Taxing Times

Finance (Covid-19 and Miscellaneous Provisions) Bill 2022

KPMG is Ireland's leading Tax practice with over 800 tax professionals based in Dublin, Belfast, Cork and Galway. Our clients range from dynamic and fast growing family businesses to individuals, partnerships and publicly quoted companies.

KPMG tax professionals have an unrivalled understanding of business and industry issues, adding real value to tax based decision making.

Corporate Tax

Private Client Practice

Global Mobility Services

Employment Tax

Indirect Tax

International and Cross Border Tax

Tom Woods
Partner

Introduction

The Minster for Finance published "the Spring Finance Bill" (Finance (Covid-19 and Miscellaneous Provisions) Bill 2022) on 4 March 2022 following Cabinet approval on 1 March.

The Bill provides a legislative basis for the extended and increased supports announced by the Government when public health restrictions were reintroduced in December as well as supports announced in January as businesses re-opened. These include amendments to:

- the Employment Wage Subsidy Scheme (EWSS),
- the Covid Restrictions Support Scheme (CRSS),
- the Tax Debt Warehousing Scheme,
- the application of the waiver of excise duty for special exemption orders for late licences from 26 January until 30 April 2022.

These supports have been vital to businesses throughout the pandemic. These measures are being implemented by the Revenue Commissioners on an administrative basis pending this Bill.

The Bill also addresses a small number of other measures such as the tax-free nature of the Pandemic Recognition Payment and stamp duty changes to provide for a partial repayment scheme for properties designated as cost rental dwellings.

The Spring Finance Bill was published against the backdrop of a positive economic outlook. The latest Exchequer figures show that tax receipts continue to record strong growth over the first months of the year. The trends are a good signal of the continued momentum in the domestic economy – predominantly the ongoing recovery of employment levels and increased consumer spending.

As we emerge into a post-Covid world with a sense of cautious optimism, it is hoped that progress along the road to recovery continues and that stability in a time of geopolitical uncertainty can prevail.

Tom Woods

Tom Woods
Head of Tax & Legal Services

Contents:

Covid-19 and Miscellaneous Provisions

Eoghan Quigley
Tax Partner

Employment Wage Subsidy Scheme

As previously announced, Finance Act 2021 extended the Employment Wage Subsidy Scheme (EWSS) from the original scheme end date of 31 December 2021 to 30 April 2022. On 23 December 2021, Revenue released updated guidance on the operation of the EWSS which will apply to eligible employers who were correctly registered for the EWSS at 31 December 2021. These updated provisions have now been provided for in the Bill.

Specifically, the Bill confirms:

1. The flat-rate subsidy to be paid for pay dates between 1 January 2022 and 30 April 2022 to qualifying employers;
2. The reduced rate of employer PRSI of 0.5% applies only to wages paid in respect of eligible employees up to 28 February 2022;
3. The ability for certain employers who were not eligible for the EWSS as at 31 December 2021 to re-enter the scheme where certain conditions are met; and
4. Enhanced subsidy rates and a further extension to the EWSS to 31 May 2022 for those businesses that were directly impacted by the public health regulations from 20 December 2021 to 22 January 2022.

Continued eligibility for the EWSS

Employers who met the criteria listed below as at 31 December 2021 may continue to avail of the EWSS up to 30 April 2022 unless the employer voluntarily opts to de-register from the scheme.

1. The employer continues to hold a valid tax clearance for the duration of the scheme;
2. The employer is registered for and received payments under the EWSS; and
3. The employer meets the qualifying criteria for the reduction in turnover/customer orders at the end of 2021 (i.e. a 30% reduction in turnover/customer orders for the period January – December 2021).

Eligibility for re-entry to the EWSS

In addition to the above, the EWSS is reopened to certain employers who were impacted by the public health restrictions announced on 17 December 2021 and were previously eligible for the EWSS but as at 31 December 2021 were ineligible for the scheme.

To be eligible for re-entry to the EWSS for the period 1 January to 30 April 2022, an employer must be able to demonstrate to the satisfaction of Revenue that:

Tax clearance is in place for the duration of the scheme;

- The trade existed at 31 December 2021;
- The employer correctly availed of EWSS at any stage between 1 September 2020 and 31 December 2021;
- The employer did not qualify for the EWSS under the previous scheme rules as they did not expect a 30% reduction in turnover or customer orders value between the calendar years 2019 and 2021;
- The employer's business is expected to experience a 30% reduction in turnover or customer orders value in the period from 1 December 2021 to 31 January 2022; and
- The disruption to normal operations is caused by COVID-19.

This reduction in turnover or customer orders outlined above is relative to:

- The period 1 December 2019 to 31 January 2020 compared with the period 1 December 2021 to 31 January 2022 where the business was in existence prior to 1 May 2019; or
- Where the business commenced trading in the period from 1 May 2019 and 31 December 2021, the average monthly actual turnover or orders value from 1 August 2021 to 30 November 2021 compared with the average actual monthly turnover or orders value for December 2021 and projected turnover or orders value January 2022.

Robert Dowley
Tax Partner

If an employer has re-entered the scheme and submitted a payroll prior to Revenue re-registering the employer for the scheme and an EWSS claim was not included in the payroll submission, the payroll submission should be amended to include the EWSS claim.

EWSS rates applicable to most employers from 1 January to 30 April 2022 (and to 31 May 2022 for certain employers)

The below table summarises the flat rate subsidy payable to eligible employers in respect of eligible employees for the pay dates outlined:

Subsidy rates payable per pay date			
Employee gross weekly wage	**1 to 31 January 2022**	**From 1 to 28 February 2022**	**From 1 March to 30 April 2022**
Less than €151.50	Nil	Nil	Nil
From €151.50 to € 202.99	€203	€151.50	€100
From €203 to €299.99	€250	€203	€100
From €300 to €399.99	€300	€203	€100
From €400 to €1,462	€350	€203	€100
More than €1,462	Nil	Nil	Nil

Covid-19 and Miscellaneous Provisions

Camilla Cullinane
Tax Partner

Enhanced EWSS support for employers impacts by restrictions from 20 December 2021 to 22 January 2022

Most businesses availing of the EWSS support will have moved onto reduced EWSS payments with effect from 1 February 2022. The Bill provides that employers whose business was directly impacted by the specific public health restrictions that existed from 20 December 2021 to 22 January 2022 are entitled to continue to receive the enhanced EWSS subsidy rates for the month of February and will not move onto the graduated rates until March, with the cessation of the scheme for such employers being extended to 31 May 2022.

Employers that are likely to be eligible for this enhanced EWSS include:

- Restaurants, bars, cafes etc. which were required to close at 8pm
- Operators of indoor events that were not allowed to hold events after 8pm and who were subject to 50% capacity restrictions
- Operators of outdoor events, where attendance was limited to 50% or 5,000 attendees
- Wedding reception venues where capacity was limited to 100 guests and they had to close by midnight

Eligible employers can make the claim for this enhanced EWSS support by the selecting the "EWSS_PHR" on ROS or the "EWSS_PHR" marker if using a payroll software package. Any employers who were directly impacted by the December public health restrictions that already claimed the EWSS at the reduced rates will need to correct the relevant employees' payslips to select "EWSS_PHR" to ensure they receive the correct subsidy amount.

Covid Restrictions Support Scheme ("CRSS")

In December 2021, several amendments to the CRSS were announced by Revenue.

The Bill confirms that to qualify for the CRSS from 20 December 2021, a business has to demonstrate that its turnover during the period of restrictions is no more than 40% of the:

- Average weekly turnover of the business in 2019;
- For a business established on or after 26 December 2019 and before 13 October 2020, turnover for these businesses will be based on their average weekly turnover from the date of commencement of the business up to 12 October 2020
- For a business that was established on or after 13 October 2020 and before 27 July 2021, turnover for these businesses will be based on their average weekly turnover from the date of commencement of the business up to 1 August 2021.

This turnover reduction criteria is an increase from no more than 25% of 2019 turnover that applied to periods of restriction prior to 20 December 2021.

In addition, the Bill provides that certain charities and sporting bodies who carry on similar trading activities to businesses are eligible to apply for CRSS for the most recent period of restrictions, December 2021 to January 2022.

Businesses that have qualified for CRSS in respect of a period of restrictions are, in certain circumstances, eligible to claim an additional week of support under the scheme where the business is recommenced on the lifting of Covid restriction - this is referred to as a "restart week".

The Bill provides that where a "restart week" occurs after 20 December 2021 and the business is a charity or approved sports body, or the turnover of the relevant business activity for any claim period commencing on or after 20 December 2021 is between 25 per

Anna Scally
Tax Partner

cent and 40 per cent of the relevant turnover amount, a "restart week" payment equal to one week at the standard rate of the CRSS (subject to a maximum weekly amount of €5,000) may be claimed.

The CRSS scheme ended on 31 January.

Extension of Debt Warehousing Scheme

The Bill provides a legislative footing to the extension of the debt warehousing scheme that was announced in December 2021 for certain businesses who were already eligible for warehousing and who have a valid claim during the period 1 January 2022 to 30 April 2022 for any of the following Government COVID-19 support schemes:

- EWSS
- CRSS
- One of a number of schemes announced by the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media in December 2021 and certain schemes operated by Tourism Ireland

The Bill confirms that eligible businesses can warehouse their PAYE and VAT liabilities up until 30 April 2022 (which is an extension from 31 December 2021).

This should provide those businesses which were most impacted by the additional public health restrictions in place in December 2021/January 2022 with an extension to the periods of favourable interest rates that are available under the Debt Warehousing scheme as follows:

- 0% interest rate will commence from 1 May 2022 and run until 30 April 2023
- A reduced 3% interest rate will be payable thereafter until the debt is repaid

Covid-19 and Miscellaneous Provisions

Carmel Logan
Tax Partner

Tim Lynch
Tax Partner

Pandemic Special Recognition Payment

The Bill provides for a new section which sets out an exemption from income tax, USC and PRSI in respect of a payment, known as the Pandemic Special Recognition Payment, of up to €1,000 per individual to specified categories of frontline healthcare workers.

Income tax warehousing provisions

The Bill sets out a number of amendments to the income tax warehousing provisions. The main thrust of these amendments is to extend the warehousing provisions to individuals and businesses in receipt of certain Covid 19 support payments (such as payments under the Covid Restrictions Support Scheme, the Temporary Wage Subsidy Scheme, Live Performance Support Schemes and various other tourism and business support schemes), including payments from any scheme designated as a Covid 19 support by Revenue. Entitlement to the Covid 19 support payments must arise in the period 1 January 2022 to 30 April 2022.

For individuals who qualify for the warehousing as a result of the amendments, they will not be charged any interest on income tax arising but warehoused during the period starting from the filing date for 2019 income tax returns (31 October or 10 December 2020 where filing was done online) to 30 April 2022. If the warehoused tax has not been paid in full by the time the 12 month period expires (i.e. by 30 April 2023), an interest rate of 3% per annum will be charged on the remaining balance from 1 May 2023 until it has been paid in full.

Taxpayers must meet their other obligations in terms of filing tax returns and paying other taxes (e.g. VAT and PAYE) in order to obtain the beneficial treatment available under the scheme, otherwise the normal interest rate for late payments of 8% per annum will apply. They must also have met their preliminary tax obligations for 2019.

The use of the scheme will not impact on a taxpayer's ability to obtain a tax clearance certificate.

To avail of the scheme for a given tax year, a taxpayer will need to make a declaration to the Collector General with their return for that year.

New residential rebate scheme for 10% stamp duty

A new 10% stamp duty rate was introduced in May 2021 for acquisitions of 10 or more residential units in any 12-month period. Residential units that are in an "apartment block" (as defined in the legislation) are specifically excluded from the 10% rate.

Glenn Reynolds
Tax Partner

In conjunction with the new 10% stamp duty rate, a rebate scheme was introduced to allow for a partial refund of stamp duty where such residential units are subsequently leased to local authorities or an approved housing body for the provision of social housing within 24 months of acquisition.

The Bill proposes to introduce a new rebate scheme to allow for a partial refund of stamp duty for residential properties that are designated as cost rental dwellings under the Affordable Housing Act 2021.

This rebate scheme will be available where the acquisition of the residential properties was subject to the 10% stamp duty rate and, within 6 months of being acquired, the properties are designated as cost rental dwellings by the Minister for Housing, Local Government and Heritage under Part 3 of the Affordable Housing Act 2021.

The refund available will be the difference between the stamp duty paid at the 10% rate, and the stamp duty that would have been payable if the residential units had not fallen within the remit of the 10% stamp duty rate.

The new cost rental dwelling rebate scheme will be effective from the day after the passing of the Bill and requires a claim to be made to Revenue for the repayment.

Waiver of excise duty

The waiver of excise duty on the renewal of certain intoxicating liquor licences will continue to apply for the period from 26 January 2022 to 30 April 2022.

Certain payments to holders of sea-fishing boat licences

Under the Brexit Whitefish Fleet Decommissioning Scheme 2022, certain compensation payments are to be made to the fishing boat owners eligible for participation in the scheme. The Bill introduces new provisions allowing for tax reliefs to be claimed in respect of the various components of the compensation payments, reducing the amount of tax payable by the beneficiaries on receipt. Of particular note is that payments under the scheme in respect of the destruction of a fishing vessel, and the surrender of a fishing license, will be eligible for retirement relief from capital gains tax.

Central Bank Registers

The Bill makes provision for the funding of the Central Bank Central Mechanism for Information on Safe-Deposit Boxes and Bank and Payment Account and in the operation of the Register of Beneficial Ownership of Certain Financial Vehicles which are required as part of the transposition of EU anti-money laundering Directives.

1 Stokes Place
St. Stephen's Green
Dublin D02 DE03

Telephone	+353 1 410 1000
Fax	+353 1 412 1122

1 Harbourmaster Place
IFSC
Dublin D01 F6F5

Telephone	+353 1 410 1000
Fax	+353 1 412 1122

85 South Mall
Cork T12 A3XN

Telephone	+353 21 425 4500
Fax	+353 21 425 4525

Dockgate
Dock Road
Galway H91 V6RR

Telephone	+353 91 534 600
Fax	+353 91 565 567

The Soloist Building
1 Lanyon Place
Belfast BT1 3LP

Telephone	+44 28 9024 3377
Fax	+44 28 9089 3893

kpmg.ie

Produced by: KPMG's Creative Services. Publication Date: March 2022. (8001)