FINANCE BILL 2017 HEADLINES

19 OCTOBER 2017

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Income Tax

The Bill contains provisions to enact the changes to tax rates announced by the Minister in his Budget speech.

Universal Social Charge

The USC rates and bands for have changed from 1 January 2018 as follows:

USC rates and bands 2017		**USC rates and bands 2018**		
€0 - €12,012	@ 0.5%	€0 - €12,012	@ 0.5%	No change
€12,012 - €18,772	@ 2.5%	€12,012 - €19,372	@ 2%	€600 band increase & 0.5% rate decrease
€18,772 - €70,044	@ 5%	€19,372 - €70,044	@ 4.75%	0.25% decrease in rate
Over €70,044	@ 8%	Over €70,044	@ 8%	No change
Non-PAYE income over €100,000 – 3% surcharge		Non-PAYE income over €100,000 – 3% surcharge		No change

The USC relief for medical card holders is being extended for a further two years. Medical card holders and individuals aged 70 years and older whose aggregate annual income does not exceed €60,000 will pay USC at a maximum rate of 2%.

Standard rate band

The standard rate band has increased by €750 for all taxpayers.

	Income taxable at 20%	**Income taxable at 40%**
Single person	Income up to €34,550	Income over €34,550
Married persons (one earner)	Income up to €43,550	Income over €43,550

Self employed

As announced in the Budget, the Bill increases the tax credit for self-employed individuals from €950 to €1,150.

Home Carers

The Bill increases the home carer's tax credit by €100 to €1,200.

Mortgage interest relief

The Bill introduces the tapered extension of Mortgage Interest Relief for existing recipients for three years up to 2020.

Mortgage interest relief in respect of qualifying loans provided to owner occupiers between 2004 and 2012 to purchase, repair, develop or improve the home was due to cease from 31 December 2017. The relief has been extended to 2020, but in a tapered manner. The relief will be restricted over the coming years as follows:

— 75% of existing relief in 2018

— 50% of existing relief in 2019

— 25% of existing relief in 2020

After 2020, mortgage interest relief will cease.

BIK on employer loans

The BIK rules will be amended to close certain tax avoidance opportunities in relation to employer-provided loans. The calculation of the benefit in kind now relates to the difference between the interest actually paid by the employee (or their spouse/civil partner) in the year and the interest that would be payable at the specified rate in the legislation.

BIK on electric cars

The Bill contains provisions to apply the 0% benefit in kind (BIK) that was announced on Budget Day in respect of electric vehicles for 2018. The Bill has a definite cut-off date of 31 December 2018 for this relief and there is no limit to the cost of vehicles to which it will apply. Electricity used in the workplace for charging such vehicles will also be exempt from BIK.

BIK on health insurers

The Bill contains a narrowly aimed provision to apply BIK to an employee of a health or dental insurer that receives a discount on policies.

Transfer of assets abroad

There are amendments proposed to the anti-avoidance provisions which relate to the transfer of assets abroad. The relevant existing provisions which deal with the power of an Irish resident individual to enjoy the income of a non-resident and non-domiciled person will not apply where the individual concerned shows in writing or otherwise that genuine economic activities are carried on by the non-resident person in the EU or EEA.

Domicile Levy

The Finance Bill provides for a technical amendment to the definition of "liability to income tax" for the purposes of the domicile levy to remove references to "final decision" in the context of matters subject to appeals. Furthermore it has been clarified that capital allowances and losses cannot be taken into account in calculating an individual's "worldwide income" for the purposes of the domicile levy.

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Business Taxation

Key Employee Engagement Programme (KEEP)

The Bill confirms the Budget Day announcement that provides for a new relief for qualifying share options granted to employees of qualifying small to medium enterprises. Gains realised on the exercise of such share options will not be subject to income tax, PRSI or USC at the date of exercise but instead will be subject to Capital Gains Tax on a subsequent share disposal.

In order to qualify for this relief, options must be granted to employees at not less than market value on the date of grant, the options must be held for a minimum period of at least 1 year (with limited exceptions) and must be exercised within 10 years of grant.

There is a limit to the total market value of the issued but unexercised qualifying share options that a company can have and also a limit to the market value of shares, in respect of which options have been granted to any one individual employee.

Options over shares in professional services companies, financial services companies, companies involved in dealing in development land, building and construction and companies in the forestry, coal, steel and shipbuilding sectors are specifically excluded from the scope of this relief.

The relief is available in respect of share options granted from 1 January 2018 to 1 January 2024.

This relief will also be available to options granted to employees of qualifying unquoted companies during the period 1 January 2018 to 31 December 2023, subject to EU approval.

Impact of accounting changes for tax purposes

Irish tax law contains measures which apply on the transition from an old to a new accounting standard (e.g. move from old GAAP to FRS 102), which provide for the tax impact of the changes to be spread over 5 years. The Finance Bill seeks to extend these measures to the first time adoption of a new accounting standard. Changes are also being introduced to address changes in accounting policies and the correction of accounting errors into the tax net.

Interest as a charge relief

The Finance Bill proposes new provisions which seek to clarify the availability of interest as a charge on investments with double/intermediate holding companies, which previously operated by way of administrative practice. In certain cases, relief will now be available for investments in / loans to companies who indirectly hold shares in trading companies through intermediate holding companies.

Intangible assets

As announced in the Budget, the 80% cap on IP allowances and related interest has been re-introduced for IP acquired on or after 11 October 2017.

Capital allowances for energy-efficient equipment

Certain energy-efficient equipment can qualify for 100% capital allowances in year 1. The Bill proposes to extend the application of this provision, which was due to expire at the end of 2017, to 31 December 2020.

Knowledge Development Box (KDB)

The Bill introduces a technical amendment to the loss relief provisions that apply where a company has claimed relief under the KDB. It ensures that the amount of relief that can be claimed for a loss incurred in the KDB trade cannot be greater than the loss itself.

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Capital Gains Taxation

Reduction for holding period for property CGT exemption

As announced in the Budget, the holding period for land and buildings acquired between 7 December 2011 and 31 December 2014 to qualify for the CGT exemption has been reduced from 7 years to 4 years. From 1 January 2018, disposals of qualifying land and buildings during years 4 to 7 will be exempt from CGT.

CGT charge for non-residents on quoted property shares

The exemption from CGT for non-residents on the disposal of shares quoted on a stock exchange has been tightened to now only apply where those shares are actively and substantially traded on the stock exchange.

Participation exemption – avoiding having shares derive their value from property

It is proposed to introduce an anti-avoidance provision within the CGT participation exemption for companies which seeks to counteract moves to artificially insert money or assets into a company to ensure it does not derive its value from Irish land on a disposal.

CG50 Clearance

The requirement to obtain a Form CG50 will be extended to include transactions within the above anti-avoidance changes to the CGT rules on stock exchanges and the CGT participation exemption.

Farm restructurings

An administrative update is proposed in relation to the relief for farm restructurings, requiring the provision of certain information to the Revenue to allow them calculate the gain that would have arisen.

Definition of group company

The definition of a 'group company' for the purposes of qualifying for CGT relief on inter-company transfers of assets is to be extended to include companies resident in tax treaty countries (currently only applies to EU/EEA countries).

Voluntary Homeowners Relocation Scheme

It is proposed that any compensation amounts received under the 2017 Voluntary Homeowners Relocation Scheme will be exempt from CGT.

Solar panels & retirement relief

As announced in the Budget, the availability of retirement relief will be extended to farming land on which solar panels have been installed, provided the installation does not exceed 50% of the area of the land.

Transfer of assets abroad

Amendments are proposed to various anti-avoidance provisions to ensure that they comply with EU law. Provisions which are designed to prevent individuals avoiding capital gains tax through the use of non-resident trusts or non-resident companies will not apply where it is shown to the satisfaction of the Revenue Commissioners that, at the time when the capital gains tax charge arises, genuine economic activities are carried on by the trust / company in the EU or EEA.

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Company mergers

The Bill contains provisions that clarify the application of Stamp Duty relief for mergers.

The Bill introduces new provisions that ensure that tax liabilities and obligations (including filing and reporting obligations) of a transferor company shall be treated as liabilities an obligations of the successor company following a merger or division undertaken in accordance with Part 9 of the Companies Act 2014. The provisions also allow for an appeal made by or right of appeal of the transferor company to be treated as an appeal made by or right of appeal of the successor company

The Finance Bill also provides for an amendment to enable a repayment to be made to a successor company following a merger or division where a valid claim was made in respect of an overpayment of tax by the transferor company. Where there is more than one successor company any repayment of tax should be apportioned on a just and reasonable basis.

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PAYE modernisation

A number of changes have been introduced to modernise the PAYE system. Most of these changes will come into effect from 1 January 2019. This will result in the introduction of a new system that will enable employers to update and report to Revenue employee pay and deductions as they are being paid.

The Bill provides for the introduction of a new electronic system to facilitate this real time return of information. Employers will be required to file monthly PAYE returns instead of annual returns under the current system. Employers will also be required to maintain a register of employees which should be available to Revenue on request.

Provisions relating to the USC have also been amended to facilitate the new real time reporting obligations from 1 January 2019.

In addition to the above, the following changes will come into effect from 1 January 2018:

- PAYE taxpayers will be liable to pay income tax on a receipts basis rather than an earning basis in respect of employment emoluments.
- Where an employer fails to operate PAYE, Revenue shall recoup income tax on a grossed-up basis i.e. the amount paid to the employee will be treated as the net of tax amount.

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Property

There are property related changes covered in the Capital Gains Tax and Stamp Duty sections of this document. In addition:

Pre –letting expenditure in respect of vacant property

The Bill introduces a new section which provides that expenses incurred on a vacant residential premises, prior to it being first let after a period of non-occupancy (of at least 12 months), can be taken as an allowable deduction against rental income from that premises.

These provisions will apply where the premises is let after the date of passing of the Finance Act 2017 and for expenditure incurred before 31 December 2021. The expenditure must have been incurred in the 12 months before it was let as a residential premises and it must be such as would be allowed against rental income if it had been incurred during the period of letting. There is a cap on the deduction available under this section of €5,000 per vacant premises.

Where a deduction has been taken under this subsection and the premises ceases to be used as a rented residential premises within a period of 4 year from the date of first letting, the deduction will be clawed back.

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Stamp Duty

Non-residential property rate

The Bill confirms that the increase in the rate of stamp duty from 2 per cent to 6 per cent for non-residential property, which includes agricultural land and non-residential lease premiums. Although the 6 per cent rate takes effect from Budget Day (11 October), transitional arrangements are included to the effect that the 2 per cent rate will continue to apply for certain binding contracts put in place up to 10 October. For the reduced rate to apply, the contract will need to be formally executed before 1 January 2018 and the stamp duty instrument will need to include a statement confirming that the binding contract was in place.

It was announced in the Budget that a stamp duty refund scheme will be introduced for commercial land purchased for the development of housing, provided the relevant development commences within 30 months of the land purchase. Details of this rebate scheme are not included in the initial draft of the Bill and the Minister has confirmed these will be introduced at a later Committee Stage.

Associated company relief

The Bill contains provisions to enact a long standing Revenue concession whereby stamp duty associated company relief will not be clawed back in the event of the bona fide liquidation or strike-off of a party to the transfer within a period of two years.

Consanguinity relief

Consanguinity stamp duty relief which applies a rate of 1 per cent for inter-family farm transfers is being extended for a further three years to 2021. The Bill also removes the upper age limit of 67 for availing of the relief.

Lease threshold

The Bill increases the stamp duty exemption threshold for short term residential leases from €30,000 to €40,000.

Farmers

The Bill contains additional conditions, which are required by EU State Aid rules, for application of stamp duty relief to young trained farmers. In order to qualify for relief, the young trained farmer must submit a business plan to Teagasc and come within the definition of a mirco, small and medium enterprise.

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Indirect Tax

VAT

The Bill confirms that the standard rate of VAT (currently 23%) will apply to the provision of sunbed services with effect from 1 January 2018, as announced in the Budget.

The Bill contains amendments seeking to clarify the circumstances in which VAT exemption applies to vocational training and educational services. It also includes a provision enabling regulations to be issued in relation to educational services.

Excise

The Bill contains measures which will implement the tax on sugar sweetened drinks ("sugar tax") as outlined in the Budget. Although subject to Ministerial Order, it is expected that the tax will come into force with effect from 1 April 2018 and will apply to the first supply of the relevant products in the State.

The Bill confirms the Budget increases in the rates of Tobacco Products Tax which, when VAT is included, amount to 50 cent on a pack of 20 cigarettes in the most popular price category with pro-rata increases on other tobacco products.

The Bill contains a number of technical measures which amend definitions contained within Betting Tax, Vehicle Registration Tax and Mineral Oil Tax legislation.

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Capital Acquisitions Tax

The capital acquisitions tax ("CAT") exemption applying to inheritances of certain retirement funds by the adult children of a disponer has been extended to include inheritances from retirement

annuity contracts ("RACs") and personal retirement savings accounts ("PRSAs"). This exemption is in place to prevent double taxation of the same event (income tax and CAT).

The provisions relating to the dwelling house exemption have been amended to clarify that (i) the property transferring to the dependent relative does not need to be the principal private residence of the disponer and (ii) a liability to inheritance tax will not arise where the disponer dies within two years of making a gift of a dwelling house to a dependent relative.

The definition of agricultural property has been extended for the purposes of agricultural relief to include leased agricultural land on which solar panels are installed. However this is subject to the condition that the land used for solar panels must not exceed 50% of the total land comprised in the gift or inheritance.

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Financial Services

Life Assurance Companies

There are two proposed amendments to the taxation of life products. Firstly, the Bill provides that a life company cannot use foreign tax arising on income that forms part of its 'policyholder business' to claim double tax relief against its taxable profits. Secondly, it provides that the assignment of a life policy as security for a mortgage to a qualifying S110 company will not be a chargeable event which triggers an exit tax charge on the policyholder.

Investment Undertakings

The Bill introduces the obligation on qualifying undertakings to submit financial statements to the Revenue Commissioners in iXBRL format. This obligation will be introduced on a phased basis.

Irish Real Estate Funds (IREFs)

The Bill proposes a number of changes to the IREF regime, introduced by Finance Act 2016.

— It is proposed that IREFs need not operate withholding tax on payments to Approved Retirement Funds (ARFs), Approved Minimum Retirement Funds (AMRFs) and vested Personal Retirement Savings Accounts (PRSAs).

— It clarifies that sub-funds may make a declaration in respect of unit-holdings in other sub-funds of the same umbrella scheme.

— Advance clearance procedures are introduced to deal with a situation where a full refund of any tax withheld would be made.

— It introduces the ability of a Markets in Financial Instruments Directive (MiFID) regulated intermediary to make a declaration on behalf of pension funds, charities and credit unions.

Section 110 Securitisation Regime

The Bill amends the definition of "specified property business" to include a business of holding, managing or both the holding and management of shares that derive their value from Irish land. This expands the type of Irish property profits of a S110 company to which the interest restriction introduced by Finance Act 2016 applies. This amendment applies from the date of issuance of the Finance Bill 2017, 19 October 2017.

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Administrative Measures

Data Protection

The Bill provides for the insertion of a new section 851B into the Taxes Consolidation Act 1997 to govern the use of and access to taxpayer information by Revenue to insure that it is in line with EU data protection regulations.

Appeals Process

The Finance Bill provides for a number of amendments to the Taxes Consolidation Act 1997 arising from the reforms of the taxes and duty appeals process under the Finance (Tax Appeals) Act 2015.

Multilateral Instrument

Section 826 TCA 1997 will be amended to give effect to the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting ("MLI"). This is the first step in the legislative process to allow the Irish countries to transpose the recommendations made by the OECD Base Erosion and Profit Shifting ("BEPS") project into existing bilateral treaties.

Revenue Powers

The Finance Bill provides for the following amendments to Revenue Powers:

- In respect to Revenue's power to request information in respect of a taxpayer from third parties and from financial institutions, Revenue is no longer obliged to provide the name of the taxpayer to the third party, where known. Revenue also do not have to provide a copy of the notice served to the third party to the taxpayer, they will only need to inform the taxpayer that a request for information has been sent to the third party. These changes have been introduced to prevent breaches of data confidentiality.
- The conditions whereby Revenue can make an application to the High Court for non-disclosure to a taxpayer of an order requiring a person of financial institution to provide information relevant to the taxpayer's liability have been amended to bring them in line with OECD standards.

Companies Act 2014

Various amendments to the Taxes Acts have been provided for following the enactment of the Companies Act 2014. The amendments involve the updating of references to previous Companies Acts in the legislation to references to the new Companies Act 2014 and the updating of various definitions to

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