KPMG

Lunch & Learn

Building Tax Knowledge

Finance Bill 2020

Friday, 23 October

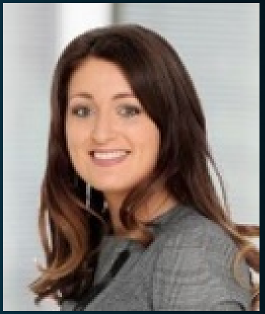
Your Partner For What's Next

Brian Brennan
Partner –Tax
KPMG in Ireland

t: +353 1 410 2145
m: +353 87 744 2145
e: brian.brennan@kpmg.ie

Philip Murphy
Director – Tax
KPMG in Ireland

t: +353 1 700 4413
m: +353 87 050 4413
e: philip.murphy@kpmg.ie



Olive O'Donoghue
Director – Employment Tax & Rewards Lead
KPMG in Ireland

t: +353 1 700 4359
m: +353 87 050 4359
e: olive.odonoghue@kpmg.ie

Ethna Kennon
Director – Indirect Tax – VAT & Customs
KPMG in Ireland

t: +353 1 410 1703
m: +353 87 744 1703
e: ethna.kennon@kpmg.ie

Jacinta Shinnick
Director – Tax
KPMG in Ireland

t: +353 1 700 4164
m: +353 87 050 4164
e: jacinta.shinnick@kpmg.ie

Employee/Personal Tax Issues

Share incentive schemes - employer reporting obligations

- Annual reporting requirement for convertible securities, restricted shares and forfeitable shares will now be required *in electronic form* - in a format to be provided by Revenue
- General share award reporting obligations extended to include *cash equivalent of shares* or *shares granted at a discount*

Updates and Extension of "Debt Warehousing Scheme"

- The Bill now extends the Debt Warehousing scheme to self-employed individuals in respect of their 2019 balance of tax and 2020 preliminary tax liabilities
  - Must declare a >25% drop in total income in 2020 compared to 2019 as a result of COVID-19 restrictions
  - Similar warehousing will be available for 2020 balance of tax and 2021 preliminary tax
- The Bill also extended this scheme to TWSS repayments due to Revenue on similar terms
  - SMEs can automatically avail of the scheme; other employers must apply to Revenue/Collector General

Updates and Extension of "Debt Warehousing Scheme"

- Technical amendment to the PAYE and PRSI legislation to allow for interest to be calculated on a reducing balance basis
- Adjusted interest calculation methodology also applies where employer doesn't qualify for debt warehousing, albeit with the normal higher interest rates applying

Employee Wage Subsidy Scheme ("EWSS") - FB updates

- Bill gives legislative effect to Revenue's announcement that the EWSS should be available in respect of proprietary directors where certain qualifying criteria are met
  - Employer must be an "eligible employer"
  - Proprietary Director must be on the payroll of the eligible employer
  - Proprietary Director has been paid wages through the payroll at any stage between 1 July 2019 – 30 June 2020
- A claim for EWSS can only be submitted in respect of a single company

Employee Wage Subsidy Scheme - Revenue updates

- **New increased rates** for pay dates on or after 20 October 2020 and before 31 January 2021

Gross weekly pay	Revised Rates (€)
Less than €151.50	Nil
€151.50 – €202.99	€203
€203 - €299.99	€250
€300 - €399.99	€300
€400 - €1,462	€350
Over €1,462	Nil

Employee Wage Subsidy Schemes – Revenue updates

- **Frequency of EWSS payments**
  - Previously a month in arrears i.e. after 14th of the following month
  - Brought forward to 5th of the following month i.e. EWSS payments for October will be paid by 5th November
  - Revenue trying to reduce timeframes further
  - EWSS payments for November to be made in early November
  - Thereafter, payments made as soon as possible after Revenue receives payroll submission

Employee Wage Subsidy Schemes – Revenue updates

- **Employer Eligibility**
  - 30% decline in turnover, customer orders or some “other reasonable basis” between 1 July and 31 December 2020
  - Employers who previously have not met the test should revisit in light of Level 5 restrictions
  - Monthly monitoring of eligibility required
  - Not possible to back date claims pre date of registration

Pandemic Unemployment Payment ("PUP")

- Bill confirms that the PUP is liable to Income Tax and USC
- Considered employment income
- Revenue has confirmed that taxes will be collected by way of reduced tax credits over 4 years commencing in January 2022 (unless individual settles in 2021)

E- Working – updated Revenue guidance

- Updates to Revenue’s Tax and Duty Manual on E-Working (Part 05-02-13)
- Confirmed that employees should not claim an income tax deduction for capital items such as laptops, office equipment & office furniture
- Employees can claim relief for 30% of their broadband costs for the “duration of the pandemic” referable to the number of days worked in the year
- Only 10% of electricity and heat costs referable to number of days worked can be claimed
- If costs are shared – cost to be apportioned based on amount paid
- Normal place of work:
    - Those working part-time at home and part-time in office: NPW = Office
    - Those working full-time at home due to COVID-19: NPW = Office

SMEs and Entrepreneurs / Cashflow measures

Covid Restrictions Support Scheme (CRSS)

- Additional support for businesses subject to significant Covid-19 restrictions
- Runs alongside the Employment Wage Support Scheme (EWSS)
- Available to trading companies and self-employed individuals
- Cash payment – subject to a maximum weekly payment of €5,000
- Turnover reduction requirements
- Revenue guidance published on 16 October 2020 – includes worked examples

Entrepreneur relief

- Maintained – and enhanced
- Change is relevant to the 5% ordinary share capital holding period requirement
- Currently a condition of the relief that the disponer owned at least 5% of the company for 3 years of the 5 years ending with the disposal
- From 1 January 2021, the 3-year period can be satisfied at any time (but disponer must still work for the business for 3 years of the 5 years ending with the disposal)

Succession

- CAT filings – now required for all claims for agricultural relief and business property relief
- Standardisation of 4 year Revenue review period for CAT returns
- Stamp duty – consanguinity relief (farmland) – extended to 31 December 2023

Other changes

- Earned income credit – €1,650 from 1 January **2020** – matches the employee tax credit
- PSWT modernisation – welcome measure
- Help to Buy scheme – extended to 31 December 2021

Disposals of assets

Disposals of assets

- Two measures enacted on Budget Day

- Capital gains tax – transfers between foreign currency bank accounts

- Specific intangible assets (Section 291A) – balancing charges – assets acquired on or after 14 October 2020

Corporation tax & other miscellaneous provisions

Capital allowances & Knoweldge Development Box

Energy-efficient equipment

- Extension of availability of accelerated capital allowances for energy-efficient equipment by three years. 100% upfront relief is now available in respect of qualifying expenditure incurred prior to 31 December 2023.
- Energy-efficiency criteria will be revisited in light of changes to energy-efficiency standards

Business vehicles

- Availability of capital allowances in respect of motor vehicles acquired / hired for use in a trade is dependent on CO2 emissions.
- Update to CO2 emissions categories to bring in line with new EU emissions regime.

Knowledge Development Box

- Extension of regime for a further two years to accounting periods commencing before 1 January 2023.

Transfer pricing

- Recap: Finance Act 2019 introduced a number of changes to Ireland's transfer pricing regime including expansion to non-trading transactions. There was an exclusion for non-trading transactions where both parties to the transaction are within the charge to Irish tax, provided certain conditions were satisfied (i.e. it is not a blanket Irish-to-Irish exemption)
- Finance Bill 2020 changes are primarily focused on the domestic exemption and appear to try and address issues with the previous legislation that had been flagged by relevant stakeholders (e.g. in relation to interest free loan arrangements)
- Legislation introduced appears to address some of the issues which had been flagged to Revenue in the last 12 months i.e. interest free loans to trading or Case V companies potentially being in scope in certain circumstances
- Some apparent inconsistencies in legislation included in Finance Bill. In legislating to provide clarity on certain interest free loan arrangements, other scenarios no longer appear to be outside the scope of the regime (e.g. free use of property)
- Legislation as drafted only applies to companies
- Amendments apply for chargeable periods commencing on or after 1 January 2021 – implications for transactions occurring in relation to accounting periods commencing during 2020 unclear

EU ATAD / EU MDR (DAC 6)

CFC changes

- CFC legislation introduced in FA 2019
- Amendment precludes subsidiaries in EU blacklist territories from qualifying for certain exemptions
- Updated EU blacklist (7 October)

Anti-hybrid rules

- Legislation introduced FA 2019
- Changes mainly technical in nature and include amendments to meaning of associated enterprises and exclusions from the regime in some instances

Exit charge legislation

- Exit charge legislation introduced in FA 2018
- Amendment to interest provisions for unpaid tax where election to defer payment over 5 years
- Interest applies to total unpaid tax, rather than instalment due
- Change flagged in Budget

EU MDR (DAC 6)

- Legislation introduced FA 2019
- Clarification on taxes in scope & exclusions from reporting obligations
- Certain specific transactions carved out in context of standardised documentation Hallmark

Financial services focused measures

1. **Encashment tax** – alignment of rate to DWT rate, carve out for Irish companies and certain administrative matters
2. **Payment card providers** – provision for regulations which would allow cross-border transaction data be returned by payment card providers
3. **Bank levy** – increased from 170% of 2019 DIRT to 308% to maintain €150m annual yield
4. **Insurance** – technical amendment to certain stamp duty and other tax provisions to reflect Ireland's transposition of Solvency II Directive

Brexit related changes

Shares in Irish securities which are currently held in a Central Securities Depository (CSD) in the UK will move to a Belgian CSD as a result of Brexit. A number of changes have been made in this context including:

- Amendments to existing Qualified Intermediary and Authorised Withholding Agent regimes to maintain status quo in relation to migration of shares to Belgian CSD
- Amendment to DWT market claim procedures to maintain functionality of these claims post-migration
- Clarification that a migration of securities is not a disposal for CGT purposes
- Preclusion of certain arrangements relevant to a Belgian CSD from the offshore funds regime
- Clarification that depository interests in Irish companies will be regarded as Irish situate assets for CAT purposes

Tax Appeals Commission / settlements

Broadening of scope regarding when Appeal Commissioner can dismiss a case where a party has failed to adhere with certain directions issued

Effective reset of Appeal to day one where an Appeal Commissioner vacates office and either (i) a hearing has commenced but is not yet completed or (ii) a hearing is completed but no determination made. If a case has been stated to the High Court but the Appeal Commissioner has vacated office, the case can be reheard by (or adjudicated on) another Appeal Commissioner

No taxpayer right to interest where a taxpayer makes a payment of tax to Revenue in relation to an Appeal and subsequently wins the case

Indirect Tax

VAT rates

- Temporary reduction from 13.5% to 9% VAT rate for services primarily in tourism and hospitality sectors, from 1 November 2020 - 31 December 2021, as announced in Budget
- 0% VAT rate for supplies of equipment to HSE and other healthcare facilities to combat Covid19 - will be extended beyond 31 October 2020 if European Commission issue further notice permitting this
- Rate changes from 1 January 2021
  - Flat-rate addition for unregistered farmers – 5.6% (currently 5.4%)
  - Certain sanitary products – 13.5% (currently standard rated)

Other Indirect Tax measures

- Tax representative – Revenue will have the power (subject to conditions) to issue a notice to non-Irish traders requiring them to appoint a tax representative who will be jointly and severally liable for their VAT liabilities
- Number of technical measures bringing Irish VAT law more closely in line with EU VAT law – in particular holiday and guest accommodation withdrawal of 8 week/short term lets distinction
- Excise measures
  - Legislative provisions to implement excise measures announced in Budget (Carbon Tax, Tobacco, VRT, Motor Tax)
  - Waiver of excise duty due on renewal of certain intoxicating liquor licences in 2020/2021

Brexit

- Indirect tax aspects not addressed in Finance Bill
- General Scheme of the 2020 Brexit Omnibus Bill which should be passed before end of year
- Postponed accounting for import VAT for all non-EU imports – timely reporting of critical importance for all businesses to avoid VAT underpayments and potential penalties
- Enhanced customs enforcement procedures and online customs “roll on roll off” (ferry) service

Q&A

kpmg.ie

Produced by: KPMG’s Creative Services. Publication Date: October 2020. (6616)