FINANCE BILL 2017

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OVERVIEW

On 19 October, the Department of Finance released the first draft of Finance Bill 2017. This Bill sets out the proposed legislative changes required in order to implement the Budget Day announcements of 10 October.

The Bill legislates for the significant changes proposed for the property sector with the aim of encouraging property owners to develop and/or bring their properties into the rental market to stimulate housing supply. As announced on Budget Day, the Bill provides for the increase in the Stamp Duty rate on commercial property from 2% to 6%. Transitional measures have been included for binding contracts signed before 11 October 2017 and executed before the end of this calendar year. Unfortunately, the Bill does not contain the legislation to provide for a rebate from Stamp Duty for development land, as announced on Budget Day. Instead, this legislation is expected to be brought forward during the Committee Stage of the Bill (7-9 November).

The Bill introduces a new employee share participation incentive scheme called “KEEP” or “Key Employment Engagement Programme” for SME’s. This is a very welcome development as it should enable SMEs to compete with bigger companies for the best available talent in order to develop and grow their businesses and maintain competitiveness. Under the KEEP scheme, share options granted are subject to CGT rather than Income Tax, USC and PRSI, with tax payable on ultimate disposal by the employee of the shares, rather than on exercise.

We welcome the modest reductions in the personal tax burden contained in the Bill which include:

- An increase in the standard rate band for a single person of €750;
- A reduction in the first three rates of USC;
- An increase of €100 in the Home Carer Tax Credit;
- The extension of mortgage interest relief; and
- An increase in the Earned Income Tax Credit of €200.

However, more needs to be done to reduce the overall burden of personal taxation, and to improve Ireland’s competitiveness and create a more entrepreneurial-friendly environment. In particular, it is disappointing not to see an increase in the lifetime limit for eligibility for entrepreneur’s relief towards that offered in the UK.

When introducing legislative changes it is important that Ireland continues its practice of providing predictability and certainty to businesses and investors. In this regard, we welcome the launch on Budget Day of the public consultation on the potential implementation of measures recommended in the Coffey Report. As a result, the only Coffey recommendation provided for within the Bill is the re-introduction of a cap on the amount of capital allowances which may be claimed in respect of newly acquired intangible assets, as announced on Budget Day.

In addition to what was announced in the Budget, the Bill also contains a number of new measures, including:

- Changes to tax law to take into account measures introduced in Companies Act 2014. These changes allow for the extension of certain Capital Gains Tax and Stamp Duty reliefs for mergers.
- Changes to provisions which allow for certain interest deductions (known as interest as a charge relief) to align the legislation with current Revenue practice.
- An increase in the exemption threshold for Stamp Duty on residential leases from €30k to €40k.
- Legislation to allow for the move to a real-time PAYE system under the current PAYE Modernisation project from January 2019.
- A number of targeted anti-avoidance measures.

If you have any questions on what the Finance Bill means for you or your business, please contact any member of the BDO tax team.

Ciarán Medlar I Head of Tax

PERSONAL TAX

Home Carer Tax Credit

The Bill confirms the increase in the Home Carer Tax Credit from €1,100 to €1,200.

Earned Income Tax Credit

The Bill confirms the increase in the Earned Income Tax Credit for self-employed individuals from €950 to €1,150.

Income Tax Standard Rate Band

The Bill confirms an increase in the standard rate income band from €33,800 to €34,550 for a single person, and from €42,800 to €43,550 for a married couple with one earner.

Universal Social Charge (USC)

The Bill confirms the changes in the rates and thresholds for USC, as announced in the Budget. The revised rates and thresholds will be:

Income Threshold	USC Rate
€0 - €12,012	0.5%
€12,013 - €19,372	2%
€19,372 - €70,044	4.75%
€70,045 - €100,000	8%

Self-employed income over €100,000 remains subject to USC at 11%.

The Bill confirms medical card holders and individuals aged 70 or over, whose aggregate income does not exceed €60,000 will now pay a maximum USC rate of 2%. This relief has been extend for a further 2 years, to the end of 2019.

Mortgage Interest Relief

The Bill confirms the tapered extension of mortgage interest relief for owner occupiers who took out qualifying mortgages between 2004 and 2012.

The relief will be restricted over the coming years as follows:

- 75% in 2018
- 50% in 2019; and
- 25% in 2020.

The relief will cease entirely from 2021.

EMPLOYMENT TAXES

Key Employee Engagement Programme (KEEP)

The Bill confirms the introduction of a new share incentive scheme to facilitate the use of share-based remuneration by unquoted SME companies to attract key employees.

This new scheme is called "KEEP" or "Key Employee Engagement Programme".

Under the scheme, gains arising when employees exercise their KEEP share options will be liable to Capital Gains Tax on disposal of the shares, instead of Income Tax, USC and PRSI on exercise (as is currently the case).

There are a number of qualifying conditions, including:

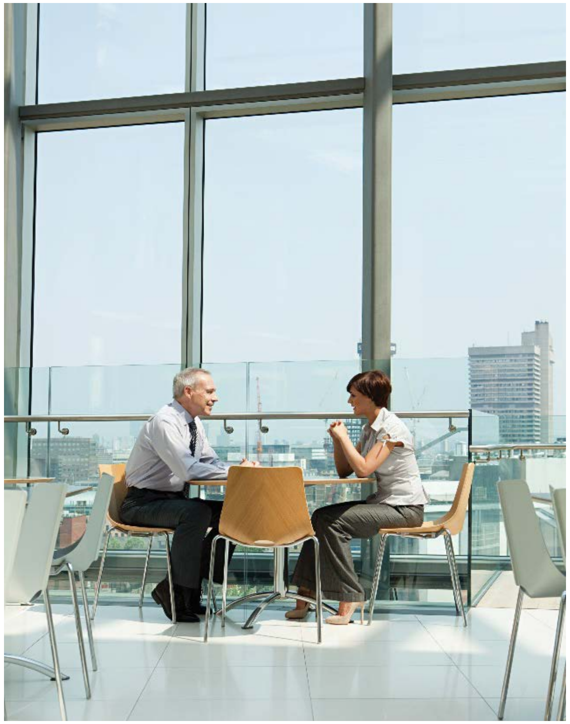
- The share options must be granted at not less than market value on the date of grant.
- The share options must be held for a minimum period of one year before exercise (subject to certain limited exclusions) and must be exercised within 10 years of grant.
- Employer companies undertaking certain types of activities will not qualify (in accordance with State Aid rules).

This incentive will be available for qualifying share options granted between 1 January 2018 and 31 December 2023.

The introduction of the scheme is subject to Commencement Order, and EU State Aid approval.

BIK on Health or Dental Insurance

The Bill introduces a new Benefit-in-Kind ("BIK") charge where an employee of a Health or Dental Insurer receives a free or discounted health or dental insurance policy in the course of their employment. The discount received shall be a taxable emolument for the employee.



BIK on Electric Vehicles

The Bill confirms an exemption from BIK where an employer provides an employee with an electric vehicle. This exemption is provided for a 1 year period only as an interim measure to allow for a comprehensive review of BIK on vehicles.

The Bill also provides for an exemption from BIK where an employer provides an employee with a facility on their premises for the charging of electric vehicles.

PAYE Modernisation

The Bill introduces a number of technical changes to allow for the introduction of real-time reporting under the PAYE Modernisation Programme. PAYE Modernisation represents the most significant reform of the PAYE system since its introduction in 1960. It will result in new processes for employers, agents and Revenue. Employers will update and report their employee's pay and deductions to Revenue as they are being paid and, in this way, Revenue will have the most up-to-date information possible. Real-time reporting is due to come into effect from January 2019.

The Bill also provides for the following changes, with effect from 1 January 2018:

- A change from an earnings basis to a receipts basis for PAYE employees; and
- New provisions for the recoupment, on a grossed-up basis, of Income Tax where PAYE is not operated by an employer.

BDO

BUSINESS TAX

Accelerated Capital Allowances for Energy Efficient Equipment

The Bill confirms the extension of the scheme of accelerated capital allowances for energy efficient equipment up to the end of 2020.

Capital Allowances for Intangible Assets

As recommended by the Coffey Report, and as announced on Budget Day, the Bill provides for the re-introduction of an 80% limitation for capital allowances for intangible assets, and any related interest expense, of the relevant income arising from the intangible asset in an accounting period.

Capital allowances for Intangible Assets was first introduced in 2009 and allows for a tax deduction against trading income from the exploitation of IP for the cost of acquiring the related IP. When first introduced, the tax deduction, together with associated finance costs, were limited to 80% of the related trading income. This cap was abolished in 2015.

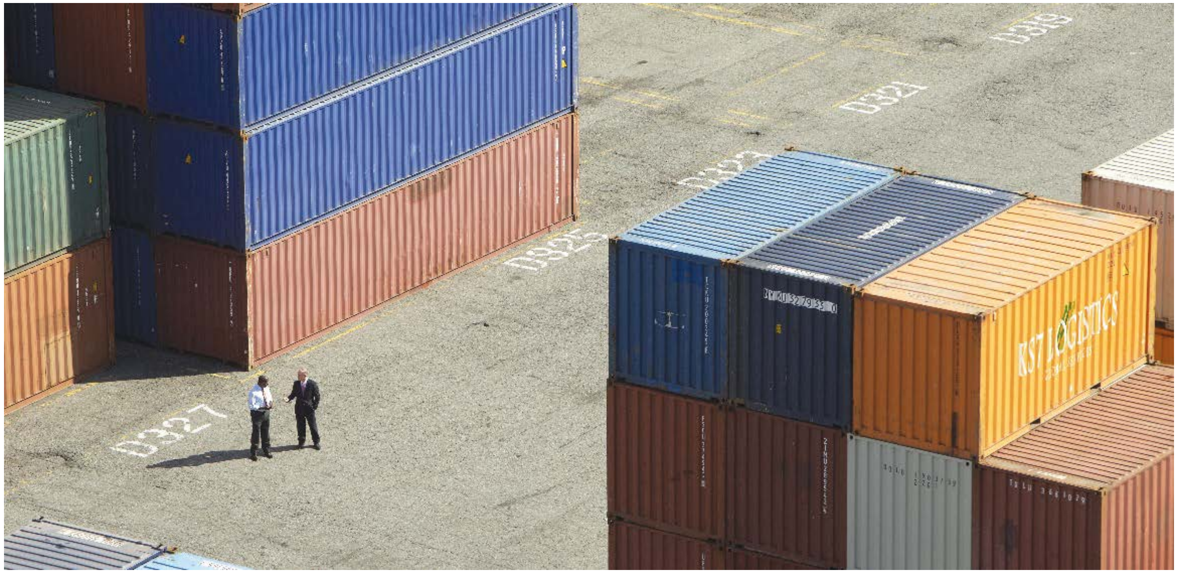
The re-introduced cap will only apply to IP incurred on or after 11 October 2017.

Interest as a Charge

The Bill contains measures to align the legislation with existing Revenue practice of allowing interest as a charge relief in multiple holding company structures.

Changing Accounting Standards

The Bill provides for the transition from current Irish GAAP (FRS 100 to FRS 105) to IFRS and vice versa. Changes are also being introduced to address changes in accounting policies and the correction of accounting errors.



PROPERTY & CONSTRUCTION

Pre-Letting Expenses - Residential Property

The Bill confirms a new deduction for certain pre-letting expenses. The relief is to encourage owners of vacant property to bring that property into the rental market.

In order to qualify for relief the expenses must be of a revenue nature and incurred in the 12 months prior to first letting. In addition, the property must have been vacant for a period of 12 months or more.

A €5,000 cap will apply on allowable expenses for each property, and the relief will be subject to clawback if the property is withdrawn from the rental market within 4 years of first letting.

Qualifying expenses incurred up to the 31 December 2021 will be able to avail of the relief.

Stamp Duty on Leases

The Bill increases the Stamp Duty threshold for residential property leases from €30,000 to €40,000.

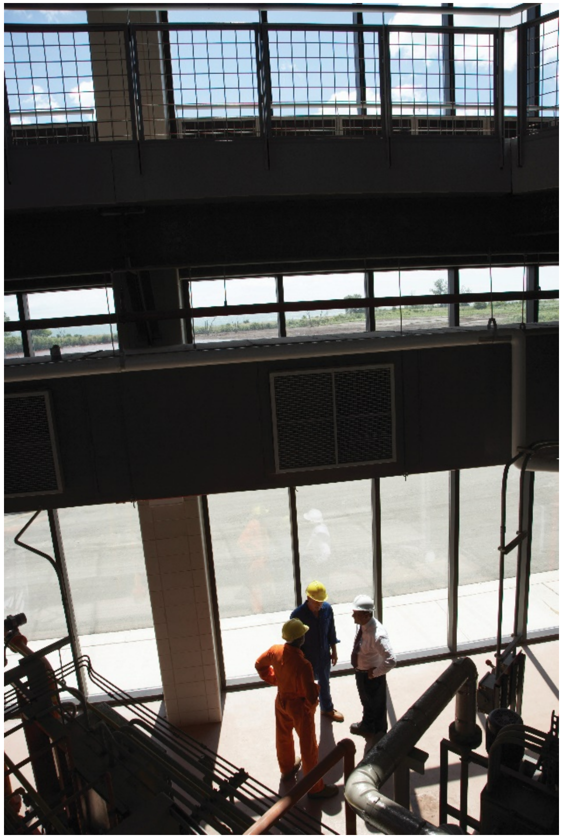
7-Year CGT Exemption

The Bill confirms the announcement of the amendment that will be made to section 604 of the Taxes Consolidated Act 1997, otherwise known as the 7-year CGT relief, which will allow the owner of qualifying assets to sell those assets between the fourth and seventh anniversaries of their acquisition and still enjoy a full relief from CGT on any chargeable gains. It will apply to disposals made on or after 1 January 2018.

Stamp Duty

The Bill confirms the increase in the Stamp Duty rate from 2% to 6% for non-residential property. It also contains transitional measures such that the 2% rate will apply to binding contracts signed before 11 October 2017, and executed before the end of 2017.

It was announced on Budget Day that a rebate scheme would be introduced for land purchased for the purpose of residential property development, provided development commences within 30 months of acquisition. However, the legislation for this rebate scheme is not contained within the Finance Bill. The Minister has confirmed that the legislation will be introduced as part of Committee Stage changes.



AGRICULTURE

Consanguinity Relief

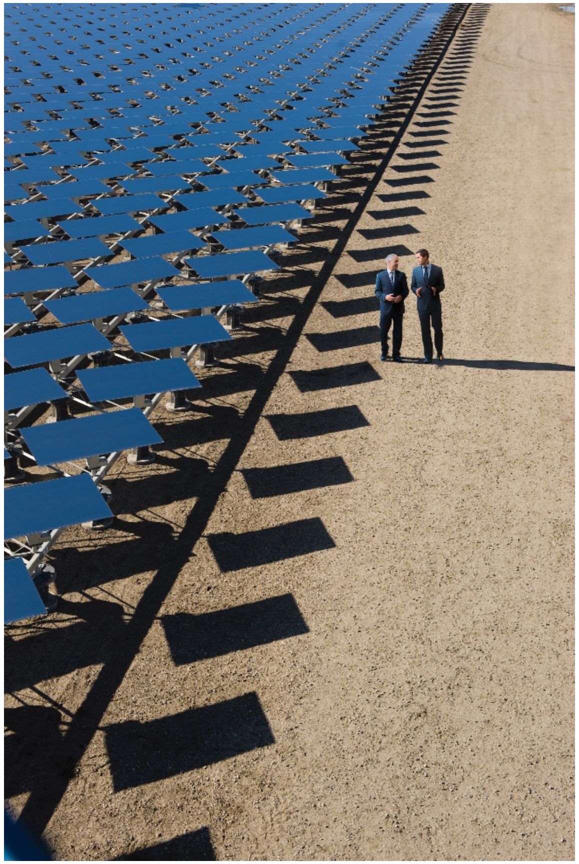
The Bill confirms the extension of consanguinity relief for another 3 years to 1 January 2021, and removes the upper age limit of 67.

The Bill also fixes the rate of stamp duty to 1%, rather than 50% of the prevailing rate as is currently the case. This means that the increase in the Stamp Duty rate from 2% to 6% for non-commercial property would not result in an increase of the Stamp Duty payable where consanguinity relief applies.

The rate change took effect from 11 October 2017, while the other changes will come in effect on the enactment of the Finance Act.

Young Farmer Stamp Duty Exemption

The Bill provides for an additional requirement that a young farmer must submit a business plan to Teagasc, as well as some other technical adjustments, in order to claim an exemption from Stamp Duty on acquisitions of agricultural land. These changes are required in order to comply with EU State Aid rules.



Solar Panels

As announced on Budget Day, the Bill provides for the availability of retirement relief and agricultural relief where farmland is used for solar energy production.

These changes apply from 1 January 2018.

Retirement Relief

Retirement Relief offers an exemption from CGT on the disposal by a person 55 or over of all or part of their business.

The changes introduced in the Bill aim to ensure that the leasing of agricultural land for solar energy production does not affect entitlement to retirement relief where up to 50% of the total area of the leased land was used for that purpose.

Agricultural Relief

Agricultural relief is a relief from CAT on the taking of a gift or inheritance of agricultural land.

The changes introduced in the Bill aim to ensure that the leasing of agricultural land for solar energy production does not affect entitlement to agricultural relief where up to 50% of the total area of the leased land was used for that purpose.

INDIRECT TAXES

Excise Duties

Sugar Tax

The Bill confirms an introduction of a tax to sugar sweetened products.

Sugar sweetened drinks with a sugar content between 5 grams and 8 grams per 100ml at a rate of 20c per litre will be subjected to the tax. A second rate will apply for drinks with a sugar content of 8 grams or above at 30c per litre.

Theses increase will take effect on 1 April 2018.

The Government have confirmed that the SSD tax will become liable at the point of first supply in the State.

Tobacco Products Tax

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

An additional 25 cent will also apply to roll your own (RYO) tobacco products. These increases will take effect from midnight 10 October 2017.

Value Added Tax

Increased VAT rate on Sunbeds

The Bill confirms the increase in the VAT rate on sunbed services from 13.5% to the standard rate of 23% with effect from 1 January 2018. The purpose of the amendment is to be in line with the Government's National Cancer Strategy and to deter sunbed use, due to clear evidence of a link between sunbed use and skin cancer.

Education Services

Following on from last year's Finance Act the Bill contains a further amendment to the VAT exemption to education activities. This amendment is to clarify the application of the exemption to Vocational Services and also provides for the introduction of a regulation to provide for what may or may not be treated as vocational training or retraining.

Vehicle Registration Tax

The Bill provides that certain vehicles which had inadvertently qualified for a reduced rate of VRT will be brought back into the definition of Category A vehicles for the purposes of VRT.

The consequences of this amendment in addition to a higher VRT liability is that such vehicles will no longer qualify as commercial vehicles for the purposes of VAT and therefore any VAT deduction for VAT registered purchasers will be restricted to a maximum 20% of the VAT amount subject to the conditions applicable to passenger vehicles.

The amendment will not apply to crew cabs.

OTHER MEASURES

Tax Administration

MLI Implementation

The Bill includes the first step in the legislative procedure required to give effect in Irish law to the Multilateral Instrument under Action 15 of the OECD Base Erosion and Profit Shifting (BEPS).

Companies Act 2014

A number of changes have been introduced throughout the Bill to align existing legislation with the Companies Act 2014 which came into effect on 1 June 2015.

GDPR Compatibility

The Bill includes a new provision which will govern the use of and access to taxpayer information to ensure that Revenue Legislation is compatible with General Data Protection Regulation (GDPR).

iXBRL Filing

The Bill provides for the introduction of a requirement for investment undertakings to file iXBRL accounts. This requirement will be introduced on a phased basis.

Anti-Avoidance Measures

Non-Resident Holders of Quoted Shares

The Bill limits the availability of an exemption from Irish CGT for non-resident holders of quoted shares to only apply where those shares are actively and substantially traded on the stock exchange.

s.626B Exemption

The Bill seeks to prevent the availability of participation exemption on the disposal by a parent company of a subsidiary where money or other assets are transferred into the company in advance of the sale so that the company will not derive the greater part of its value on disposal from Irish land.

CG50 Clearance

The Bill introduces changes to align the availability of CG50 clearance with the two anti-avoidance measures discussed above.

Transfer of Assets Abroad

The Bill makes a number of changes to existing anti-avoidance provisions to ensure they comply with EU law. These changes provide that existing provisions regarding the use of non-resident trusts and companies will not apply where it is shown to the satisfaction of the Revenue Commissioners that genuine economic activities are carried on by the trust/company in an EU/EEA country.

Company Mergers and Divisions

The Bill contains a number of provisions dealing specifically with company mergers and/or divisions including:

Stamp Duty Exemption

The Bill provides for the availability of Stamp Duty exemption on the transfer of assets upon the merger of two companies.

Liabilities of Transferor Company

The amendment ensures that tax payments, filing and reporting obligations and liabilities of a transferor company will transfer to a successor company following a merger or division.

Repayments of Transferor Company

Similarly, the Bill also contains an amendment to enable a repayment to be made to a successor company in respect of tax overpaid by a transferor company following a merger or division.

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