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February 27, 2012
2012-050

flash International Executive Alert

A Publication for Global Mobility and Tax Professionals by KPMG's International Executive Services Practice

IRISH GOVERNMENT PUBLISHES FINANCE BILL 2012, MEASURES IMPACTING INDIVIDUALS

by Duncan Watson and John Bradley, KPMG, Dublin (KPMG in Ireland is a KPMG International member firm)

In This Issue:

The Irish government recently published Finance Bill 2012.[1] It contains the draft legislation aimed at implementing the measures announced by the Minister of Finance in his 2012 Budget speech delivered on 6 December 2011.[2] It contains draft legislation on a number of new measures.

The Bill contains legislation to implement various pro-growth measures previously announced, which include:-

- a Special Assignee Relief Programme (SARP) aimed at attracting key talent to work in Ireland; and
- a Foreign Earnings Deduction (FED) for employees who travel abroad to develop markets in the BRICS countries, namely Brazil, Russia, India, the People's Republic of China, and South Africa.

Special Assignee Relief Programme (SARP)

Under the draft legislation, the existing SARP has been abolished from 2012 onwards.

The new SARP will apply for individuals arriving in Ireland during 2012, 2013, or 2014.

There are still various conditions in order to avail of the new relief, but the new SARP is more widely accessible than the previous regime.

The main conditions are:

- The employee must have been employed by a non-Irish company for 12 months prior to arriving in Ireland. This employer must be incorporated and tax resident in a country with which Ireland has a tax information exchange agreement.
- The employee can either be seconded to work in Ireland under his or her existing employment contract, or be employed directly by an Irish Group company.
- Substantially all of the employee's duties must be performed in Ireland for at least 12 consecutive months.
- The relief will apply for the first five years of the individual's residency in Ireland, subject to certain conditions.
- The employee must make a claim for the relief to the Revenue authorities with supporting evidence provided by the employer.

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The relief operates on the basis of providing a tax-free deduction from remuneration based on a formula as follows:-

(A-B) x 30%

Where **A** is the total remuneration of the employee with a cap of up to €500,000, and **B** is €75,000.

The maximum tax relief is therefore calculated as follows:

(€500,000 minus €75,000) x 30% = €127,500 x 41% (marginal tax rate) = tax reduction of €52,275

The relief does not extend to the Universal Social Charge (USC)or PRSI (Social Security).

KPMG Note

While a simpler and more widely accessible SARP is welcomed, the legislation as presently drafted does contain some anomalies. For example, the requirement for the employee to arrive in Ireland after 2012, restricts the opportunities for key talent already employed in Ireland to avail of any tax incentives as the previous SARP has been abolished. It is hoped that this measure will be addressed before the legislation is signed into law.

Foreign Earnings Deduction (FED)

The newly introduced FED will support the efforts by Irish companies to expand into the emerging markets of Brazil, Russia, India, the People's Republic of China, and South Africa (BRICS).

The key elements of the relief are as follows:

- The FED will apply for the tax years 2012, 2013, and 2014 only;
- It will apply to an Irish resident individual who has 60 qualifying days working outside Ireland in the BRICS countries in a continuous 12-month period;
- A qualifying day is one of at least 4 consecutive days throughout the whole of which the individual is performing the duties of their office or employment in any of these countries;

Provided the various conditions are met, the employee must make a claim for FED to obtain a refund of income tax.

FED is calculated based on the following formula:

$$\frac{\text{Number of qualifying days in a year of assessment} \times \text{Qualifying Income}}{\text{Aggregate number of days in the year of assessment that the individual held a relevant office or employment}}$$

It should be noted that "qualifying income" excludes remuneration in the form of benefits-in-kind. Share-based remuneration is, however, included.

The FED is capped at a maximum of €35,000. The maximum tax relief available is therefore €35,000 x 41% = €14,350.

Other Measures

Income Tax and Social Security Rates

There was no change to the income tax rate bands and credits and social security rates for the 2012 tax year.

Universal Social Charge (USC)

As promised in the budget, the Bill contains an increase in the exemption threshold for USC from €4,004 to €10,063, for the tax year 2012 and subsequent years.

Capital Gains Tax

The capital gains tax rate has increased from 25 percent to 30 percent. This applies to disposals of assets made on or after 7 December 2011, as indicated in the Budget.

Capital Acquisitions Tax

The capital acquisitions tax rate applicable to gifts and estates has increased from 25 percent to 30 percent, with effect from 7 December 2011.

Domicile Levy

For the tax year 2012 and thereafter, citizenship has been removed as a requirement for the payment of the domicile levy. This means that, regardless of citizenship, the domicile levy will be payable by Irish-domiciled individuals whose qualifying Irish assets exceed €5 million, whose worldwide income exceeds €1 million, and whose liability to income tax for the relevant year is less than €200,000.

Relief for Key Employees Engaged in Research and Development (R&D)

The Bill provides that key employees, excluding directors and certain others, engaged in R & D activities can avail themselves of the reduction in their income tax liability where their employer surrenders their R & D tax credit to the employee in question.

Tax on Savings

As announced in the Budget, the rate of Deposit Interest Retention Tax (DIRT) has been increased by 3 percent with effect from 1 January 2012. The new rate is 30 percent.

Separately, the Bill introduces provisions that tax deposit interest earned from financial institutions in other European Union (EU) countries at 30 percent if the income is returned on time as part of the annual return process and at 41 percent if it is not returned on time. This provision takes effect for interest received on or after 8 February 2012.

For deposit interest earned for financial institutions in non-EU countries, such interest will now be taxed at 30 percent where the recipient is a standard rate tax payer and makes a timely tax return of the income, and at a rate of 41 percent if a timely return is not made. Higher rate tax payers will continue to be taxed at 41 percent on such income, regardless of whether a timely tax return has been made or not. This provision takes effect for interest received on or after 8 February 2012.

Mortgage Interest

As announced in the budget, the Bill provides for a new rate of mortgage interest relief of 30 percent in respect of qualifying interest by those who took out a qualifying loan to purchase their first principal private residence in the period 2004 to 2008 inclusive.

To encourage home purchases, the Bill confirms that, for those who take out a qualifying loan in 2012, the level of mortgage interest relief will be 25 percent (reducing to 22.5 percent in years three to five and 20 percent in years six and seven) in the case of first-time buyers, and 15 percent in the case of non-first-time buyers.

The limits on relief will be €10,000 for single persons and €20,000 for married persons.

Employer PRSI Relief

Employer PRSI relief for employee pension contributions has been eliminated in full (it was reduced by 50 percent in Finance Act 2011). This applies from 1 January 2012.

Footnotes:

1 See the announcement "Finance Bill 2012" on the Web site for Ireland's Department of Finance at:
http://www.finance.gov.ie/viewdoc.asp?DocID=7136&CatID=78&StartDate=1+January+2012

2 See *Flash International Executive Alert* 2011-206, 13 December 2011.

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The information contained in this newsletter was submitted by the KPMG International member firm in Ireland. The information contained herein is of a general nature and based on authorities that are subject to change. Applicability of the information to specific situations should be determined through consultation with your tax adviser.

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