taxes) v Hennessy* [2011] 4 IR 395, the student accommodation was not in use as a dwelling. The Commissioner distinguished *Twomey v Hennessy* on the basis that:

> "the quality of the occupation by the students was not considered in that judgement. Rather, the Court considered the distinction between the carrying on of a trade analogous to or equivalent to that of hotel keeping as opposed to a building used as a dwelling for the purposes of determining whether the taxpayer was entitled to capital allowances."

It is clear from the Commissioner's determination that the term dwelling will take its meaning from its context, and therefore that its meaning in one piece of legislation may be significantly different from that in another. The Commissioner also appeared to lay stress on his visit to the accommodation in question and the conditions prevailing there. He found that the terms and conditions of occupancy were not so onerous as to deprive that occupation of the necessary characteristics of a dwelling. In the view of the author, it may be arguable that other student accommodation, which is differently designed or imposes more onerous conditions on students, might not necessarily constitute a dwelling.

Revenue guidance on meaning of a "dwelling"

Revenue guidance on s31E does not shed further light on the meaning of the term; however, the LPT guidance contains an extensive discussion on the matter. LPT applies to any building or structure that "is in use as, or suitable for use as, a dwelling" (s2A Finance (Local Property Tax) Act 2012). Section 31E applies to a "dwelling" but imports the language around "in use as, or suitable for use as" with the reference to residential property as defined in s1. Notwithstanding the caveat regarding the term taking its meaning from its context, it might be expected that a similar interpretation would apply. The excerpt below from Revenue's Tax and Duty Manual may be helpful, particularly in the context of shared living arrangements:

> "Notwithstanding the absence of a statutory definition of 'dwelling', Revenue does not, as a matter of course, take the

> narrow … view that a single room without, for example, cooking facilities should necessarily be regarded as a dwelling. Instead, it generally takes the broader view that a dwelling comprises self-contained living accommodation where facilities required for normal private domestic living are located in reasonable proximity to each other.
>
> It is not possible to be prescriptive about the facilities or amenities that might be required. Facilities or amenities required for day-to-day private domestic living might, for example, include those for sleeping, cooking, eating, relaxing, bathing and laundry. However, it is not necessary that all these facilities or amenities be present in each dwelling. Nor is it relevant that some of the facilities are shared with occupants of other residential units within a single building." ("Local Property Tax: Part 01-01 – Meaning of Residential Property", p. 6–7)

Interaction of requirements that a residential unit is a residential property and a dwelling

Even in the absence of a legislative definition of a "dwelling", it appears from the case law and guidance cited above that it must be a premises in which it is possible to reside for at least some period of time. The requirement that a residential unit is a dwelling appears to narrow the scope applied to residential property alone, such that, for instance, a property under construction could not constitute a residential unit as it is not yet a dwelling as it cannot be resided in.

Carve-out for apartments

The s31E legislation contains a carve-out from the higher rate of duty, in respect of the bulk purchase of apartments. This was justified by the Minister of Finance at the time as follows:

> "The rationale for this is twofold. In order for apartment complexes to be built it is necessary in virtually all cases for an institutional investor to commit through a binding contract to purchase all or some of a complex on completion. This is known as the forward-purchase model and it is usually entered into once planning permission has been obtained." (*Dáil Éireann Debate*, 19 May 2021)

The carve-out contained in s31E(7) provides that for the purposes of calculating the number of residential units acquired, no account shall be taken of a residential unit in an apartment block. This means that an apartment within an apartment block will not be subject to the higher rate of duty (as only a residential unit that can be counted towards the 10-unit threshold can be a relevant residential unit) and will not be counted in determining whether the threshold has been breached.

It can be seen that to avail of the carve-out a residential unit must be in an "apartment block". An "apartment block" means a "multi-storey residential property that comprises, or will comprise, not less than 3 apartments with grouped or common access" (s31E(1)).

The Revenue Tax and Duty Manual provides as follows:

> "When considering whether a residential unit is in an apartment block, the block as a whole should be examined, as follows:
>
> - a 'multi-storey residential property' – a property that has at least 2 floors.
> - 'that comprises, or will comprise, not less than 3 apartments' – the word 'apartment' is not defined for the purposes of section 31E and therefore takes its ordinary meaning, being a room or a group of related rooms, among similar sets in one building, designed for use as a dwelling.
> - 'with grouped or common access' – at least 3 apartments in the building have grouped or common access to the building as a whole, e.g., main entrance door or shared external stairwell.

> Whether a property comes within the meaning of a residential unit in an apartment block should be apparent from the specific facts of each case. The fact that an apartment may have its own door will not preclude it from coming within the meaning of an apartment for the purposes of section 31E." ("Section 31E: Stamp Duty on Certain Acquisitions of Residential Property", p. 6)

It is not yet clear what is meant by the term "similar sets" or why this is inferred from the statutory definition of an "apartment block" or from the ordinary meaning of the word "apartment". Many apartment blocks contain units of very different size, ranging from studios to large luxury apartments. Older buildings may also have been entirely converted into apartments that are very different in design from each other. Provided the building contains three or more apartments and is a multi-storey residential property with grouped or common access, it is difficult to see why such a building would not meet the legislative definition, even where the apartments are quite different in size or layout.

Relevant residential units

The higher rate of duty applies to a "relevant residential unit", defined in 31E(5):

> *"Where –*
>
> *(a) a person (in this subsection and subsections (6) and (7A) referred to as the 'first-mentioned person') acquires a residential unit on or after 20 May 2021, and*
>
> *(b) the total of –*
>
> *(i) the residential units acquired by the first-mentioned person or a person connected with that person in the 12 months immediately preceding the day on which the residential unit referred to in paragraph (a) is acquired (in this subsection referred to as the 'relevant day'),*
>
> *(ii) the residential unit referred to in paragraph (a), and*
>
> *(iii) any other residential units acquired by the first-mentioned person or a person connected with that person on the relevant day,*
>
> *is greater than or equal to 10 residential units, each of the residential units comprised in that total shall be a relevant residential unit."*

It can be seen that to trigger the higher rate of duty, 10 or more residential units must be acquired within a 12-month period by an individual or by connected persons. Once this threshold has been met, all 10 properties shall become relevant residential units, and the higher rate of tax is triggered in respect of each property.

Residential units acquired before 20 May 2021 are not considered relevant residential units; however, they are to be counted when determining whether the 10-unit threshold has been met. This means that although they are included for aggregation purposes, they themselves are not subject to the higher rate of duty (s31E(17), (20) and (21)).

Stamp Duty Rate Increased to 15%

Section 90 of the Finance Act 2024 increased the rate applying to the acquisition of relevant residential units to 15% by updating Schedule 1 of the Act and stating that the new schedule shall have effect in respect of instruments executed on or after 2 October 2024.

A question arises regarding the position of residential units that were acquired before 2 October 2024 but became relevant residential units only after that date. As they became relevant residential units after 2 October, are they subject to the 15% rate? The answer appears to depend on the interaction between s2 with s31E(20) and (21).

Section 31E(20) provides that:

> *"This subsection applies where a residential unit (in subsection (21) referred to as the 'first-mentioned residential unit') is not a relevant residential unit on the date on which it is acquired but becomes a relevant residential unit as a consequence of the acquisition of another residential unit on a date falling after that date (in subsection (21) referred to as the 'later date')."*

Section 31E(21) states:

> *"Where –*
>
> *(a) subsection (20) applies, and*
>
> *(b) the first-mentioned residential unit is not a relevant residential unit to which subsection (17) applies,*
>
> *section 2(1) shall apply in respect of the additional stamp duty that has become chargeable by virtue of the first-mentioned residential unit becoming a relevant residential unit as if the instrument effecting the acquisition of the first-mentioned residential unit was executed on the later date."*

Section 2(1) is the general charging section in stamp duty and provides that:

> *"Any instrument which –*
>
> *(a) is specified in Schedule 1, and*
>
> *(b) is executed in the State or, wherever executed, relates to any property situated in the State or any matter or thing done or to be done in the State,*
>
> *shall be chargeable with stamp duty."*

It appears that s31E(20) and (21) effectively operate to provide that interest will run from the date of the tenth conveyance in respect of the extra duty on earlier conveyances. These provisions do not alter the provisions of s90 of the Finance Act 2024, whereby the 15% rate applies only to instruments entered into on or after 2 October 2024. The "legal fiction" that earlier instruments were entered into on a later date applies to s2 only and not to the Schedule that provides for the rate of charge.

Application to Share Transfers

Section 31E(12) provides for the value of shares derived from a relevant residential unit to be charged to stamp duty at the higher rate. For sub-section (12) to apply:

- there must be a conveyance or transfer on sale of stocks, marketable securities, units, or interests that derive value from a residential unit (s31E(9)); and
- this conveyance or transfer on sale must result in a change in the person(s) having direct or indirect control over the residential unit. The higher rate of stamp duty applies to the portion of the consideration attributable to the relevant residential unit, and the standard rates of stamp duty apply to the portion not derived from a relevant residential unit.

Where the section applies, the portion of the value of the shares deriving its value from the relevant residential units is treated as if it were a "conveyance or transfer on sale of any property other than stocks or marketable securities". Therefore, that section of Schedule 1 must be applied. This results in, for instance, the "larger transaction or series of transactions" provision's being applied to a sale of shares, where they would not otherwise.

To be subject to the higher rate of duty, the shares that are conveyed or transferred must derive value from residential units, which is measured by reference to the market value of a residential unit. Unlike in the instance of s31C:

- The charge to duty may apply even though the company's shares do not derive the majority of their value from Irish residential units or, indeed, from Irish land in general.
- The higher rate applies only to the value of the residential units transferred and not to the whole value of the shares.

It is not necessary that the company that is transferred itself directly owns the residential units, only that it derives value directly or indirectly from same.

Disapplication of Certain Reliefs

Section 31E(19) disapplies relief under s82(1) (charities), s82C(2) (pension schemes and charities) and s88(1)(b) (various collective investment schemes and foreign companies) to the extent that the consideration is referable to a relevant residential unit. Therefore, a transfer of shares in a non-Irish company that does not hold any Irish property but has an Irish subsidiary (possibly one among many) that itself holds residential units may be subject to duty. This is relevant in the context of foreign companies acquiring an interest in houses or apartments to house Irish-located workers, although a change in control of the company in which the shares are transferred would be required to trigger duty – see below.

Change of Control

Section 31E provides that a conveyance or transfer on sale gives rise to a charge only where there is a change in the person or persons having direct or indirect control over the residential unit concerned. Therefore, not every share transfer would give rise to a stamp duty liability under Section 31E.

Section 31E(14) provides as follows:

> *"Where stocks or marketable securities, units or interests to which subsection (9) applies were owned at one time by one person, or by persons who are acting in concert or who are connected persons, and are conveyed or transferred by that person or those persons in parts –*
>
> *(a) to another person, or*
>
> *(b) to other persons who are acting in concert or who are connected persons,*
>
> *whether or not on the same or different occasions, the several conveyances or transfers shall, for the purposes of this section, be treated as a single conveyance or transfer."*

This is effectively a variant of the "larger transaction or series of transactions" provision contained in Schedule 1.

Change of control is not defined in the legislation, but Revenue guidance contains the following statement:

> "Control is determined by looking through the transfer or sale of shares to the underlying effect of the transfer or sale in terms of whether there is any change in the person(s) having control (direct or indirect) over a residential unit following the transfer or sale.
>
> Control is not defined for the purpose of section 31E and so takes its normal meaning. The normal meaning of control over a residential unit held by a company would, for example, be the entitlement to sell the unit or to retain and develop the unit, whether such entitlement arises in the present or will arise under a future arrangement.
>
> While the tests for control set out in section 432 TCA 1997 are used to determine the person(s) who control a close company, they may also be useful in determining if there has been a change in the person(s) who control a residential unit". ("Section 31E: Stamp Duty on Certain Acquisitions of Residential Property", p. 14)

The concept of a shareholder having control over an asset of a company is a rather unorthodox one, and in the absence of a provision in the stamp duty legislation linking it to s432 TCA 1997, it is difficult to see why this definition should be used in preference to any other one. It will be interesting to see whether the Oireachtas chooses to provide further clarification by way of legislative update (although similar language contained in s31C has been in operation since 2017

without amendment) or whether the Appeal Commissioners or the courts will undertake an analysis that may provide a useful precedent.

Conclusion

The law governing the transfer of multiple residential properties has been subject to considerable change over the last number of years. Much of this change has been occasioned by attempts to address specific issues with the housing market in general, while balancing competing economic interests e.g. discouraging funds from purchasing houses in competition with first-time buyers, while at the same time encouraging the development of large-scale apartment blocks by investors. As a result, the legislation has become quite intricate and requires purchasers to consider several different definitions – "Residential Property", "Dwelling, Residential Unit" and "Apartment Block" - and how these definitions are set out in the legislation, Revenue guidance and case law. Given the tight timeline for the submission of returns and payment of stamp duty (with the extended online deadline being 44 days), it is particularly appropriate that a taxpayer's obligations under the stamp duty legislation is as clear and simple to interpret as possible. It is suggested that an early effort by the Oireachtas to consolidate and simplify the legislation provisions relating to stamp duty on residential property would be welcomed by practitioners.

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Revenue Guidance on Taxation of Social Media Influencers

Introduction

In July Revenue released two Tax and Duty Manuals (TDMs) providing detailed guidance on the application of existing direct and indirect tax rules to income arising from activities commonly known as influencer activities. Over recent years, social media influencing has transformed from a niche hobby into a significant industry. It revolves around individuals, known as influencers, who build loyal audiences on platforms such as Instagram, TikTok, YouTube and X (formerly Twitter) and who leverage those followings to earn income through sponsored content, affiliate marketing, brand ambassadorships, and platform monetisation through advertisements etc. For many, it has evolved into a full-time source of income.

As a result of the growth in recent years, the influencing industry has become an important marketing channel for brands and businesses. Social media platforms enable businesses to reach their target audiences through the influencers who have grown large audiences

online, with the traditional marketing methods being replaced by sponsored content, brand collaborations and paid digital campaigns. Brands and businesses are leveraging the trust and engagement that the influencers have built with their audiences by engaging them in a variety of ways to promote products or services.

Revenue has recognised this rapid growth and change, along with the diverse ways in which influencers generate income, and highlighted in its most recent Annual Report, that this is an area of compliance focus for Revenue. More than 450 level 1 compliance letters were issued to individuals since 2023 according to the report, with Revenue's expectation that compliance activity will grow on foot of the recently issued guidance.

Although there are no special tax rules in place for this industry, the guidance has extensive examples specific to the industry and provides clarity on a number of areas that have potentially caused ambiguity – particularly, non-monetary consideration received in respect of certain services and/or gifting within the social media influencing space.

Direct Taxes

The direct tax guidance (TDM Part 04-01-22, "Taxation of Income from Social Media and Promotional Activities (Income Tax and Corporation Tax)") outlines the tax treatment of income derived from activities such as content creation, promotion, endorsement, product or service reviews, sponsorships, paid appearances and brand ambassadorships.

Profits arising from carrying on a trade are taxable under Case I, Schedule D, and income derived from activities that do not amount to trading (including one- off or irregular transactions) is taxable under Case IV, whether as a company, sole trader or partnership. Revenue emphasises that even casual, one-off transactions are taxable, highlighting that the "badges of trade" should be considered when determining the correct charge to tax.

Deductible Case I expenses

The general rules for deduction under s81 TCA 1997 apply to these activities, and the three tests for deductibility are that the expense must be:

- revenue, not capital, in nature,
- wholly and exclusively incurred for the purposes of the trade and
- not specifically disallowed by law.

Several examples specific to social media influencers are provided, and some specific expenses are clarified. Clothing is not deductible unless it is "protective clothing worn in the course of carrying on a trade", owing to its dual personal and business purpose. For example, a fashion blogger who buys a designer jacket for a fashion show that she must attend cannot deduct the cost of the jacket. Grooming expenses such as make-up and skincare are also not allowable.

Travel expenses relating only to business purposes are allowed, and claims should be based on the ratio of business mileage to total mileage, supported by adequate records. Food and accommodation expenses are allowable only where they have been incurred for a business trip and are a reasonable amount with no personal motive.

Under s82 TCA 1997, pre-trading expenses incurred in the three years before commencing the trade can be deducted. This will benefit individuals who began their activity as a hobby but later commenced trading. Additionally, capital allowances may be claimed on qualifying plant and machinery, such as office furniture, cameras, lighting, phones and computer equipment.

Deductible Case IV expenses

Deductible expenses under Case IV are more restrictive than Case I. There is no statutory test for deductibility of expenses under Case IV. In practice, Revenue allow a deduction for incidental costs directly associated with the generation of the Case IV income. No capital

allowances are allowable, nor are expenses incurred in advance of the commencement of the Case IV activity.

Various Sources of Income

A key area of clarification provided in the guidance concerns the diverse methods of payments received by influencers, including voluntary receipts, non-monetary receipts, brand ambassadorships and crowdfunding.

Unsolicited goods/services

Where an individual receives goods or services unsolicited with no obligation to provide promotional services in return, Revenue has indicated that the tax treatment depends on the individual's response:

- Where the individual decides to promote the product in any way, the value of the product is subject to income tax.
- Where the individual does not promote the product but retains it, the item is not chargeable to income tax but may be considered a taxable gift for capital acquisitions tax purposes.
- Where the product is returned in a timely manner (with no promotion etc. having taken place), there are no tax implications.

Practically, this creates administrative challenges for larger influencers who receive a significant quantity of unsolicited products. Accurate record keeping is important and will be the foundation for supporting positions taken during compliance interventions.

Non-monetary receipts

Non-monetary transactions, or "barter transactions" as referred to in the VAT guidance, are where an influencer receives goods or services in return for providing promotional services. For instance, a hotel offers a free hotel stay to an influencer in return for their sharing the hotel with their audience. The market value of the hotel stay is subject to income tax, and, depending on the facts, VAT may need to be accounted for on the market value of the supply.

Another significant example is the concept of brand ambassadors promoting different car brands, which occurs regularly in the motor industry. In this instance a motor vehicle may be provided to the individual for use over a period in return for promoting the vehicle. The value of the use of the car is subject to income tax, and the open-market value needs to be determined, e.g. the value of leasing the vehicle each month.

Crowdfunding platforms are often used by social media platforms to raise money for various reasons. Where the recipient of the money is not a registered charity and the money is received for a non-business purpose, income tax will not be chargeable but capital acquisitions tax may apply. Where funds are raised to support or maintain business activity, the receipts are generally treated as taxable trading income.

Indirect Tax

The VAT TDM ("The VAT Treatment of Social Media Influencers") provides a comprehensive overview of the VAT obligations applicable to influencers, including registration thresholds, deductible VAT, invoicing requirements, VAT rates and the place-of-supply rules.

Registration and records

A taxable person is required to register and account for VAT once their annual turnover exceeds the VAT registration thresholds. Taxpayers can opt to register for VAT even if turnover is below the VAT registration threshold.

Taxable persons may also have to register for VAT in other EU Member States. The obligation to register for VAT in an EU Member State is nuanced and can arise if the taxpayer makes supplies such as intra-Community distance sales of goods or certain services, including electronically supplied services, to non–taxable consumers above a €10,000 threshold (discussed further below). Intra community distance sales of goods and certain services could arise where goods (such as merchandise) are dispatched to a non-taxable consumer in another EU Member State. In such a case, an influencer may wish to

avail of the One Stop Shop (OSS) scheme to fulfil their VAT obligations.

Influencers must comply with standard VAT record-keeping and invoicing requirements. The guidance addresses self-billing, which is a common invoicing arrangement in scenarios where the influencer provides services to a social media platform. The VAT-registered customer (social media platform) assumes responsibility for issuing the supplier's (influencer's) invoice. This is done for administrative purposes, and the influencer is responsible for accounting for VAT on the supply. Conditions need to be met for this arrangement, including that a prior agreement must be in place between the supplier and the customer.

Barter transactions

The taxable amount for the purposes of accounting for VAT is the amount paid or payable to the person. Where an influencer receives a good or service in return for promotion, this is a non-monetary receipt in exchange for a supply of promotion services for VAT purposes. The market value of the good or service received is the deemed consideration for the supply of the promotion service, and VAT should be accounted for on this amount.

Such non-monetary, or barter, transactions can cause cash-flow issues because, even though no money may be received in respect of a good/service, the individual may have a VAT obligation.

Unsolicited goods

Where unsolicited goods or services are received and the influencer is under no obligation to promote them or to provide any other service in return, no VAT arises for the influencer as there is no taxable supply being provided by them. This position aligns with the general principle that a supply must be made for consideration in order for VAT to apply.

Place of supply

The place-of-supply rules are of particular importance, given the online and cross-border nature of influencer activities. The rules determine whether VAT is chargeable in the State or elsewhere in the EU and differ for goods and services. The general place-of-supply rules and specific examples in the TDM should be considered carefully where an influencer engages in any cross-border transactions. Depending on the circumstances, they could have obligations to register for VAT in other EU Member States.

Many social media influencing activities would be described as an electronically supplied service (ESS)on the basis that services are delivered over the internet and are heavily dependent on information technology for their supply. The normal place-of-supply rules apply where it is a business-to-business (B2B) supply: the place of supply is where the business receiving the supply is established.

For business-to-customer (B2C) supplies of ESS services within the EU, the place of supply is where the customer is based if the value of such sales (and B2C sales of goods within the EU) exceeds €10,000 in the current and preceding calendar year. The influencer would then have to register for VAT in the EU countries of their customers or alternatively use the OSS to fulfil their VAT obligations. If the threshold is not exceeded, the place of the supply is the State.

Conclusion

As the influencer industry continues to expand, so does the way in which businesses utilise social media through their marketing campaigns, and it is increasingly important that participants understand and comply with their VAT and income tax obligations. Although the new Revenue manuals focus on social media activities, they are equally valuable for any emerging business, especially those that involve digital promotion or online content creation.

Given the nuanced treatment of non-monetary receipts, barter arrangements and cross-border supplies, advisers should ensure that clients maintain accurate books and records and review their tax positions regularly. This applies both to influencer clients and to the businesses engaging in transactions with influencers. This remains a niche but rapidly evolving area requiring close attention to the specific facts and circumstances of each case, with the expectation of significant compliance activity by Revenue in the coming years.

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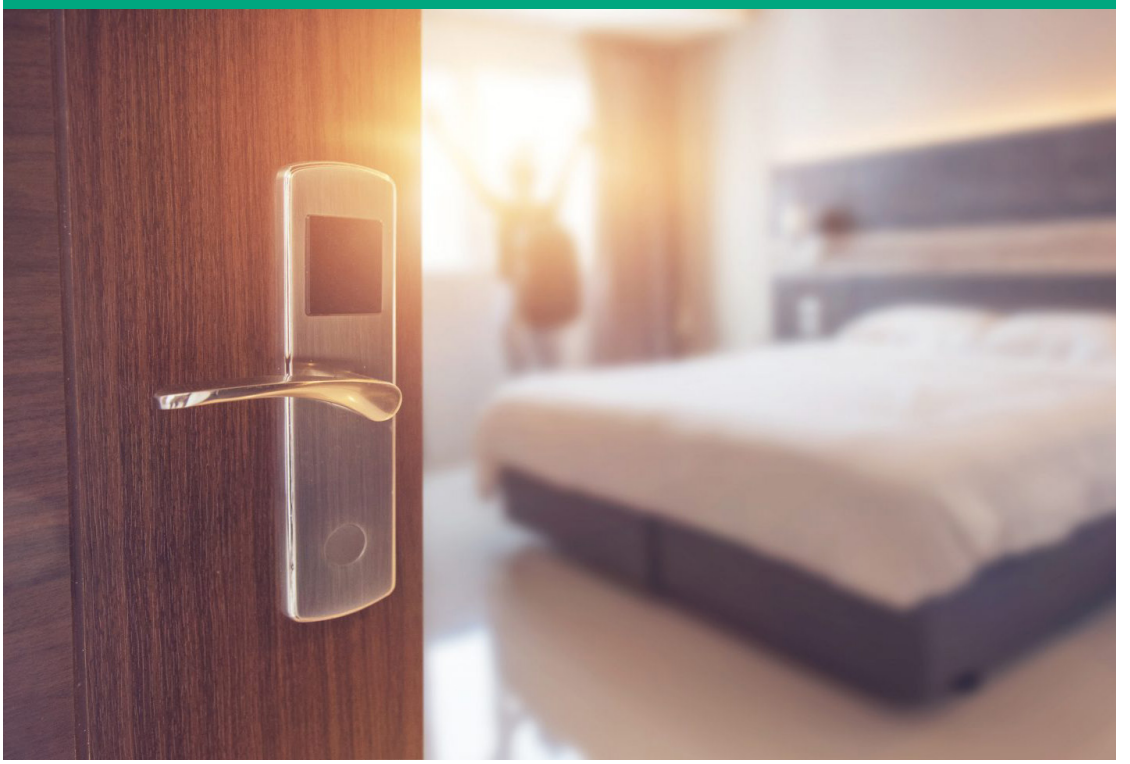
Hade v Revenue Commissioners: Emergency Accommodation



Introduction

This appeal stems from a determination made by the Tax Appeals Commission (TAC) on 5 December 2019 regarding the taxable income earned by Mr Hade through the provision of emergency accommodation. Before this case there was uncertainty in Irish tax law about whether income from accommodation provision should be classified as "rent", which is taxable under Schedule D, Case V, or as "trading profits", which are taxable under Schedule D, Case I.

Factual Background

In 1999 Mr Hade acquired a property that had previously operated as a bed-and-breakfast establishment. Beginning in 2003, the property was repurposed to provide emergency accommodation for both indigenous and non-national individuals. This arrangement was established under an arrangement with Dublin City Council (DCC).

The premises comprised 14 bed spaces, with each room suitable for accommodating

two occupants. In addition to the main accommodation areas, the property featured an office and a separate, self-contained unit located at the rear, complete with its own facilities. Residents had access to shared communal amenities, which included bathroom and laundry facilities, a kitchen and a common area. The property also offered a large garden and car parking for the convenience of its occupants.

The arrangement between Mr Hade and DCC was a rolling verbal contract rather than a formal written lease. The terms and conditions governing the arrangement were contained in a DCC order of the Executive Manager for the Housing Residential Services. The absence of a formal lease meant that rates for the use of the premises were negotiated directly between Mr Hade and DCC and were not subject to long-term contractual terms. For administrative purposes Mr Hade issued monthly invoices to DCC for payment. Importantly, the rate applied remained consistent each month, irrespective of the actual occupancy levels at the property.

House rules for the accommodation were provided by DCC and were prominently displayed in the hallway of the premises, ensuring that residents were aware of the expected standards of conduct. Although these rules were established by DCC, Mr Hade undertook additional responsibilities which were not expressly required by DCC, such as outsourcing and providing security services for the property.

Mr Hade was also responsible for the upkeep of the external areas – specifically, managing grass cutting and refuse collection. Conversely, the cleaning of individual rooms was the responsibility of the residents themselves. Unlike in a typical guesthouse or hotel arrangement, Mr Hade did not supply towels or toiletries to the occupants.

Although there was an expectation that the property would be staffed around the clock, this requirement was not fully met in practice. Instead, a college student acted as a caretaker for the premises, but there was no obligation for this individual to be present at the property at all times.

To ensure that standards were maintained, DCC conducted unscheduled inspections of the premises, monitoring the provision of services and compliance with the agreed arrangements.

As part of his responsibilities in operating the emergency accommodation, Mr Hade maintained both standard landlord insurance and public liability insurance. These measures were taken to ensure that DCC was adequately indemnified in respect of the premises. In addition to managing the property, Mr Hade was personally present on-site each day during regular business hours. He maintained an office within the property and retained access to all areas except the individual bedrooms, which Mr Hade entered only after the departure of an occupant.

The services provided by Mr Hade were typically referred to as “accommodation at the above address” on the invoices submitted to DCC.

Treatment of Income from Emergency Accommodation

For the tax years 2003 to 2007 (inclusive), Mr Hade’s accountant consistently reported the income received from DCC in relation to the emergency accommodation as Schedule D, Case I, income, categorising the income as trading profits for taxation purposes.

However, commencing 1 January 2008, after Hade’s decision to prepare his own tax returns personally, he altered the tax treatment of the income from DCC. For the tax years 2008 to 2012, he reclassified the income from the property as Schedule D, Case V, treating the income as rental rather than trading income. This reclassification aligned with Mr Hade’s interpretation of the arrangement as resembling a landlord–tenant relationship.

In conjunction with this change, Mr Hade also claimed relief under s23 of the Taxes Consolidation Act 1997 (TCA 1997) for certain

periods – specifically, for the years 2010 and 2011. The application of s23 relief resulted in a reduction of his overall tax liability for these years.

After Mr Hade's reclassification of his emergency accommodation income as Schedule D, Case V, and his claim for s23 relief, Revenue conducted an audit of his tax returns for the years 2010 and 2011. On review, Revenue concluded that the income derived from the provision of emergency accommodation should be assessed as trading income under Schedule D, Case I. As a result, Revenue issued amended assessments, which led to additional tax liabilities arising of €31,879 for the year 2010 and €26,967 for the year 2011.

Appeal to the Tax Appeals Commission

Mr Hade contested the amended tax assessments by bringing an appeal before the TAC (see determination 09TACD2020). In his submissions he maintained that the income received from providing emergency accommodation should be classified as rental income under Schedule D, Case V, rather than trading income under Schedule D, Case I.

Mr Hade's arguments

Mr Hade maintained that the income received from providing emergency accommodation should be classified as rental income under Schedule D, Case V, as it arose from the letting of a residential property. He asserted that the arrangement did not amount to a trading activity. In support of this position, Mr Hade emphasised that traditional markers of trading activity – such as booking services, responding to enquiries and frequent turnover of occupants – were absent in his case.

Mr Hade highlighted that the property was let to a single client, DCC, and that lodgers typically stayed for extended periods rather than short-term stays. Furthermore, there was no regular turnover of lodgers and no advertising of available bed spaces, distinguishing his situation from businesses operating in the guest and holiday accommodation sector.

To support his interpretation further, Mr Hade referenced Revenue's Tax and Duty Manual on VAT for the guest and holiday sector, suggesting that Revenue differentiated between the VAT treatment of lettings of emergency accommodation and that of other types of lettings, albeit that this was in a VAT context.

Mr Hade sought to distinguish the facts of *Twomey v Hennessy* [2011] 4 IR 395 from his own circumstances, highlighting differences in the application of capital allowances, advertising practices, the number of occupants and the presence of a formal lease agreement. According to Mr Hade, these factors set his situation apart and supported his contention that the agreement with DCC bore the hallmarks of a rental arrangement.

Mr Hade argued that the bedrooms in the property were exclusively occupied by the lodgers and that, although he managed "the overall" property, he had no control over the occupants, and DCC visited the property several times a week to deal with any issues regarding the payment of rent or any other general issues. He cited Revenue guidance, which he claimed supported a fact-specific approach to classification, reinforcing his position that the circumstances should be analysed based on the actual operational realities of the arrangement.

Mr Hade pointed to his tax returns for 2008 to 2012, stating that they reflected a landlord investment rental or buy-to-let model. He noted that these returns involved fixed payments, which he described as characteristic of any buy-to-let property. In elaborating on the structure of the DCC arrangement, Mr Hade stated that DCC rented the entire property from him, as opposed to a block-booking arrangement, and that he did not engage in taking individual bookings for lodgers.

Revenue Commissioners' arguments

Revenue contended that the arrangement between Mr Hade and DCC was structured around DCC's approving emergency accommodation for an annual fee, which was paid in monthly instalments. This fee was calculated based on the number of available beds, irrespective of actual occupancy levels. The monthly invoices issued by Mr Hade were in relation to the provision of accommodation and made no reference to "rent".

Revenue emphasised that payments made under this arrangement were for the provision of a service, not for rent, and therefore constituted trading income under Case I of Schedule D. The arrangement diverged from a typical rental arrangement, as rent is generally determined by the landlord, whereas in this case the payment structure more closely resembled a capitation fee for lodgings. Revenue argued that DCC was not renting the property in the conventional sense, as it did not have full control over the premises.

A key question for Revenue was whether the payments were "in the nature of rent" in the context of a landlord–tenant relationship. It argued that the agreement did not establish such a relationship. The requirements imposed by DCC, including the provision of 24-hour staff and bed linen, curfews and reporting obligations, went well beyond what would ordinarily be expected of a landlord.

Revenue further argued that DCC was arranging lodgings to enable it to fulfil its obligations under the Housing Act 1988. The property remained under Mr Hade's control, with neither the DCC nor the occupants having exclusive possession of the property. DCC was not responsible for the day-to-day management of the premises; instead, Mr Hade provided a range of extensive services that exceeded the typical obligations of a landlord.

Finally, Revenue maintained that the labels used by the parties in their documentation were not determinative of the proper legal classification of the arrangement.

TAC conclusion

The TAC ultimately upheld Revenue's position. It determined that the arrangement between Mr Hade and DCC did not constitute a lease, a landlord–tenant relationship did not exist between the parties, the payments received were not "in the nature of rent", and Mr Hade's activities involved a level of service provision exceeding that of a typical landlord. Consequently, the income arose from a trading activity and should be classified as income taxable Schedule D, Case I.

Subsequent Legal Challenge – High Court

After the TAC's decision, Mr Hade proceeded to challenge the outcome by initiating a case stated appeal under s949AQ TCA 1997. The two questions addressed by the High Court case were whether the Appeal Commissioner had erred in law in his interpretation of s96(1) TCA 1997 and whether he had erred in law in misinterpreting the High Court decision in *Twomey*.

The High Court's analysis

The High Court began its analysis by scrutinising the relevant statutory provisions. It examined s75(1) TCA 1997, which provides for the assessment of "rent in respect of any premises" under Case V, as well as s96(1) TCA 1997, which states that the definition of rent includes "any payment in the nature of rent". The position of Revenue was that this formulation does not broaden the concept of "rent" but, rather, confirms that the key question is not the label or description applied to a payment but the "nature" of the payment in question.

The High Court stressed that the correct interpretation of s96(1) must also hinge heavily on the only judgment of the Irish courts that interprets the relevant language in that sub-section, that of Laffoy J in *Twomey v Hennessy*. It was emphasised by the court that s96(1) cannot be usefully interpreted independently of an analysis of this judgment; therefore, it considered the TAC's interpretation of s96(1) and the *Twomey* judgment together.

At the heart of the test regarding whether a landlord–tenant relationship existed was whether the taxpayer remained in possession of the property or conferred exclusive possession of the property on the other party.

The overriding conclusion in the *Twomey* case was that the effect of the exploitation of a property owner's rights "depends on the nature of the arrangements between the owner and the user". The High Court determined that the judgment in *Twomey* puts it beyond doubt that no assumption can be made about the treatment of income from the exploitation of a property owner's rights. It is necessary to scrutinise the arrangements between the owner and the user.

The court stressed that, when assessing whether a landlord–tenant relationship existed, it is the substance of the relationship between the parties that is important, not merely the terminology used in their agreement. Although modest ancillary services or the provision of furnishings may accompany genuine rents, the presence of such services does not extend the scope of what constitutes rental income beyond its statutory meaning. Sub-section 96(1) clearly contemplates the possibility that some level of services can be provided by a landlord without altering the rental relationship. The question is whether the services are of such a character and extent that they indicate that the relationship is not in fact that of landlord and tenant. The facts and circumstances of each particular case must be examined. What the Appeal Commissioner relied on in this case was the nature, as well as the scale, of the services provided.

Mr Hade had not discharged the onus of showing that the Commissioner's conclusions regarding possession were incorrect as a matter of law. The factual findings made by the Commissioner were unchallenged, and in light of those findings, the court determined that DCC did not have exclusive "control" of the property or the right to exclude Mr Hade or any other person from the property.

Importantly, the court stated that the use of terms such as "accommodation" or "landlord" in the parties' documentation was not decisive in determining the legal character of the arrangement. Instead, the court held that the substance of the arrangement and the actual circumstances surrounding its operation were the governing factors in its classification for tax purposes.

Conclusion of the High Court decision[1]

- Did the Appeal Commissioner err in law in his interpretation of s96(1) TCA 1997? The court agreed with the Commissioner's findings that the relationship between Mr Hade and DCC with regard to the property was not in the nature of a landlord–tenant relationship and the income that Mr Hade earned for the services and accommodation provided was therefore not "in the nature of rent". This was based on an assessment of all of the factual findings and relevant facts and circumstances of the matter, viewed in their entirety. A point to which heavy weight must be attached is that the findings of fact simply cannot support a conclusion that DCC was in exclusive possession (or indeed exclusive occupation or control) of the property. (para, 102 of *Hade V Revenue*)
- Did the Appeal Commissioner err in law in misinterpreting the High Court decision in *Twomey*? Although there are points of distinction, legally and factually, between that case and this one, the principles set out in *Twomey* are clearly binding and authoritative here (para, 105 of *Hade V Revenue*). The fundamental point is that Laffoy J in *Twomey* set out the correct approach to apply to the interpretation of the term "rent" as defined in s96(1) TCA 1997. Mr Hade demonstrated no error in the approach taken by the Commissioner to the interpretation of that judgment; on the contrary, the High Court was satisfied that the Commissioner correctly attached weight to the findings that Mr Hade did not give up exclusive possession of the property but maintained control of it and

1 Source: Case Law – Niall Hade v The Revenue Commissioners [2025] IEHC 385.

that he provided services that went beyond the scope of a landlord's activities and that necessitated a permanent presence at the property. The High Court could not identify any error in the determination with regard to the interpretation of the judgment in the *Twomey* case (para, 106 of *Hade V Revenue*).

Therefore, the High Court upheld the Commissioner's conclusion that the income received by Mr Hade under the agreement with DCC did not constitute rental income arising from a landlord–tenant arrangement. Instead, the court determined that the payments were derived from the provision of accommodation together with a range of additional services. As a result, this income was deemed to fall within the category of trading income and was taxable under Schedule D, Case I.

Commentary

The decision in *Hade v Revenue Commissioners* provides important clarification regarding the tax treatment of payments for accommodation – particularly, in cases where significant ancillary services are included. The case underscores that, in the absence of exclusive possession, payments made for accommodation – even when provided on a long-term basis or for social purposes – do not qualify as "rent" for tax purposes if they are accompanied by a substantial range of services.

This judgment reinforces the principle established in the *Twomey* case, confirming that a "payment in the nature of rent" arises only within the framework of a traditional landlord–tenant relationship. Essential elements of such a relationship include the transfer of exclusive possession and the existence of a lease or formal letting arrangement. Where these conditions are not met, and where the service provider retains operational control and delivers additional services such as supervision, security, cleaning and administrative support, the income received will be classified as trading income rather than rental income.

For operators in the accommodation sector, this judgment highlights the importance of carefully reviewing contractual terms, the degree of operational authority retained and the extent of services offered. Ensuring that these aspects align with the intended tax treatment is crucial. In particular, providers of emergency accommodation now have clear guidance: unless a genuine lease is in place and exclusive possession is transferred to the occupant or referring body, payments received will be taxed as trading income under Schedule D, Case I, rather than as rental income.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UK Foreign Income and Gains Regime for UK-Resident Individuals

Introduction

On Wednesday, 6 March 2024, Jeremy Hunt, the Chancellor of the Exchequer at that time, presented his Spring Budget 2024 to Parliament, which resulted in a number of significant changes to the UK tax system. One of the most significant changes was a proposal to, in his words, abolish the "outdated concept of domicile and the remittance basis in the tax system, and replace it with a modern, simpler and fairer residency-based system". This new system, known as the foreign income and gains regime (FIG regime), became effective from 6 April 2025. This article explores the new regime and examines what it means for individuals both coming to and leaving the UK.

Key Takeaways

- The FIG regime is a much simpler, residence-based system for individuals in their first four years of UK residence.

- There is no tax charge to avail of the regime.
- Election into the regime must be made annually.
- Most foreign income and capital will qualify for the regime.
- A FIG regime claim will deny some tax reliefs and allowances, e.g. personal allowance.
- Temporary repatriation facility – a transitional measure designed to encourage previous remittance basis users to remit their pre-6 April 2025 income and gains at a low, flat-rate tax rate. This measure applies from the 2025/26 tax year to the 2027/28 tax year (inclusive) at a rate of 12% for the 2025/26 and 2026/27 tax years, increasing to 15% for the 2027/28 tax year.
- Rebasing – for individuals who claimed the remittance basis in any tax year between 2017/18 and 2024/25 and dispose on or after 6 April 2025 of a foreign asset that was held on 5 April 2017, the asset is automatically rebased to its 5 April 2017 value.

Remittance Basis: A Recap

The remittance basis of assessment was a UK tax regime that, until 5 April 2025, was available to individuals who were resident in the UK but not UK domiciled. Under this regime most sources of foreign income and gains were subject to UK tax only if they were brought into (i.e. remitted to) the UK. This meant that non-UK-domiciled individuals had the potential to limit their UK tax liability significantly by ensuring that their overseas income and gains remained offshore. The remittance basis could be claimed, without needing to pay an access charge, for the first seven consecutive years of UK residence.

For long-term UK residents who were non-UK domiciled, there was an annual remittance basis charge (RBC) if an individual wanted to claim the remittance basis. The RBC increased with the length of UK residence, starting at £30,000 for individuals who were resident in the UK for seven of the previous nine years, rising to £60,000 for individuals who were resident in the UK for twelve of the previous fourteen years.

The remittance basis was often used by wealthy individuals with significant foreign income or gains to avoid incurring a UK tax charge on funds that they did not otherwise need to bring to the UK, but careful planning was required to manage the tax implications and compliance obligations effectively. Owing to the attractiveness of the regime, an extensive set of rules were attached to it, which made it a rather complex and sometimes inflexible system (for example, the rules attaching to mixed-funds).

Although the regime has now been abolished, there are some legacy aspects that will be relevant for previous users of the scheme, and this article will touch on these later.

Overview of FIG Regime

From 6 April 2025 all UK-resident individuals are subject to tax on their worldwide income and gains on an arising basis. However, for individuals who are in their first four years of UK residence, a claim may be made (subject to certain conditions being met) under the FIG regime to relieve UK tax on most sources of foreign income and gains, regardless of whether those funds are brought to, or enjoyed in, the UK.

The FIG regime comprises three sets of separate provisions, each with its own rules – relief for foreign income, relief for foreign employment income and relief for foreign gains. The provisions relating to foreign employment income replace the pre-6 April 2025 concept of overseas workday relief.

Finally, it is important to note that there is no limit to the amount of relief that may be claimed under the FIG regime for eligible persons, making it a potentially very valuable relief.

Eligibility for the Regime

An individual is eligible for the regime if they are a "qualifying new resident". In many cases an individual will be a qualifying new resident if they are coming to the UK for the first time or are returning to the UK after a significant period of non-residence. The definition of a qualifying new resident is as follows:

- an individual who is UK resident during a tax year;
- the tax year is within the first four tax years of the tax year of arrival to the UK (either for the first time or immediately following a sufficient period of non-UK residence);
- the individual was not UK resident throughout the ten tax years immediately before arriving in the UK; and
- the individual was not a member of the House of Commons or House of Lords for any part of the tax year.

The first tax year that the FIG regime can apply is 2025/26, and it can apply to individuals who began UK residence between 2022/23 and 2025/26, inclusive. It is not available to individuals who were UK resident in any tax year between 2015/16 and 2021/22, inclusive.

Example 1

An individual arrives in the UK during September 2023 and remains in the UK thereafter. That individual will be UK resident for the tax year 2023/24 onwards and can benefit from the FIG regime for the tax years 2025/26 and 2026/27, being their third and fourth years of UK tax residence.

If an individual leaves the UK and becomes non-UK resident temporarily during the four-year FIG regime period, that individual will qualify for the FIG regime only if they resume UK residence within the four-year period. If they resume residence outside of the four-year period, they will not qualify for the FIG regime unless they reset the clock by being non-UK resident for a full ten tax years.

Example 2

Gianna, an Italian resident, arrives in the UK during tax year 2025/26 (year 1) to live with her new boyfriend, Derek, who is a UK resident. Gianna meets the UK residence test and is a qualifying new resident for that tax year. Gianna and Derek take a break from their relationship; Gianna leaves the UK to return to Italy and is non-UK resident for tax years 2026/27 and 2027/28. Gianna and Derek work things out, and Gianna moves back to the UK and is resident there in tax year 2028/29 (year 4). Under this fact pattern Gianna would qualify for the FIG regime in tax year 2028/29 but could not make a claim in tax year 2029/30 and onwards.

An individual is UK resident for a tax year if the conditions for the UK's statutory residence test (SRT) for the year are met, including in cases where "split year" applies for certain tax purposes and cases where an individual who satisfies the SRT claims to be non-UK resident under a double taxation treaty. For example, an individual may be UK resident under the SRT but may also be ordinarily resident in Ireland. The FIG regime may still be applicable, but careful consideration should be given to the Irish tax implications. The SRT is outside the scope of this article, but the relevant legislation can be found in Schedule 45, Part 1, of Finance Act 2013.

Eligible Income and Gains

The FIG regime applies to most foreign income and gains; however, there are notable exemptions. Foreign income and gains eligible for the relief (known as "relievable" income and gains) include:

- Foreign employment income. Relief is normally capped at the lower of £300,000 and 30% of an individual's total employment income from employments that are carried out wholly or partly overseas.
- Profits from trades carried on wholly outside the UK.
- A share of partnership profits that relates to a trade carried on wholly outside of the UK.
- Most foreign pension income.
- Rental income from non-UK properties.

- Interest from a foreign source, including interest received in foreign bank accounts.
- Dividends from non-UK-resident companies.
- Royalty income and other income from intellectual property.
- Offshore income gains.
- Capital gains arising on disposal of foreign assets, provided the foreign asset does not derive at least 75% of its value from UK land.
- Gains from non-UK-resident close companies attributed to UK residents.
- Certain foreign income and gains arising to or from non-UK resident trusts.

Foreign income and gains not eligible for relief (known as "non-relievable" income and gains) include:

- Chargeable event gains arising from non-UK insurance policies (sometimes referred to as bonds).
- Performance income.
- Foreign profits of a trade that is carried on partly in the UK, whether alone or in partnership.
- UK income and gains (as the FIG regime applies to foreign income and gains).
- HMRC's view is that gains made on disposal of crypto-currency are situated where the beneficial owner of the crypto-currency is resident – which in essence means that UK-resident individuals are regarded as making UK gains on disposal of crypto-currency and so cannot claim FIG relief on the gains made.

How to Claim FIG Relief

A claim for FIG relief must be made on an individual's self-assessment tax return for the year to which the claim relates. A claim is not mandatory, but if one is not made, relievable FIG will be taxed in full.

Separate claims must be made for foreign employment income, other foreign income and foreign chargeable gains. Note that for foreign employment income, an election and a claim must be made for the relief to apply. This is because there is a cap of £300,000 on the amount of relief that can be claimed on foreign employment under the FIG regime. Helpfully, both the election and the claim are made on an individual's tax return for the relevant tax year.

Details of the foreign income and/or gains to be relieved must be disclosed on the tax return on a source-by-source basis; however, the exact level of detail required is not yet known.

The operation of the relief is as follows:

- For foreign income and employment the relevant amount is included as income (for Step 1 of the income tax calculation[1]), and then take a Step 2[2] deduction for the same amount.
- For capital gains tax relief the relevant gain is included on the tax return but is then deducted before setting off allowable losses.

Time Limit

The time limit for making a claim follows the normal self-assessment deadline and therefore is 31 January after the end of the tax year. It is possible to amend a tax return for a relevant tax year either to disclaim FIG relief or to make a claim.

Example 3

Gianna from Example 2 realises a relievable capital gain during tax year 2028/29 on the US shares gifted to her by Derek and would like to make a claim for relief under the FIG regime. The claim should be included on Gianna's 2028/29 tax return, which should be submitted by 31 January 2030. Gianna has until 31 January 2031 to amend her tax return should she want to disclaim the FIG relief for any reason. Submitting an amended

1 UK Income Tax Act 2007, s23.
2 UK Income Tax Act 2007, s23.

return would extend HMRC's powers to enquire into the tax return beyond the usual enquiry time limit, 12 months from the date of submission.

Interaction with Other Allowances and Reliefs

Making a claim or election under the FIG regime for a tax year will result in the denial of certain reliefs and allowances. The most notable are:

- income tax personal allowance (if available),
- income tax blind person's allowance,
- married couple's allowance,
- marriage allowance,
- capital gains annual exempt amount,
- foreign qualifying losses that accrue to an individual in a tax year in which a claim is made will not be allowable losses,
- trading or property losses relating to a business wholly outside of the UK will not be allowable losses if that individual makes a foreign income claim under the FIG regime,
- relief for finance costs (e.g. mortgage interest) on foreign rental properties is denied and
- UK relevant earnings, for pension contributions, exclude income relieved under the FIG regime.

Temporary Repatriation Facility

The TRF is a transitional measure designed to encourage former remittance basis users to remit income and/or gains previously protected under the remittance basis, and the incentive is that such individuals benefit from a much lower tax rate on remittance of these funds than they ordinarily would.

The TRF is available for three tax years from 6 April 2025 to 5 April 2028 (inclusive), and to access the TRF the individual must be a "qualifying individual", being an individual who is UK resident in the relevant tax year and has been taxed on the remittance basis in any tax year prior to tax year 2025/26. This includes remittance basis users to which an automatic remittance basis claim applied. For individuals who were taxed on the remittance basis prior to 2008, the TRF could still be available, but specialist advice should be sought.

Individuals must make an election for the TRF to apply for the tax year and designate the desired amounts of unremitted foreign income and gains (i.e. "qualifying capital") on the tax return for the relevant year. The designated amounts can be remitted at any point from the start of the relevant tax year and do not need to be remitted in the same tax year as the qualifying designation. An election must be made on an individual's tax return for the relevant year, and therefore the deadline for the election follows the normal self-assessment deadline, being 31 January after the end of the tax year.

The flat rates of tax applicable to the TRF are 12% in 2025/26 and 2026/27 and 15% in 2027/28. Therefore, providing an individual is UK resident in the relevant year, they may wish to designate foreign income and gains in the first two years to benefit from the lower rate.

From the tax year 2027/28 onwards, remittances of pre-6 April 2025 income and/or gains protected under the remittance basis will be subject to tax as normal, i.e. at the individual's marginal rate and depending on the type of income remitted. It is also important to note that the normal remittance rules (e.g. mixed-funds rules) apply to such remitted funds.

Example 4

Derek, who is Irish domiciled, has been resident in the UK for 12 years and claimed the remittance basis to protect from UK tax exposure £250,000 of US dividends paid to him while he was resident in the UK. During the 2025/26 tax year Derek will need to remit these funds to the UK. He is an additional rate taxpayer. Under the TRF, Derek will pay a flat-rate charge of £30,000 (£250,000 @ 12%). Without the TRF, and

assuming that he has already used his £500 dividend allowance, the remittance of the funds would be subject to an effective tax rate of 39.35%, resulting in a tax charge of £98,375. Under the TRF, Derek saves tax of £68,375.

Designated qualifying foreign capital for the TRF is taken as the net amount after deduction of any foreign tax, and thus no further double taxation relief is available. This is provided that the foreign tax imposed corresponds to UK income tax or capital gains tax. If the foreign tax does not correspond with the UK tax type, the gross amount of the qualifying foreign capital can be designated in line with general double taxation relief rules.

It would be remiss not to mention that the legislation also includes a TRF for settlors and beneficiaries of non-UK-resident trusts, which applies in circumstances where a trust makes a distribution on or after 6 April 2025 that is matched with foreign income or gains arising before that 6 April 2025.

The TRF interacts with a number of provisions, which are highlighted below in brief:

- Remittance basis charge – those paid cannot be set against the tax charge due under the TRF.
- Business investment relief – the income and/or gains used to acquire existing investments are qualifying overseas capital that can be designated under the TRF without needing to withdraw the investment form the UK.
- FIG regime – in limited circumstances it is possible that an individual can qualify for both the FIG regime (in relation to income and gains but generally not employment income) and the TRF.
- Temporary non-residence rules – foreign income and gains that would be taxable under these provisions cannot be designated for the TRF.
- Adjusted net income – designated overseas capital for the TRF is not treated as income for the adjusted net income calculation and therefore will not impact allowances such as personal allowance, abatement of married couple's allowances or tapering of pension annual allowance.

Rebasing Foreign Assets

An additional transitional measure introduced as part of the FIG regime is that certain qualifying individuals can rebase their foreign chargeable assets to the market value as at 5 April 2017 where the disposal of the asset(s) occurs on or after 6 April 2025. The effect of this is that only the portion of the capital gain arising from 6 April 2017 to the date of disposal is subject to UK capital gains tax.

A qualifying individual is a person who was not domiciled or deemed domiciled in the UK at any time prior to 5 April 2025 and has claimed the remittance basis in any tax year between 2017/18 and 2024/25. Unlike the TRF, automatic remittance basis claims do not qualify an individual to this relief; they must have made a claim for the remittance basis.

The relief is automatic, meaning that a claim or election is not required. However, an individual can make an election for rebasing not to apply – for example, if the asset was standing in a capital loss position between the date of purchase and 5 April 2017. The election is asset specific such that it must be made on an asset-by-asset basis.

Example 5

Derek and Gianna are planning to buy a property together in the UK, and Derek needs to liquidate some assets to part-fund the purchase. Derek has a US property that he purchased in September 2006 for $300,000. The property's current market value is $1,000,000, and its value at 5 April 2017 was $600,000. As a qualifying

individual and because rebasing is automatic, Derek will report the disposal on his tax return capturing sale proceeds of $1,000,000 and base cost of $600,000. Derek saves UK tax on $300,000, being the difference between the taxable gain of $400,000 and the economic gain of $700,000. The election is automatic, so a claim is not necessary.

An election to disapply rebasing must be made, if required, via a tax return (or in writing to HMRC if the tax return amendment window has passed) within four years of the end of the tax year of disposal (for example, the claim must be made by 5 April 2030 for a disposal in the 2025/26 tax year).

Conclusion

The introduction of the FIG regime marks a significant shift in the UK's approach to taxing foreign income and gains for new residents. By replacing the old and complex remittance basis with a simpler, residence-based system, the FIG regime aims to create a fairer and more understandable, tax regime. Although the regime offers valuable reliefs for qualifying individuals, it also brings new compliance requirements, and the loss of certain allowances, similar to those lost under the remittance basis, remains.

Transitional measures such as the TRF and rebasing provisions provide important reliefs for previous remittance basis users, but careful planning and professional advice will be essential to navigate the changes effectively. Individuals coming to or leaving the UK should seek professional advice to understand their position under the new regime in order to optimise their tax outcomes.

This article is based on UK tax legislation in force as at the time of writing, 16 October 2025, and does not reflect any subsequent changes or developments that may be brought about by the Autumn Budget announcement.

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EII Private Placing: Where Are We Now?

Introduction

The Employment Investment Incentive (EII) was introduced by Finance Act 2011 to replace the Business Expansion Scheme. Revenue's Tax and Duty Manual (TDM) Part 16-00-02, last updated in October 2024 at the time of writing this article, contains the most recent guidance on the EII rules, but unfortunately it has not yet been updated for the changes introduced by Finance Act 2024. This article focuses mainly on the EII and its application to private placings, i.e. direct investments in qualifying companies. It is not intended to cover investments through a fund or to deal with the Start-up Capital Incentive (SCI) or Start-up Relief for Entrepreneurs (SURE) in any detail.

Part 16 of the Taxes Consolidation Act 1997 (TCA 1997) provides income tax relief for investments by individuals in a qualifying company. The rules for the operation of the scheme have undergone frequent changes and amendments since 2011, the biggest change having come for shares issued after 13 October 2015. After that date EII relief must comply with the EU State Aid General Block Exemption Regulation (GBER), and this requirement has resulted in the rules becoming quite complex. Ironically, the intention behind bringing the EII within the GBER rules was to simplify matters and enable Member States independently to introduce State Aid measures (such as the EII) within certain parameters without having to go to the European Commission for approval every time that a change was proposed, as had been the case up to that point.

The intention of this article is to summarise where we have landed today with regard to the EII private placing rules. The article outlines at a basic level the key points to be considered in relation to investments made on or after 1 January 2025:

- by an individual hoping to claim EII relief on an investment in a qualifying company and
- by a company considering whether it is a qualifying company for the purposes of receiving EII investment.

When operated successfully, an EII investment can be very beneficial to both the EII investor and the EII investee company. It provides the EII investor with the only source of tax relief against their income that is currently available (apart from making a pension contribution), and it provides a vital source of funding to micro, small and medium companies that might not otherwise be able to source finance for their business.

Operation of the Relief

In simple terms, the relief operates by allowing individual investors to claim a tax deduction against income from any source (similar to an expense deduction) for funds used to acquire share capital in a qualifying company. The EII is the only "all income" tax relief available under the tax legislation.

EII investment will fall into one of three categories, detailed in the table below. The category that the investment falls within has become of greater importance with the introduction of different rates of tax relief for each category (discussed below).

Table 1: EII investment categories.

Category of investment	Description
Initial risk finance	First issue of eligible shares (other than an expansion risk finance investment). Each company in the RICT (relief for investment in corporate trades) group at the time the eligible shares are issued has not been operating in any market, or has been operating in any market for: • less than ten years after its date of incorporation or • less than seven years after its first commercial sale.
Expansion risk finance	Based on a business plan prepared in view of a "new economic activity", the amount to be raised through the issue of those shares is: • greater than 50% of the RICT group's average annual turnover in the preceding five years or • greater than 30% of the RICT group's average annual turnover in the preceding five years where the investment significantly improves the environmental performance of the activities of the company or constitutes an environmentally sustainable investment or is aimed at increasing capacity for the extraction, separation, refining, processing or recycling of certain critical raw materials.
	An expansion risk finance investment can be the RICT group's first issue of eligible shares where the RICT group has been operating for more than seven years. Equally, expansion risk finance investment can be raised within the first seven years of trading, even if the RICT group previously raised an initial risk finance investment.

Table 1: EII investment categories. (*Cont.*)

Category of investment	Description
Follow-on risk finance	The issue of eligible shares subsequent to an initial risk finance investment or an expansion risk finance investment. This will be a qualifying investment only if the initial or expansion risk finance involved the issue of eligible shares on or after 6 April 1984 in respect of which relief was available under Part 16 TCA 1997. Possibility of the follow-on risk finance investment must have been "provided for" (previously, "foreseen") in the business plan under which the initial or expansion risk finance was raised. Different rates of tax relief apply depending on whether the follow-on risk finance investment is raised within the initial seven-/ten-year period since commercial sale/incorporation, respectively (discussed below).

Whereas the rate of tax relief in previous years was a maximum of 40% (20% if that was the investor's marginal rate of income tax), the rate of relief is now granted on a scaled basis linked to the perceived level of risk attaching to the investee company and ranges from 20% to 50%. To cater for the fact that these rates of tax relief vary from current income tax rates (20% and 40%), the legislation provides for the amount invested to be grossed up or down, as required, to achieve the desired tax relief outcome. The position is summarised in Table 2.

Table 2: Effective tax relief rates for indicative €100,000 EII investment

Investment	Amount invested (€)	Amount qualifying for relief (€)	Tax saved at 40% (assuming taxpayer has sufficient income at marginal rate) (€)	Effective rate of tax relief
Initial risk finance: "not operating in any market"	100,000	125,000 (125%)	50,000 (125,000 × 40%)	50% (50,000/100,000)
Initial risk finance/ follow-on risk finance: seven/ten-year rule*	100,000	87,500 (87.5%)	35,000 (87,500 × 40%)	35% (35,000/100,000)
Expansion risk finance	100,000	50,000 (50%)	20,000 (50,000 × 40%)	20% (20,000/100,000)

Table 2: Effective tax relief rates for indicative €100,000 EII investment (*Cont.*)

Investment	Amount invested (€)	Amount qualifying for relief (€)	Tax saved at 40% (assuming taxpayer has sufficient income at marginal rate) (€)	Effective rate of tax relief
Follow-on investment other than within seven/ ten-year rule*	100,000	50,000 (50%)	20,000 (50,000 × 40%)	20% (20,000/100,000)
Investment via qualifying investment fund	100,000	75,000 (75%)	30,000 (75,000 × 40%)	30% (30,000/100,000)

**Company has not been operating in any market or has been operating in any market for less than ten years after its date of incorporation or less than seven years after its first commercial sale.*

RICT Group

One of the most complex aspects of the EII from the investee company's perspective is determining what constitutes its "RICT group". A RICT group is defined as the company raising the EII funds together with its "linked enterprises" and "partner enterprises" and is very important, as it is not only the company that is receiving the EII investment that must comply with the EII rules but also the RICT group to which that company belongs.

Revenue guidance in TDM Part 16-00-02 defines "linked" and "partner" businesses as follows:

"Linked Businesses

Two businesses (being businesses carried on either by a company or a sole trader) are considered linked businesses where:

(a) one business holds the majority of the voting rights in the other business,

(b) one business can control the board of the other business,

(c) one business has a right to exercise dominant control over the other because of a contract or because of something in the business' constitution, or

(d) one business, which is a shareholder in another business, can actually control that other business because of a shareholder agreement.

Partner Businesses

Two businesses are considered partner business where they are not linked businesses and where one business (either solely or along with one or more linked businesses) holds 25% or more of the share capital or voting rights of another business.

Consideration must be given to whether (a) to (d) of the 'linked' business conditions would apply if the relationship was traced through a natural person, or a group of natural persons acting jointly. Where a relationship is traced through a natural person, or a group of natural persons acting jointly, the businesses will only be linked where the two businesses are in the same or adjacent markets. Businesses operate in adjacent markets if they are operating in the market directly downstream or upstream of each other, e.g. in customer/

supplier markets, regardless of whether or not there is a customer/supplier relationship. Therefore, an actual relationship does not need to exist, only the potential that such a relationship could exist will render the businesses to be linked. The 'Natural Persons Test' is only applicable to 'linked' businesses, it is not applicable where the company is a 'partner' business and therefore there is no requirement to trace through a 'natural person' for the partner business test."

Determining what comprises the RICT group can therefore be an onerous task. As per the guidance above, connections have to be traced through natural persons in relation to linked businesses (including sole traders and partnerships) and consideration needs to be given to whether a connected party is a supplier or customer of the EII investee company ("upstream" or "downstream"). There are some useful examples of how these rules operate in practice in the TDM.

Once the RICT group is determined, the conditions outlined in Table 3 must be complied with (the list is not intended to be exhaustive).

Table 3: Main conditions for a company and RICT group raising EII investment.

Conditions to be fulfilled by the company and/or RICT group	Comments
RICT group is a micro, small or medium-sized enterprise under EU guidelines	A medium-sized enterprise has fewer than 250 employees, and an annual turnover not exceeding €50m or an annual balance sheet total not exceeding €43m. A small enterprise has fewer than 50 employees, and an annual turnover and/or annual balance sheet total not exceeding €10m. A micro enterprise has fewer than 10 employees, and an annual turnover and/or annual balance sheet total not exceeding €2m.
Company is incorporated and resident in Ireland, the UK or in another EEA State	
Trading for less than seven years or less than ten years since incorporation, or if this is not the case the RICT group must be engaging in a "new economic activity"	Follow-on investment previously required that you were bringing a new product to the market or entering a new market that the company was not involved in, and it is our understanding that such activities would constitute a "new economic activity" as defined
RICT group companies must be unlisted	
Under the Deggendorf Principle, no entity in the RICT group can be the subject of an outstanding European Commission recovery order at the date on which the EII shares are issued.	

Table 3: Main conditions for a company and RICT group raising EII investment. (*Cont.*)

Conditions to be fulfilled by the company and/or RICT group	Comments
The company must not be an undertaking in difficulty for the purposes of the EU "Community Guidelines on State Aid to Promote Risk Capital Investments in Small and Medium-Sized Enterprises". This test does not have to be applied to a RICT group that is less than three years in existence.	An undertaking is considered to be in difficulty if at least one of the following circumstances occurs: • In the case of a limited liability company, more than half of its subscribed share capital and share premium has disappeared as a result of accumulated losses. • In the case of an unlimited company, more than half of its capital as shown in the company accounts has disappeared as a result of accumulated losses. • Where the undertaking is subject to collective insolvency proceedings or fulfils the criteria under its domestic law for being placed in collective insolvency proceedings at the request of its creditors. The above tests must be applied immediately before the issue of EII shares.
The EII company must have a tax clearance certificate on the date on which the eligible shares are issued	
The company must have a qualifying business plan as defined under the GBER rules to present to investors who wish to make an EII investment in the company on foot of which they will make their investment in the company	For an investment in a qualifying company to qualify for EII relief, the company must have included the risk finance investment in a business plan. The business plan is a written plan that has details of products, sales and profitability development, establishing ex-ante financial viability, and includes both quantitative and qualitative details of the activities that the investment is sought to support.
The company can raise €5.5m in any 12-month period and €16.5m in total in its lifetime in respect of the issue of eligible shares	
Eligible shares issued must be new shares forming part of the company's share capital. Shares can be redeemable but cannot have preferential rights.	Before Finance (No. 2) Act 2023 it was possible for shares issued after 1 January 2019 to carry a right to preferential rights to a dividend or to repayment of capital on a winding-up. The shares could also be redeemable. Finance (No. 2) Act 2023 provided that although the shares can be redeemable, they can no longer have any preferential rights to dividends or repayment of capital on a winding-up.

Table 3: Main conditions for a company and RICT group raising EII investment. (*Cont.*)

Conditions to be fulfilled by the company and/or RICT group	Comments
The company must use the EII funds to contribute to the creation of employment	
The amounts received must be used wholly or mainly for a qualifying purpose within the relevant period. The funds can also be used to subscribe for new shares in a qualifying subsidiary.	A qualifying purpose does not include using the funds on the purchase directly or indirectly of an interest in another company, so that such company then becomes a qualifying subsidiary. The funds cannot be used to purchase a further interest in a qualifying subsidiary. They also cannot be used to purchase a trade, either directly or indirectly.
Subject to the "capital redemption window exemption", no shareholder can receive value from the company or the overall RICT group during a period defined as the "compliance period. In general, the compliance period is two years before the eligible shares issued and four years after (i.e. six years in total).	The capital redemption window refers to the case where an EII shareholder can receive value from a company and refers to the following scenario: • the most recent EII, SCI or SURE fundraising by the RICT group was 18 months before the return of capital; • the RICT group will not seek to raise EII/SCI/SURE funding for 12 months after the return of capital; and • the qualifying investor from whom the investment is redeemed will not be allowed to make another qualifying investment in that company for a period of five years after a redemption of their investments.
The company "self-certifies" the tax relief	Before 2019 the company could apply to Revenue for EII outline approval prior to receiving an EII investment and could then apply for EII approval after the investment was received. The purpose of the move to self-certification was to address delays experienced in relation to the processing of these applications. Application to Revenue for advance "outline approval" is now restricted to questions relating to the GBER, such as whether an undertaking is a "firm in difficulty" or whether enterprises are linked or partner enterprises within the meaning of the GBER.

Table 3: Main conditions for a company and RICT group raising EII investment. (*Cont.*)

Conditions to be fulfilled by the company and/or RICT group	Comments
The company must submit a RICT return to Revenue by the end of the tax year after the year the EII investment is made. Issuing an incorrect statement of qualification will result in a clawback of the relief payable by the company, together with interest and penalties of up to 100% of the relief claimed. The relief is clawed back by the raising of an assessment under Schedule D, Case IV, on the company. Details of all of the actions that company could take to trigger a clawback of EII relief were covered in detail by Jane Hughes in Issue 3 of the *Irish Tax Review* 2023, so please refer to that article for further details on potential clawback events.	For example, if the investment is made on 30 September 2025, the RICT return must be submitted by 31 December 2026

The main conditions to be fulfilled to be a "qualifying investor" are outlined in Table 3 (again, not intended to be an exhaustive list).

Table 4: Main conditions for an investor making an EII investment.

Conditions to be fulfilled to be a "qualifying investor"	Comments
Investment amount of between €250 and €1,000,000	For investments on or after 1 January 2025
Investors can invest directly in a qualifying company (a private placing) or indirectly via a designated investment fund or a qualifying investment fund	
Shares must be held for a period of four years	A clawback of relief will occur if the shares are sold before the four-year holding period expires. The investor will be liable for the tax being clawed back. Details of the actions that an investor could take to trigger a clawback of EII relief were covered in detail by Jane Hughes in Issue 3 of *Irish Tax Review* 2023, so please refer to that article for further details on potential clawback events.

Table 4: Main conditions for an investor making an EII investment. (*Cont.*)

Conditions to be fulfilled to be a "qualifying investor"	Comments
The investment must be made for bona fide commercial reasons and not as part of a tax-avoidance scheme	
EII relief is not available to an individual who is connected with the EII company (except in relation to an SCI investment – see below)	An individual is deemed to be connected with an EII company if he or she or an associate is a partner, director or employee of the EII company or any company in the RICT group or has an interest in the capital of the EII company or any company in the RICT group.
An EII investor can be connected with the EII company in limited circumstances with respect to SCI investment in a micro company	The connected-party rules for the SCI introduced on 2 November 2017 were relaxed for investments by associates of founders but not founders themselves, where the total lifetime risk finance raised is less than €500,000 and the company is a micro enterprise within the meaning of the GBER, is carrying on a qualifying new venture, has no partner or linked enterprises, and has not started to trade more than seven years before the shares are issued. This gives a potential lifeline to companies during the critical early days, when potentially the only source of finance is sympathetic friends and family.

Summary

Although the concept behind the EII is simple – to provide tax relief to incentivise individuals to invest in SMEs that are at a start-up or expansion stage – the requirement to comply with GBER rules brings quite a lot of complexity to the relief. The same rules apply regardless of the amount of EII investment being raised by a company, which can result in the costs of seeking advice on compliance with the rules disincentivising smaller companies from availing of relief where the funding requirement is low. It would be useful to see simplification of the rules for smaller fundraise amounts, e.g. up to €1m. Given the complexity of the relief, it would also be helpful to see a more proportionate punishment for relatively minor indiscretions or administrative errors than a full withdrawal of the relief, such as a fine or penalty, for example. As the only "all income" relief available to individuals, it is an important incentive to encourage individuals to free up money that is currently held on deposit and put it to use helping drive enterprise and employment in Ireland. The EII is a vital source of finance for SME companies. EII relief remains a very important part of our tax incentive legislation, and it is therefore very important that it is extended in next year's Budget beyond the current end date of 31 December 2026.

News & Moves

A&L Goodbody Appoints Trevor Glavey as a Partner in Tax

A&L Goodbody LLP (ALG) has appointed **Trevor Glavey** (CTA) as a partner in its Tax practice. Trevor joins ALG's tax team led by Paul Fahy, alongside partners Amelia O'Beirne, James Somerville, and of counsel, Philip McQueston.

With over a decade of experience advising companies in all industries with respect to all aspects of Irish corporate tax, Trevor specialises in international tax and advises multinational companies doing business in and from Ireland on their most complex and high-profile tax affairs.

His addition marks a further step forward in ALG's commitment to delivering outstanding expertise and innovative solutions to their clients.

L-R: Trevor Glavey with Paul Fahy, Head of A&L Goodbody's Tax department.

BDO Appoints Ian Clarke as Partner and Head of Transfer Pricing

BDO Ireland has announced the appointment of **Ian Clarke** as Partner and Head of Transfer Pricing.

Ian brings more than 20 years' experience in transfer pricing (TP), having held senior leadership roles in several global locations including the UK, India, Southeast Asia, Switzerland and Ireland.

Ian's experience spans a diverse client base, from domestic Irish businesses to global multinationals. Ian has advised some of the world's leading companies in sectors such as aircraft leasing, banking and financial services, consumer products, life sciences, real estate and technology.

L-R: Brian McEnery and Ian Clarke.

Darragh Moloney Promoted to Manager in the Limerick Office of Xeinadin

Xeinadin are pleased to announce the promotion of **Darragh Moloney** (CTA) to Manager in the Taxation Department of our Limerick office.

Darragh works closely with tax Partners Mary McKeogh and Anne Hogan providing a wide range of compliance and advisory services to both personal and corporate tax clients. Darragh has a particular focus on succession planning, company restructuring and domestic tax advisory services.

L-R: Mary McKeogh, Tax Partner Xeinadin, Darragh Moloney, and Anne Hogan, Tax Partner Xeinadin.


Great Leaders Go Nowhere
Without Great Teams.
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