

## **Preliminary List of Possible Items being Considered for the Finance Bill**

### **PART 1 - CONFIRMATION OF BUDGET RELATED ITEMS**

(where further examination of details is needed in context of Finance Bill this is indicated)

#### **Note:**

- Items listed only imply an issue is under examination for the Finance Bill **not** any decision/commitment to make a change. Other items not included here may also arise before finalisation of the Bill.
- A number of items on this list are sensitive including certain anti-avoidance provision and it is essential that this list be kept confidential.

### **Income Tax**

#### **Personal tax credit**

The personal credit is being increased by €130 per annum from €1,630 to €1,760 in the case of a single person and by €260 per annum from €3,260 to €3,520 in the case of a married couple.

#### **Employee tax credit**

The employee (PAYE) credit is being increased by €270 per annum from €1,490 to €1,760

#### **The one-parent family tax credit**

The one-parent family credit is being increased by €130 per annum from €1,630 to €1,760.

#### **Standard rate bands**

The single standard band is being increased by €2,000 per annum from €32,000 to €34,000. The married one-earner band is being increased by €2,000 from €41,000 to €43,000. The married two-earner band is being increased from €64,000 to €68,000, with transferability limited to €43,000. The lone parent/widowed parent band is being increased by €2,000 from €36,000 to €38,000.

#### **Age exemption limits**

The annual limits under which all income is exempted from tax for those aged 65 years and over are being increased by €2,000 in the case of a single person and €4,000 in the case of a married couple to €19,000 single and €36,000 respectively.

#### **Additional tax credit for certain widowed persons**

The widowed person's tax credit is being increased by €50 per annum from €500 to €550.

### **Widowed parent tax credit**

The widowed parent tax credit applies to widowed parents with dependent children in the five years following the year of bereavement. The amount applicable for each of the five years is being increased as follows:

<b>Year after year of bereavement</b>	<b>Current</b>	<b>Proposed</b>
Year 1	€3,100	€3,750
Year 2	€2,600	€3,250
Year 3	€2,100	€2,750
Year 4	€1,600	€2,250
Year 5	€1,100	€1,750

### **Blind person's tax credit**

The Blind person's credit is being increased by €260 per annum from €1,500 to €1,760 in the case of a single blind person and by €520 from €3,000 to €3,520 in the case of a married couple where both spouses are blind.

### **Incapacitated child tax credit**

The incapacitated child credit is being increased in value from €1,500 to €3,000 per annum.

### **Age tax credit**

The age credit is being increased by €25 per annum from €250 to €275 in the case of a single person aged 65 or over and by €50 from €500 to €550 in the case of a married couple where one spouse is or both spouses are aged 65 or over.

### **Rates**

The top rate of tax is reduced by 1% from 42% to 41%

### **Mortgage Interest Relief**

The ceiling on mortgage interest relief for first time buyers is being increased from €4,000 to €8,000 in the case of a single person and €8,000 to €16,000 for married or widowed person.

The ceiling on mortgage interest relief for non-first time buyers is being increased from €2,540 to €3,000 in the case of a single person and from €5,080 to €6,000 in the case of a married couple.

### **Taxation of Unemployment Benefit - Systematic Short-Time Workers**

The special tax exemption for unemployment benefit paid to systematic short-time workers is being extended indefinitely.

### **Business Expansion Scheme (BES) and Seed Capital Scheme (SCS)**

The Business Expansion Scheme is being renewed from 1 January 2007 for a seven year period to 31 December 2013. The BES company limit is being increased from its current level of €1 million to €2 million, subject to a maximum of €1.5 million to be raised in a twelve month period. The investor limit is being increased from its current level of €31,750 to €150,000.

To provide sufficient time for BES designated funds to raise finance from investors, it is intended to provide that, where any amount raised by a Designated Fund up to 31 January 2007 is invested in qualifying companies before 31 December 2007, the individual investors who subscribed to the funds will have the option of claiming tax relief on their investment for either the 2006 or 2007 tax years. Similarly, in the case of direct investment by investors in qualifying BES companies, where eligible shares are issued before 31 January 2007, the investor will have the option of claiming tax relief on their investment for either 2006 or 2007.

The Seed Capital Scheme is also being renewed from 1 January 2007 for a seven year period to 31 December 2013. The new BES limit of €2 million will also apply to the SCS, subject to a maximum of €1.5 million to be raised in a twelve month period. The investor limit is being increased from its current level of €31,750 to €100,000.

#### **Allowance for Rent Paid by Certain Tenants**

The maximum level of rent paid for private rented accommodation on which tax relief can be claimed, at the standard rate of tax, is being increased for those aged under 55 years of age, from €1,650 to €1,800 per annum for a single person and from €3,300 to €3,600 per annum for widowed and married persons. This equates to a tax credit of €360 per annum for single persons and €720 for widowed and married persons. For those aged 55 years and over, the maximum level of rent paid on which tax relief can be claimed is being increased from €3,300 to €3,600 per annum for a single person and from €6,600 to €7,200 per annum for widowed and married persons. This equates to a tax credit of €720 per annum for a single person and €1,440 per annum for widowed and married persons.

#### **Childminding Relief**

Budget 2006 introduced an exemption of up to €10,000 per annum on income from childminding where an individual minds up to three children, who are not their own, in the minder's own home. If childminding income exceeds this the total amount is taxable, as normal, under self-assessment. The €10,000 limit is being increased to €15,000.

#### **Rent a Room Scheme**

From 1 January 2007, it is proposed to close off use of the Rent-a-Room Scheme where the rent received is from connected persons who in turn are claiming rent relief.

#### **Increase in the Specified Rates for Preferential Home Loans and Other Loans**

An employee in receipt of a preferential loan is charged income tax on the difference between the interest actually paid and the amount which would have been payable at the "specified" rates of interest for the loans. To reflect increases in interest rates, the specified rate in respect of home loans is being increased from 3.5% to 4.5% and the specified rate in respect of other loans is being increased from 11% to 12%. These changes will take effect from 1 January 2007.

#### **Administrative Changes to help Taxpayers Claim Reliefs**

A number of changes in administrative procedures are being introduced which will make it easier for taxpayers to claim reliefs to which they are entitled. For 2007 all age-related tax credits will, where possible, be credited automatically to the taxpayer where a verified date of birth can be established through Revenue or Social Welfare

records. Arrangements will be made to enable individuals over 65 or permanently incapacitated, who will be entitled to a repayment of DIRT to be exempted from DIRT. A system will be implemented to credit tax relief on trade union subscriptions automatically, based on trade union membership lists. For 2008 it is planned to move, where possible, to automatic or prompted repayments in respect of non-reimbursed hospital expenses, prescribed drugs pharmacy costs and certain tuition fees to the extent that this is possible using information from appropriate third parties. Tax relief due on medical insurance paid by employers that has been subject to benefit-in-kind taxation will be automatically included in the employee tax credit. Where appropriate provisions will be included in the Finance to underpin the proposals e.g. the need to always make claims for relief and data protection issues

## **Capital Acquisitions Tax**

### **CAT Agricultural Relief – Off-farm Principal Private Residences**

CAT agricultural relief provides relief from CAT on 90% of the value of a gift or inheritance. In order to qualify for the relief, 80% of a farmer's total assets (after receipt of the gift/inheritance) must consist of qualifying agricultural assets. Off-farm principal private residences are not considered farming assets for the purposes of this relief. However, this provision is being amended so that an individual may off-set borrowings on an off-farm principal private residence against the property's value, for the purpose of the 80% test.

## **Capital Gains Tax**

### **Increase in Threshold for CGT Retirement Relief**

An exemption from CGT applies in the case of individuals aged 55 and over who dispose of qualifying business or farming assets, subject to certain conditions. Disposals made to a child or favourite niece/nephew are relieved in full. All other disposals are relieved up to the threshold of €500,000. This threshold is being increased from €500,000 to €750,000 from 1 January 2007.

### **CGT Retirement Relief – Disposals of Leased Land**

An exemption from CGT applies in the case of individuals aged 55 and over who dispose of qualifying business or farming assets. In order for a farming asset to qualify under the relief it must have been owned and used for farming purposes for at least ten years prior to disposal. The relief is now being extended, in certain circumstances, to disposals of land where the land had been leased prior to disposal. In order for such disposals to qualify under the relief, the following three conditions must be met: (a) the land in question must have been leased for no longer than 5 years prior to disposal, (b) the land must have been owned and used by the farmer for ten years prior to the initial letting of the land and (c) the land must be disposed of to the person who was leasing the land.

## **Corporation Tax**

### **Tax Credit scheme for Research and Development Expenditure**

The base year expenditure against which qualifying incremental expenditure on research and development (R& D) is measured under the tax credit scheme is being fixed at 2003 for a further 3 years to 2009. This will provide an additional incentive for increased expenditure on R& D in 2007, 2008 and 2009. The 2003 base year had originally been fixed for the first three years of the scheme (2004 to 2006) and was due to roll forward to 2004 for the purpose of calculating the 20% tax credit for 2007.

From 1 January 2007, expenditure by companies on sub-contracting R& D work to unconnected parties will qualify under the tax credit scheme up to a limit of 10% of qualifying R& D expenditure in any one year. This is in addition to the existing provision in the scheme in relation to subcontracting to universities.

It will be necessary to inform the European Commission about these changes from a state aid perspective.

### **Preliminary Tax payment arrangements for Corporation Tax**

Small companies have the option of paying their preliminary tax at the lower of 90% of the final liability of the current accounting period or 100% of the final liability of the previous accounting period. The corporation tax liability threshold for treatment as a small company is being increased from €50,000 to €150,000. This will be effective from preliminary tax payment dates arising after 6 December 2006.

New or start-up companies with a corporation tax liability of €150,000 or less for their first accounting period will not be required to pay preliminary tax in respect of that first accounting period and will instead be required to pay their final corporation tax liability for that accounting period at the same time as they are required to submit their tax returns (9 months after the end of the accounting period). This measure will come into effect from preliminary tax payment dates arising after 6 December 2006.

## **Certain Capital Allowances & Tax Expenditure Items**

### **Capital Allowances (and Expenses) for Business Cars**

The car value threshold for business cars is being increased from €23,000 to €24,000. The new threshold will apply to capital allowances and leasing charges for new and second-hand cars used in the course of a trade, profession or employment.

In the case of corporation tax, the new threshold will apply for expenditure incurred in an accounting period ending on or after 1 January 2007. In the case of income tax, the new threshold will apply for expenditure incurred in the basis period for the tax year 2007 and subsequent tax years.

### **Corporate Tax Relief for Investment in Renewable Energy Generation**

The qualifying period for the scheme of tax relief for corporate investment in certain renewable energy projects is being extended from 31 December 2006 to 31 December 2011. The extension is subject to clearance by the European Commission from a State

aid perspective, and will come into operation by way of a Commencement Order to be made by the Minister for Finance following such clearance.

## **Stamp Duty**

### **Stamp Duty Relief for Young Trained Farmers**

Stamp duty relief is available for farmers acquiring land, who are aged under 35 and have specific agricultural training. Amendments are being made to the education criteria and refunds procedure to this relief. Firstly, the FETAC Level 6 Advanced Certificate in Agriculture will become the new minimum education requirement from 31 March 2008; secondly, the qualifying third-level course titles are being updated; and finally, the refunds procedure is being simplified. The changes being made to the refunds procedure are as follows:

- the time limit within which young trained farmers can complete their education, following the transfer, is being extended from 3 to 4 years,
- the current requirement for specific minimum education attainments at the date of transfer is being abolished,
- the requirement that the refund claim be made within 6 months of qualification is also being abolished, and
- the 5 year period during which a young trained farmer is required to retain and farm the land will commence from the date of the claim for refund.

### **Stamp Duty Exemption for Sports Bodies**

A new exemption from stamp duty is being introduced for those sporting bodies covered by Section 235 of the Taxes Consolidation Act 1997, which are already entitled to relief of income tax and capital gains tax, subject to certain conditions. The exemption will relate to purchases of land for the purposes of promoting games or sports.

### **Head of Mortgage Charge**

Mortgage deeds, as with many legal documents, are liable to stamp duty. This is a separate stamp duty from that which is applied to the conveyance of property. Primary mortgages are currently exempt up to the value of €254,000, and those at higher values are subject to stamp duty of 0.1% subject to a maximum duty of €630 whether in respect of residential or non-residential property. The duty currently applied to collateral or additional mortgages is generally a €12.50 fixed duty and in the case of equitable mortgages and transfers of mortgages, generally 0.05%, subject to a maximum of €630. As of 7 December 2006, the stamp duty head of charge for mortgages is being abolished.

## **Indirect Taxes**

### **Tobacco Excise**

The Excise Duty on a packet of 20 cigarettes was increased by 50 cents (including VAT) with a pro-rata increase on the other tobacco products, with effect from

midnight on 6 December 2006. This has been provided for by financial resolution on Budget night.

### **Reduction in Excise Duty for Home Heating Oils (Kerosene & LPG)**

The Excise Duty on Kerosene is being reduced from €16 per 1,000 litres to zero. The Excise Duty on LPG is being reduced from €10 per 1,000 litres to zero. These reductions are effective from 1 January, 2007. This has been provided for by financial resolution on Budget night.

### **Introduction of a VRT Relief for Electric Cars**

A VRT relief of 50% for electric cars – cars which can be propelled solely by a rechargeable battery – is being introduced on a pilot one year basis, with effect from 1 January, 2007.

## **VAT**

### **VAT Registration Thresholds for SMEs**

The VAT registration thresholds for small businesses are being increased from €27,500 to €35,000 in the case of services, and from €55,000 to €70,000 in the case of goods. These increases will take effect from 1 March 2007 and has been provided for by financial resolution on Budget night.

### **VAT Cash Accounting Threshold**

The annual VAT cash accounting threshold for small firms is being increased from €635,000 to €1,000,000 with effect from 1 March 2007.

### **Less Frequent VAT Returns for Small Businesses**

The frequency of VAT payments, currently six per year, for smaller businesses is being reduced with effect from July 2007. For businesses with a yearly liability of €3,000 or less, the option of filing returns on a half-yearly basis will be available. For businesses with a yearly liability between €3,001 and €14,400, the option of filing returns every four months will be available.

### **VAT Relief for Conferences**

A specific measure which will allow deductibility of VAT on conference-related accommodation expenses will be introduced during 2007. Full details of the measure will be set out in the Finance Bill.

### **Increase in Farmers' Flat-rate VAT addition**

The farmers flat-rate addition is being increased from 4.8 per cent to 5.2 per cent with effect from 1 January 2007. This has been provided for by financial resolution on Budget night.

### **Reduction of VAT rate on Child Car Seats**

The VAT rate on child car seats will be reduced from 21% to 13.5% with effect from 1 May 2007. The option of cutting the rate to zero is not permitted under EU Law.

## **Farmers Taxation**

### **Extension of Stamp Duty Relief for Farm Consolidation**

Stamp duty relief for exchanges of farmland between two farmers for the purposes of consolidating each farmer's holdings was introduced on 1 July 2005 for a period of two years. The relief is being extended for a further two years to 30 June 2009. The relief will also be extended to qualifying exchanges of land where only one farmer is consolidating his/her holding. In such cases both farmers can qualify for relief, provided both farmers meet all other conditions of the relief.

Commencement of these changes will be dependent on State Aid approval from the European Commission.

### **Leased Land Exemption**

In Budget 2007 it was announced that an exemption of €20,000 per annum is to be introduced from 1 January 2007 for income derived from certain leases of farmland of ten years or more duration.

### **Extension of Farmer Stock Relief**

The 2007 Budget announced that the existing general 25 per cent stock relief for farmers and the special incentive stock relief of 100 per cent for certain young trained farmers will be extended from 1 January 2007 for a further two years subject to clearance with the European Commission under State aid rules.

### **Scheme of Capital Allowances for Milk Quota**

It was stated in Budget 2007 that the scheme of capital allowances for milk quota will be amended to ensure this relief is available for quota purchased under the new Milk Quota Trading System



**PART 2 - PRELIMINARY LIST OF POSSIBLE ITEMS BEING  
CONSIDERED FOR THE FINANCE BILL  
(Other than Budget issues)**

**Note:**

- Items listed only imply an issue is under examination for the Finance Bill not any decision/commitment to make a change. Other items not included here may also arise before finalisation of the Bill.
- A number of items on this list are sensitive including certain anti-avoidance provision and it is essential that this list be kept confidential.

**Income Tax**

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**Introduction of a Revised Living over the Shop Scheme (LOTS)**

The Living Over the Shop Scheme was terminated in Budget 2006 (subject to certain transitional measures) following a major review of tax schemes. However the Minister indicated at the time (in line with the consultant’s recommendations) that the introduction of a revised version of the scheme would be examined, the intention

being to confine the availability of LOTS incentives to areas where the scheme has a prospect of being implemented successfully.

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**Introduction of a revised Park and Ride Scheme**

As with LOTS this scheme was terminated in Budget 2006 following a major review of tax schemes. However the Minister indicated at the time (in line with the consultant’s recommendations) that the introduction of a revised version of the scheme would be examined with a view to reintroducing it in a more focused way, with the relief for associated residential and commercial developments being discontinued.

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**Introduction of a new scheme for Stallions**

It is hoped to include new provisions in the 2007 Finance Bill dealing with the taxation of stallions in the period after end July 2008 when the current exemption on the taxation of stud fees is due to come to an end.

**Business Expansion Scheme (BES) and Seed Capital Scheme (SCS)**

In addition to the changes announced in the Budget, a number of other changes designed to improve the operation of the schemes have been:

- (i) Add to qualifying trades recycling companies who have had a grant or financial assistance made available to them by an industrial development agency.
- (ii) Replace the feasibility grant payment requirement with a requirement that the relevant County Enterprise Board provide a certificate validating the business proposal.
- (iii) Development agencies to be required only to approve an employment grant for internationally traded services as opposed to actually paying the grant in order to gain entry to the scheme.
- (iv) Allow an individual to reduce his/her shareholding under SCS below 15% after one year to facilitate additional equity funding.
- (v) Increase the overall aggregate limit on amounts subscribed for share and loan capital of the company from €317,500 to €500,000 for an individual holding over 30% of the share capital of a company to ensure that the individual will not be regarded as connected with the company.

**Scheme of Tax Relief on Donations to Approved Bodies**

On 18 October 2006 the European Commission issued a reasoned opinion in which it took the view that the difference in treatment between gifts made to charities in Ireland and charities in other Member States is contrary to the EC Treaty. Ireland is currently preparing its response to the Commission’s reasoned opinion. Ireland is not alone among Member States in being affected by this issue (the UK and Poland were also issued with infringement notices) and would propose to work with the Commission and the other Member States concerned with a view to resolving the matter. The outcome of this work may need to be addressed in the Finance Bill.

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**Charities S207, S208, S848A & Schedule 26A**

Charities S207, S208, S848A & Schedule 26A – depending on when legislation providing for charities regulator is expected, amendments will be required to make cross link to bodies approved by the new regulator for the purpose of tax relief.

**Employee Share Ownership Trusts**

Depending on developments in Bord Gas, Bord na Mona and An Post, Finance Bill amendments may need to be considered to ensure eligibility of all those intended to benefit.

**Employee Shares**

Restriction/Forfeiture - this proposal (which has been on the last two year's Finance Bill lists) concerns the establishment of a statutory basis for the taxation of shares which are subject to conditions (various restrictions on sale) or forfeiture.

**Employee Shares**

Tax Treatment of various Employee Financial Participation Schemes including Approved Share Options Schemes, Profit Sharing Schemes, Employee Share Ownership Trusts and Save As you Earn Schemes – proposals have been received in relation to a number of these.

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**Employee benefit trusts**

Taxation of undistributed sums held in employee benefit trusts – this needs further consideration.

**Restriction on high earners**

There are a number of technical adjustments needed to these provisions.

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**Tax Treatment of Certain Payments, Expenses and Allowances**

A number of issues have arisen in relation to the tax treatment by employers of certain expense payments and allowances. An exemption for the travelling expenses of non-executive members of boards travelling to board meetings is being considered.

**Partnership Profits**

The issue of closing a possible avoidance loophole in relation to unallocated partnership profits is under consideration - may require an amendment to Section 1008 TCA. (Dealing with the assessment of partners.)

**Corporation Tax**

**Tax exemption for royalties and income from patents**

This exemption has been in operation since the 1970's and an internal review was conducted by the Department of Finance and the Revenue Commissioners in 2005 and published earlier this year. Some of the recommendations were implemented in the Finance Act 2006; the remainder will be considered for the Finance Bill 2007. The EU Commission commenced infringement proceedings against Ireland this year in relation to the scheme on the grounds that it is contrary to EU law. We have indicated to the Commission that we will undertake a full evaluation of the scheme in the context of the 2007 Budget and Finance Bill taking account, among other things, of its concerns. An external review of the scheme is under way. A report on the findings of the review is expected before the end of January 2007.

**Preliminary Corporation Tax payment arrangements**

The current arrangements whereby large companies have to pay 90% of their final CT liability as preliminary tax one month *before* the end of their accounting period represents a significant burden on such companies and they generally overpay preliminary tax to avoid interest penalties. Revenue have suggested that large companies could be allowed offset their preliminary tax payments between group members for the purpose of working out the adequacy of such payments for interest payments. This would prevent interest arising where say, one company in the group paid too much preliminary tax, while another paid too little. It would however be administratively complex.

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**Marks and Spencer judgement**

Amendments will be required to deal with the issues of cross-border losses raised in the ECJ decision on the Marks & Spencer case, insofar as they have relevance for Ireland

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**Transfer of assets abroad**

Consideration will be given to whether amendments may be necessary to the legislation on the transfer of assets abroad.

**Withholding tax on software payments received**

A request has been made to have an overall foreign pooling system (as opposed to a *per country* pooling system) for software payments that have suffered withholding tax in their source country.

**Dividend withholding tax (DWT)**

The introduction of electronic vouchers is a core feature of the harmonisation of global markets which is planned for 2008. It may be necessary to change the DWT legislation to facilitate the use of electronic dividend vouchers.

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**Pensions Taxation**

**Pensions taxation legislation**

Substantive issues in connection with the tax treatment of pensions (e.g. the case for and against the extension of the ARF option) will be considered in the context of the forthcoming Green Paper on Pensions Policy. There are, however, a number of issues in the pensions area that are under consideration for the Finance Bill, including the following:

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**Tax relief for migrant workers**

The Finance Act 2005 introduced tax relief for contributions paid by a migrant worker coming to the State who wished to continue contributing to a pre-existing “overseas pension plan” taken out with a pension provider in another Member State. Certain conditions apply including the requirement that tax relief on contributions is available in the Member State in which the plan is established. (This condition was included to provide additional assurance that the overseas pension plan was genuine). The EU Commission have taken the view that this condition conflicts with EU law on freedom of movement. AGs advice on this has been received and is being considered.

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**Standard approval conditions for Occupational Pensions Scheme “products”**

For reasons of administrative efficiency, Revenue are proposing that the law be amended so that in future where personal pension or single member schemes use standard documentation approved by Revenue and where contributions (both employer and employee) do not exceed the age-based % limits for tax relief, the schemes will qualify as exempt approved schemes for tax purposes without the need for individual Revenue approval.

**Joint-life ARFs**

It has been pointed out that prior to the introduction of ARFs, when the purchase of annuities was compulsory, a Joint-Life annuity could be purchased whereby the annuity (or a reduced annuity, as appropriate) would remain in payment to the surviving spouse on the death of the pensioner. In those circumstances, the spouse did not suffer an interruption in the flow of pension funds from the joint annuity. However, there is no provision for an ARF to be taken out in joint names. When an ARF owner dies there is no automatic reversion to a spouse as the ARF is personal property and must pass through the estate. There may be tax issues which would get in the way of allowing joint-life ARF arrangements, in particular in the case of non-spouse relationships. This matter requires very careful consideration.

### **Right of spouse to ARF pension fund in the event of death of pension fund beneficiary**

Instances can arise where a person eligible to take out an ARF dies before the process of transferring the pension fund into an ARF can be effected. In these circumstances, the bulk of the pension fund would compulsorily be used to purchase an annuity for the spouse. The case is being made that in such circumstances, the spouse should be allowed to ARF the pension fund. The significant issue here is that in allowing for such a development, the scope of the definition of those entitled to take out an ARF would be considerably widened, leaving the way open for further widening down the road.

### **ARF changes sought by Irish Association of Pension Funds (IAPF)**

The IAPF is pressing for changes in the ARF rules, first to exempt a certain proportion of ARF monies from the deemed distribution rules

### **PITC scheme**

Following the introduction of the Pensions Incentive Tax Credits scheme in the 2006 Finance Act which aims to encourage SSIA holders on lower incomes to invest some or all of their matured SSIA funds into long-term pension funds, there was a concern that retired SSIA holders could claim the credits and take out the benefits immediately. The Minister stated in September 2006 that he would introduce in legislation a requirement that SSIA moneys invested in pension funds together with any credits received under the PITC scheme in respect of those investments would have to be held for at least one year, otherwise there would be a claw-back of the credits.

## **Certain capital allowances & tax expenditure items**

### **Nursing home residential units**

The scheme of capital allowances for qualifying residential units associated with registered nursing homes was introduced for a 5 year period in March 2002. Among other changes introduced in the 2006 Finance Act, the period of eligibility for allowances on qualifying expenditure ( on a reducing basis) was extended to 31 July 2008 at which time the scheme is due to terminate. An external review of the scheme is underway to establish whether it should be retained beyond that date and in what format. A report and findings of the review is expected by mid-January 2007.

## **Financial Services**

As previously set out in the Tax Strategy Group paper on the international financial services sector, TSG 06/27, there are a number of specific tax measures that we are currently considering. A brief description of each is set out below, with more detail having already been supplied in the earlier TSG paper.

### **Taxation of Irish companies with foreign branches**

Where an Irish resident company has a branch in another country, the income of the branch will be taxed in the other country. It will also be taxed in Ireland as part of the company's world income. This results in double taxation. Where the other country is a country with which Ireland has a tax treaty, the Irish tax on the doubly taxed income will be reduced by the foreign tax on that income. There is no ability to offset any excess foreign tax against tax on any other class of foreign or domestic income.

The rule that the credit for foreign tax can only be set against Irish tax on the doubly taxed income is eased in certain circumstances, such as where dividends are received from substantial shareholdings. This exceptional treatment is limited to dividend and interest payments from subsidiary companies of an Irish parent company. It does not apply in respect of income of a foreign branch of an Irish resident company. We have been asked to extend this treatment to the foreign branch trading income of an Irish company and are currently considering the matter.

**Treatment of interest as a distribution**

Interest which is paid to a 75% related non-resident company is treated as a distribution and is disallowed in calculating a company's income for tax purposes. Companies however may elect to not have this treatment apply where certain conditions are met and where the interest is to be paid to resident of an EU Member State or a country with which Ireland has a tax treaty. Prior to 1 January 2006, IFSC and Shannon companies who met the other conditions could opt not to have the distribution treatment apply, regardless of the location of the recipient of the interest.

This non-deductibility may give rise to double taxation in certain circumstances where payments to non-treaty countries may also be liable to dividend withholding tax, which the recipient of the interest will not be in a position to reclaim. We are currently considering this matter with a view to eliminating any double taxation that arises.

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**Encashment Tax**

Encashment tax is a commonly used term for the withholding which applies to foreign dividends when paid by Irish paying agents or when received or realised by bankers, brokers or other receiving agents on behalf of the legal or beneficial owner of the income. Some perceived anomalies in the operation of this tax, on the ending of the IFSC regime, have been brought to our attention and we are currently examining the matter.

**CAT liability for Irish administered offshore funds**

Where non-domiciled funds are administered from Ireland, and the share register is also maintained here, a charge to Capital Acquisitions Tax may arise in certain circumstances. To avoid this charge the share register is normally kept offshore by Irish fund administrators. Although exemptions exist in legislation for ensuring that the charge does not arise for specific fund types in Ireland, it has been requested that the administration of funds itself be exempted. We are currently examining this issue to establish what difficulties exist.

**Foreign Currency Matching**

A technical amendment is required to a change introduced in Finance Bill 2006 to clarify the intention of the legislation.

**Double Taxation Agreements/Tax Information Exchange Agreements**

There are a number of proposed changes to the legislative provisions that make DTAs and TIEAs part of Irish law that we are currently examining. The issues are as follows;

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(ii)As the legislation is currently drafted there is the risk that TIEAs could be regarded as conferring similar domestic tax benefits on contracting jurisdictions as those given in Irish law to Treaty partners. In the circumstance it is proposed to delink TIEAs from Section 826 and to include specific reference to them in a new section which would ring fence whatever specific benefits are agreed.  
It is proposed to remove this potential ambiguity by means of a Finance Bill amendment.

**Capital Gains Tax**

**Child**

Consideration is being given to extend the definition of a child for disposals within a family of a farm / business to a grandchild, where the parent of the grandchild is a deceased child.

**Stamp Duty**

**First Time Buyer – Divorce / Separation**

Consideration is being given to extending the existing relief. This will ensure that where the existing condition, that the ‘family’ home must still be used by the other spouse, is not met as a result of the sale of the house, the individual can still benefit from first-time buyer relief.

**Property Review**

Consideration may be given to introducing changes to the stamp duty regime relating to property. XXX  
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**Irish Stock Exchange – Intermediary Relief**

Consideration is being given to introducing Intermediary Relief for Stamp Duty (on similar lines to the UK relief) for broker dealer firms and market makers to replace the existing reliefs available to them. This request has been made by the Irish Stock Exchange and is at present under discussion by the officials of the Department of Finance and the Revenue Commissioners with the Irish Stock Exchange.

**Minor Heads of Charge**

Consideration may be given to altering/ abolishing some minor heads of charge in the context of e-stamping.

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**Offshore Income Gains**

A technical amendment is being considered to rectify an anti-avoidance provision relating to resident and ordinarily resident.

**Capital Acquisitions Tax****Dwelling House Relief**

Consideration is being given to introduce changes to prevent possible abuse of this provision by wealthy individuals transferring expensive houses to their children

**Discretionary Trust Tax**

Consideration is being given to changing the date on which the tax becomes payable where a trust is created following death. This will follow a High Court decision earlier this year.

**Agricultural / Business Relief**

Consideration is being given to altering the date from which interest becomes payable in the context of a clawback of relief.

**Capital Gains Tax / Stamp Duty Tax****Site to Child**

Budget 2001 introduced an exemption from stamp duty and capital gains tax where a parent transferred a site to child for the purpose of building a dwelling for residing in themselves. The child cannot own another dwelling and it had to be constructed within 3 years of receipt of the site. A cap was placed on the value of the site to which these exemptions applied at €254,000 (IR£200,000). Where the site value exceeded €254,000, normal stamp duty and capital gains tax applied. Consideration is being given to making changes to the exemption by limiting the size of the site area to counter potential abuse by transferring large tracts of land, in certain areas, under this provision. Consideration may be given to increasing the CGT exemption from €254,000.

**Farm Transfers with Families**

Consideration may be given to altering the position where certain exchanges of farm land are made within families.

**Withholding Provisions (15%)**

A technical change is being considered to change the date on which tax withheld by a purchaser becomes payable, from the day after the assessment is made to 30 days after the net consideration is paid to the seller.

**Residential Property Tax**

**Sunset provisions**

Consideration is being given to finally abolishing the requirement to obtain clearance from Revenue on the sale of certain properties.

**Multiple Taxes**

**Irish Haemophilia Society**

Consideration may be given to introducing exemptions across various taxheads.

**Capital Gains Tax / Stamp Duty/Corporation Tax**

**Life Assurance**

Life insurance policies are liable to income tax at 23% on the net investment proceeds of the policy. Liability arises upon disposal of a policy or after a set period of time. The set periods concerned are currently 8 years with regard to single premium policies and 12 years with regard to regular premium policies. This taxation procedure is being amended so that the investment proceeds of all life insurance policies will become chargeable to income tax after a set 8 year period.

Some technical amendments will also be made to the legislation introduced in 2006.

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**Funds Industry**

**Investment Undertakings**

Legislation introduced last year provided for an exit tax at the end of each 8 year period following the acquisition of units in an investment undertaking. This mirrored a similar provision for life policies. Legislation may be required to deal with issues raised by the Funds Industry in relation to the scope of the 2006 changes.

Anti-avoidance provisions are also being considered in relation to arrangements identified recently.

## **Indirect Taxes**

### **Excise**

#### **Extending Opening Hours of Betting Shops**

There is a request from Horse Racing Ireland, and supported by the Minister for Arts, Sport and Tourism to (i) remove the current ban on betting shops opening on Easter Sunday; and (ii) extend opening hours up to 10pm in betting shops - this is motivated by the onset of night-time horse-racing racing under floodlights at a new Dundalk racetrack from August 2007.

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#### **Substitute Fuels**

It is intended to modify the existing provisions relating to substitute fuels to make it clear that, as provided in the EU Energy Tax Directive, such fuels, including biofuels, fall to be taxed at the rate applicable to the fuel for which they can be substituted. At the moment all substitute fuels used as propellants are taxed at the auto-diesel rate. The proposed modification would result in bioethanol products being taxed at the rate for unleaded petrol. Substitute fuels not used as propellants would continue to be taxed at the rate applicable to Marked Gas Oil.

#### **Destruction of seized tobacco products**

It is intended to modify the provisions relating to the handling of seized goods so that tobacco products can be destroyed immediately on seizure. This is intended to address serious storage, logistical and security problems posed by the large number of seizures (particularly of postal packages), and would put tobacco products on the same footing as hazardous and perishable goods. The provision would be

discretionary and would not affect the retention of evidence where prosecutions are being taken.

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**Increase in Excise Duty Rates on Firearms Certificates & Dealer Registrations**  
In light of the Criminal Justice Act 2006, some consideration is being given to increase excise duty rates on Firearms Certificates & Dealer Registrations. These have not been increased since 1992 and currently yield just over €5m per annum.

**VAT**

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**VAT Exemption for Homecare Services**

The question of the VAT treatment of privately provided homecare services was raised last year by the Minister for Health and Children in the context of that Department's new initiative aimed at providing homecare for people following a period in hospital. Discussions have been ongoing on this matter. In a press release of 7 December 2007 providing details of the Health package under Budget 2007, the Minister for Health and Children confirmed that provision will be made for a VAT exemption on private companies providing homecare packages.

An amendment to Health legislation is required before an exemption can be introduced under the Finance Bill. Given the timescale for the Finance Bill, the

<sup>1</sup> No requirement for a Finance Bill amendment. This is included for information only.



catered for in the VAT Act changes mentioned in the paragraph dealing with hire purchase above.

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### **Revenue Powers**

Issues for consideration in relation to Revenue Powers include:

- Search and production order powers exclusively for investigation of revenue offences.
- Power to require (current) third party information to be returned in electronic format, e.g., disc or CD, pending development of an e-third party return facility
- Current power requiring certain public bodies to provide information on persons to whom they make rent or rent subsidy payments to be extended to require furnishing of PPSN of such persons to Revenue.
- Create new offence of impersonating a Revenue officer
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- Reduce from 6 to 3 months the period commencing from the date of a valid repayment claim to the date from which interest accrues on the overpayment concerned.

### **Tax Administration**

#### **Professional Services Withholding Tax**

There will be a routine update of the Schedule of Accountable Persons via additions, deletions and amendments.

#### **Issues relating to Relevant Contracts Tax**

There are four proposed changes under consideration in relation to the legislation governing the administration of Relevant Contracts Tax (RCT), the tax which principal contractors are obliged to deduct at a rate of 35% from payments made to certain subcontractors in the construction, meat processing and forestry sectors. The issues concerned relate to;

- amending the definition of principal contractor to ensure that hospitals set up under Royal Charter (e.g. the Coombe) come within the RCT provisions and operate RCT in the same way as hospitals set up by or under statute (e.g. Beaumont) – may also need to extend the change to encompass voluntary public hospitals funded by the HSE



- making a provision to oblige principal contractors to return RCT1 declarations (that a contract is not a contract of employment) to Revenue and providing for a penalty for failure to comply. (These issues arose in the context of the *Partnership discussions*.)
- bringing the installation of mobile telecommunications networks and local wireless networks within the provisions of RCT
- bringing “*site development*” within the RCT provisions in light of a current appeal case where a property development partnership is claiming it does not have to operate RCT as it is not carrying on a business which “includes the erection of buildings”

### **Tax Clearance Procedures**

A provision is being considered allowing for the withdrawal of a tax clearance certificate in the event of non-compliance during the period of validity of the certificate.

### **Fixed Charge on Company Book Debts.**

Under Section 1001 of the TCA Financial Institutions and Lenders are required to inform the Collector General if they have taken out a fixed charge on the book debts of a company and to forward a copy of the documents which have been lodged with the Company Registration Office in relation to the fixed charge. The proposal is to replace the requirement for a full set of these documents with a simplified return containing only the details needed.

### **Interest on Repayments (Section 865)**

There are possible tensions between the 4-year time limit relating to the making of repayment claims and the provisions of certain reliefs, e.g. 10 years for sportspersons and 6 years for Seed Capital Relief. These issues are currently being examined.

### **Repayments and Interest on Repayments**

In case of Robert Harris V Revenue, the Supreme Court ruled that tax overpaid by a taxpayer on the basis of a decision of the Appeal Commissioner was refundable, notwithstanding that the matter was subject of appeal by the Revenue to the courts. Consideration is being given to changes in the law required by the ruling - either to confirm it in tax law or to overturn it. If it is to be confirmed and repayments made, the question of interest both payable on the refund and chargeable on the underpaid tax if the determination is subsequently overturned, also needs to be addressed.

### **Review enabling provisions for PAYE Regulations**

The existing PAYE Regulations are in place for over 45 year and it is felt that both the primary law enabling provisions, as well as the Regulations, need to be reviewed and updated.

### **Estimated Assessment**

The issue of making legislative provision to allow the Collector General raise estimated assessments on non-filers in income tax and corporation tax self-assessment cases is under consideration. Such assessments may currently be raised by an Inspector.

## **Technical Amendments**

### **Amendment to S 951 (11) of TCA 1997**

There may be a need to amend the legislation to reflect certain non-self assessment provisions which have a link to the term “inspector of returns” in this section.

### **Amendments to sections 615 to 617 of TCA 1997**

This concerns the disposal of assets outside the State. The issue relates to the wording of section 620A and its interaction with sections 615 and 617 on assets that are subject to CGT (as opposed to CT) because they are not used for the purpose of the business.

### **Section 934 (2) a (ii)**

Procedure on appeals - reference to "Institute of Taxation" to be changed to "Irish Taxation Institute"

### **Section 862 - Exercise of Powers, etc of Minister for Finance under Tax Acts**

Section to be amended to include Second Secretary General to act as signatory under the Tax Acts on behalf of the Minister.