BYRNE WALLACE

LAW FIRM

Budget 2016: Insights & Analysis

Contents

BYRNE WALLACE TAX ADVISORS

13 October 2015

Business Tax

"We will defend our 12.5% corporation tax rate and promote innovation..."

- Minister for Finance, **Budget 2016**

Corporation Tax Rates

There are no changes to the existing corporation tax rates.

Knowledge Development Box

One year after announcing the introduction of the Knowledge Development Box, the Minister of Finance announced details of the qualifying activities which can avail of the newly introduced corporation tax rate.

The purpose of the Knowledge Development Box is to encourage companies to develop intellectual property in Ireland and thereby engage in substantive operations that have a high 'value-add' for the Irish economy. This is the first OECD compliant Knowledge Development Box in the world.

The Knowledge Development Box will apply a corporation tax rate of 6.25% to profits arising to certain intellectual property assets (certain patents and copyrighted software) which are the result of qualifying research and development activity carried out in Ireland.

Corporation Tax Rates	2016
Trading activities	12.5%
Passive activities	25%
Knowledge Development Box activities	6.25%

Employment and Investment incentive (EII) Scheme and Start Up Relief for Entrepreneurs (SURE)

The EII scheme is being amended so that investments in the extension, management and operation of nursing homes now qualify for relief. The amount of finance that a qualifying company can raise through EIIS funding is being increased to €5m annually with a lifetime limit of €15m.

Amendments will be introduced to SURE in order to comply with EU State Aid rules.

Corporation Tax Start Up Relief

The relief from corporation tax on trading income (and certain capital gains) of new start-up companies in their first three years of trading (where the corporation tax liability does not exceed €40,000) is being extended for companies commencing to trade on or before 31 December 2018.

Capital Allowances for Certain Aviation Services Facilities

The provisions previously announced for accelerated capital allowances for the construction of buildings for use in the repair, maintenance, overhaul or dismantling of aircraft will commence with effect from midnight on 14 October 2016, subject to some minor changes to ensure compliance with EU State Aid rules.

Film Credit

The cap on eligible expenditure is being increased from €50m to €70m, subject to State Aid approval. The Minister for Finance has confirmed that the limit will be kept under review going forward.

Capital Tax

Capital Gains Tax

The rate of capital gains tax has remained unchanged at 33% which is disappointing given the recent recovery in asset values, the willingness for individuals to pass wealth on and the willingness to sell assets at an acceptable tax rate.

Capital Gains Tax - Entrepreneur's Relief

However, a new capital gains tax rate of 20% on gains arising from the sale of the whole or part of a business is being introduced from 1 January 2016 for individuals.

The relief will be subject to a lifetime limit of €1,000,000 in gains from the sale of qualifying business assets.

Capital Gains Tax Rates	2016
On general gains	33%
On the sale of whole or part of a business	20%

Capital Acquisitions Tax

The rate of capital acquisitions tax on gifts and inheritances remains at 33%.

The capital acquisitions tax Group A threshold will be increased from €225,000 to €280,000 with effect from 14 October 2015. The Group A threshold applies generally to transfers between parents and their children.

The Group B (siblings, niece, nephew, grandchildren) and Group C (non-relatives) thresholds remain unchanged at €30,150 and €15,075 respectively.

Capital Acquisitions Tax	2016
Group A Threshold	€280,000
Group B Threshold	€30,150
Group C Threshold	€15,075

Entrepreneurial Tax

New Incentives for Entrepreneurs

Following a public consultation on ways to encourage and support entrepreneurship, the Minister for Finance is introducing a diverse range of new measures and incentives. We have already provided details on some of these new incentives and outline a summary of the main measures below.

Capital Gains Tax Entrepreneur's Relief

A new capital gains tax relief for individual entrepreneurs who propose to sell their business is being introduced from 1 January 2016.

The relief will provide for a lower capital gains tax rate of 20% (instead of 33%) to net chargeable gains arising on the disposal of assets comprising the whole or part of a trade or business, subject to a lifetime limit of €1,000,000 on such gains arising to the individual.

Capital Gains Tax Rates	2016
On the sale of whole or part of a business	20%
On general gains	33%

Knowledge Development Box

The Knowledge Development Box is being introduced to encourage companies to develop intellectual property in Ireland and thereby engage in substantive operations that have a high 'value-add' for the Irish economy. This is the first OECD compliant Knowledge Development box in the world.

The Knowledge Development Box will apply a corporation tax rate of 6.25% to profits arising to certain intellectual property assets (certain patents and copyrighted software) which are the result of qualifying research and development activity carried out in Ireland.

Corporation Tax Rates	2016
Trading activities	12.5%
Passive activities	25%
Knowledge Development Box activities	6.25%

Earned Income Credit

An "Earned Income Credit" of €550 will be available from 2016 for self-employed taxpayers and to business owners/managers who are ineligible for a PAYE credit on their salary income.

Income Tax Credit	2016
Earned Income Tax Credit	€550

Corporation Tax Start Up Relief

The relief from corporation tax on trading income (and certain capital gains) of new start-up companies in the first 3 years of trading (where the tax liability does not exceed €40,000) is being extended for companies commencing to trade before 31 December 2018.

The relief was due expire on 31 December 2015.

Employment and Investment Incentive ("EII") Scheme and Start Up Relief for Entrepreneurs ("SURE")

The amount of finance that can be raised by a company under the EII Scheme is now €5,000,000 annually, subject to a lifetime cap of €15,000,000.

The EII Scheme is also being expanded to allow investments in the extension, management and operation of existing nursing homes.

Amendments will be introduced to SURE in order to comply with EU State Aid rules.

Income Tax

As expected, **Budget 2016** introduced a number of amendments to the Universal Social Charge to lower the marginal rate of tax for existing taxpayers. This will make Ireland more attractive for returning emigrants.

Budget 2016 also provided a measure of relief to ensure self-employed individuals pay almost the same amount of tax as employees.

Universal Social Charge

The entry point for Universal Social Charge ("**USC**") is being increased from €12,012 to €13,000 from 1 January 2016. New reduced rates of USC will also be introduced from 1 January 2016. For the 2015 USC rates and bands, please see our **Tax Rates & Bands 2016.**

USC Rates	2016
The first €12,012 of income	1%
Income from €12,013 - €18,668	3%
Income between €18,669 to €70,044	5.5%
Income between €70,045 to €100,000	8%
Self-employed income in excess of €100,000	11%

The exemption from the top rate of USC is being retained for medical card holders and individuals aged 70 and older whose total annual income does not exceed €60,000.

The impact of the changes to the USC regime will result in a marginal rate of tax for individuals earning less than €70,044 in 2016 of 49.5%.

PRSI

Employers will only have to pay PRSI at 10.75% on salary payments higher than €376 per week from 2016.

A tapered PRSI tax credit is also being introduced for employees. The credit will be worth as much as €624 per annum (€12 per week) to certain employees.

Self-Employed Tax Credit

An "Earned Income Credit" of €550 will be introduced for the first time from 2016 and will be available for self-employed taxpayers and business owners who are ineligible to claim a PAYE credit on their salary income.

Home Carer Tax Credit

The Home Carer Tax Credit is being increased to €1,000 per annum from 2016. The income limit for the home carer is also being increased to €7,200 in 2016 before the full credit is reduced.

Income Tax Credit	2016
Earned Income Tax Credit	€550
Home Carer Tax Credit	€1,000

Young Farmers

For farmers, general and young trained farmer stock relief has been extended for a further 3 years until 31 December 2018.

An income tax credit worth up to €5,000 in each year for five years for certain family farming partnerships has been introduced to enable the transfer of family farms to the younger farmer.

Home Renovation Incentive

The Home Renovation Incentive ("**HRI**") is being extended to 31 December 2016. HRI provides for tax relief by way of an income tax credit at 13.5% of qualifying expenditure on repair, renovation or improvement works carried out on a main home or rental property by qualifying contractors.

High Income Earners Restriction

Profits or gains from the occupation of woodlands are being removed from the High Income Earners Restriction.

Indirect Tax

Value Added Tax

There are no changes to the rates of VAT.

The Minister for Finance confirmed that the 9% rate of VAT applicable to the tourism and hospitality sector (restaurants and catering, hotel accommodation, admission to cinemas, theatres and museums) is to be retained.

Value Added Tax Rates	2016
Standard	23%
Reduced (land and buildings, heating and electricity, waste disposal, car hire)	13.5%
Tourism and Hospitality Sector	9%

Excise Duties

Excise duty on a pack of 20 cigarettes is increased by €0.50 (including VAT) with a pro-rata increase on other tobacco products. This measure will take effect from midnight.

There are no changes to the excise duty on beer, cider or other alcohol products.

Property Tax

Local Property Tax

There are no changes to the rates of local property tax.

An initial valuation of properties was reached on 1 May 2013 and is applicable for 2013 – 2016.

The Minister for Finance announced his intention to propose the postponement of the revaluation date for the local property tax from 2016 to 2019. The Minister noted that legislation to implement the postponement would be brought forward in due course.

Some local authorities have exercised their ability to reduce the rate of the local property tax within their respective areas by up to 15%.

Local Authority	Local Property Tax Reduced By
Louth County Council	1.5%
Limerick City and County Council, Longford County Council, Mayo County Council and Westmeath County Council	3%
Kildare County Council	7.5%
Cork County Council and Cork City Council	10%
Clare County Council, Dublin City Council, Dun Laoghaire Rathdown County Council, Fingal County Council, South Dublin County Council and Wicklow County Council	15%

Stamp Duty

Stamp Duty on Property

There are no changes to the rates of stamp duty applicable to residential and non-residential property or the stamp duty rate applicable to shares.

Stamp Duty Rates	2016
Residential Property - Market value up to €1,000,000 - Market value in excess of €1,000,000	 1% 2%
Non-Residential Property	2%
Shares	1%

Stamp Duty on Debit/ATM cards

The annual stamp duty of €5.00 on Debit/ATM cards will be abolished.

A new charge of €0.12 per ATM transaction will be introduced and subject to a cap of €2.50 for ATM cards or €5.00 for combined Debit/ATM card. There will be no charge for Debit transactions.

Other matters

Pension Fund Levy

The pension levy of 0.15% will expire at the end of 2015.

Extension of Bank levy to 2021

The Financial Institutions Levy was originally introduced for the period from 2014 – 2016. It is extended to 2021.

Reduction in Motor Tax

The rate of motor tax will be reduced for all vehicles above 4000kg.

A new annual rate will be introduced of €500 for vehicles between 4,000kg - 12,000kg and €900 for vehicles over 12,000kg.

Excise Duty Relief for Microbreweries

The special relief reducing the standard rate of alcohol products tax by 50% on beer produced in microbreweries will now be available upfront as well as through a rebate.

Agricultural Tax Reliefs

Certain agricultural tax reliefs will be extended until the end of 2018:

1. General stock relief and stock relief for young trained farmers;

2. Stock relief for registered farm partnerships; and

3. The stamp duty exemption for young trained farmers.

A new succession transfer partnership model will be introduced from 1 January 2016, subject to EU State Aid approval. This will allow two persons enter into a farming partnership with the intention of transferring the farm to the younger farmer within 10 years. This purpose of this relief is to facilitate knowledge transfer and a gradual transfer of control between farm partners.

International Tax Strategy

Last year, the Irish Minister for Finance published Ireland's International Tax Strategy, which was followed in today's **Budget 2016** by a Road Map for Ireland's Tax Competitiveness.

The Minister highlighted a number of initiatives in the Department of Finance's update:

1. The OECD's Base Erosion and Profit Shifting ("**BEPs**") reports do not affect Ireland's 12.5% corporation tax rate. The OECD has explicitly stated that taxation is at the core of countries' sovereignty, and that each country is free to set up its corporate tax system as it chooses, including charging the rate it chooses;

2. The introduction of a Knowledge Development Box ("**KBD**"). The KDB will be the first and only Knowledge Development Box in the world to meet the tough new standards of the OECD's 'modified nexus' approach; and

3. Our commitment to the OECD standard provides long-term certainty to taxpayers at a time when many international businesses are re-evaluating their structures and investment choices to compete and succeed in a post-BEPs world.

Update on Ireland's International Tax Strategy

Ireland's International Tax Strategy sets out a Charter with the principles and objectives underlying Ireland's international tax policy. The Minister today published an update on those commitments stating: *"Ireland is committed to maintaining an open, transparent, stable and competitive corporate tax regime."*

Since October 2014, this has been achieved by:

- Three new Double Taxation Agreements signed;
- One Protocol to a Double Tax Agreement signed; and
- Three new Tax Information Exchange Agreements signed.

The Minister for Finance stated today "*Ireland is committed to global automatic exchange of tax information, in line with existing and emerging EU and OECD rules."*

Since October 2014, this has been achieved by:

- FATCA-related bilateral exchange of information between Ireland and the US which began in September 2015;
- Legislating for the OECD's Common Reporting Standard in Finance Act 2014; and

- Ireland actively supporting work at EU level on revisions to the Directive on Administrative Cooperation to facilitate the automatic exchange of financial account information and information on cross border tax rulings.

The Minister for Finance stated "*Ireland is committed to actively contributing to the OECD and EU efforts to tackle harmful tax competition.”*

Since October 2014, this has been achieved by:

- Ireland actively engaging in the OECD's BEPs project;
- The introduction of Country by Country reporting in Finance Bill 2015, as recommended in BEPs Action 13; and
- The Knowledge Development Box designed in a manner that ensures compliance with the international best practice agreed in BEPs Action 5.

The Minister for Finance stated *“Ireland is committed to engage constructively and respectfully with developing countries in relation to tax matters including by offering assistance wherever possible.”*

Since October 2014, this has been achieved by:

- Country by Country reporting as recommended by BEPS Action 13, will be introduced in Finance Bill 2015; and
- Tax Treaties with two developing countries have been re-negotiated to provide for greater source country taxation.

Next Steps

The Minister for Finance highlighted today that Ireland will be legislating in the Finance Bill for Country by Country reporting in accordance with the OECD standard.

In addition, Ireland will also introduce a Knowledge Development Box in accordance with the OECD ‘modified nexus’ model. This will be the first and only OECD-compliant box in the world. This offers certainty to those who see the KDB as an important new dimension to a best in class offering, alongside the headline 12.5% rate, R&D tax credit and IP amortisation regimes.

Two other matters were also highlighted in **Budget 2016**. Firstly, work is already underway among over 90 countries towards finalising a multilateral instrument (“**MLI**”) by the end of 2016. This MLI will provide the mechanism for extensive changes to tax treaties and will deliver upon a number of important OECD BEPs actions, including agreed standards on treaty shopping and dispute resolution as well as best practice recommendations on permanent establishment rules.

Ireland will continue its close engagement at OECD level on the MLI and looks forward to the satisfactory conclusion of this important work.

On transfer pricing, the OECD Council will approve the BEPS report on Actions 8-10 in 2016. Countries, including Ireland, will then be expected to update the references in their national tax laws to the revised ECD Transfer Pricing Guideline.

Ireland and the EU Agenda

The European Commission's Action Plan for Fair and Efficient Corporate Taxation in the EU was published on 17 June 2015. It proposes a review of the corporate tax framework in the EU, with the aim of reforming the EU framework and how national tax systems interact. The purpose of the plan is to provide a fairer, growth friendly corporate tax framework for the EU.

The Minister for Finance stated that Ireland has welcomed the postponement of the consolidation aspect of the Common Consolidated Corporate Tax Base ("**CCCTB**") as a pragmatic solution given the standstill in discussions to date and we await the Commission's relaunched proposal on the common base. The Irish Government is committed to constructively engaging in discussions to ensure that Ireland's perspective is fully heard in this decision.

It was also highlighted that Ireland disagrees with any harmonisation of tax rates, or minimum levels of taxation. This is a key Member State competence and Ireland does not support the extension of the Code of Conduct Group criteria to include the examination of practices that do not result in preferential taxation of profits. However Ireland supports improvements to the functioning of the Code of Conduct Group and has tabled a paper to this effect which was discussed at official level.

How can ByrneWallace help?

ByrneWallace Tax Team

At ByrneWallace, we offer a fully integrated tax service providing both advisory and compliance services to our clients. Our highly experienced team is made up of lawyers, chartered accountants and tax advisors.

Focused on offering pragmatic and realistic solutions, we advise a broad range of clients including private and public sector organisations, international corporations, financial institutions as well as private clients. As part of our multi-disciplinary approach, we regularly work alongside lawyers from our other practice areas to advise on the taxation aspects of client transactions.

Our team has developed specialist expertise advising clients on structured finance transactions, capital market issues, investment funds and cross border financings. We have significant experience in the area of intellectual property planning, mergers and acquisitions, inward investment, group re-organisations, property acquisition and holding structures. We also provide advices on all personal taxation matters including employment related issues, pensions, retirement, succession planning and other matters affecting high net worth individuals.

ByrneWallace can assist you and your business in navigating through the new changes proposed by Budget 2016.

Please contact any member of our Tax Team or your usual ByrneWallace contact for more information or advice.

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