Tax Matters

TAX SERVICES

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Tax Matters

Ireland 2006

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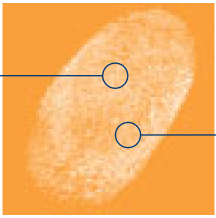

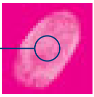

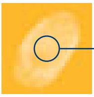

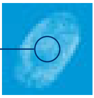

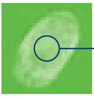

Tax Matters Ireland 2006

Introduction

At Ernst & Young, we have one of the premier tax practices in Ireland, comprising some of the country's most respected tax advisors. We are trusted by many of the largest national and multinational companies, semi-state organisations and entrepreneurial companies, to deliver knowledge-driven tax advice, sharing what we know to best serve their businesses. We are a leader in tax planning and assurance for individuals and other non-corporates. We also have a specialist Indirect Taxes group dealing with VAT and Customs Duties issues and a number of teams dealing with income and capital tax issues for high net worth individuals, senior executives and employers.

Providing a full suite of tax services, the depth and breadth of our expertise ensures that we continuously exceed our customers' expectations. We invest time to understand our clients and their needs, tailoring our services to meet those needs. We also invest resources in continuous education and training to ensure we are best placed to develop and deliver the solutions our clients require.

Understanding that sometimes, local problems require local solutions, we have one of the most comprehensive networks of tax practices in Ireland, with offices in each of the main urban centres nationwide.

Our clients are at the heart of what we do and we are constantly looking at ways to add value to their businesses. We have developed 'Tax Matters' to answer some of the queries you may have arising from changes in taxation law following the passing into law of the 2006 Finance Act.

We welcome your feedback on what, we hope, will prove to be a useful reference and look forward to hearing from you should you have any queries.

Kind regards

David Smyth
Head of Tax Services
Ernst & Young

Contents

1. Personal Tax

Income tax rates

		€
Single	20%	0 – 32,000
	42%	32,001 upwards
Single Parent	20%	0 – 36,000
	42%	36,001 upwards
Married – One Income Couple	20%	0 – 41,000
	42%	41,001 upwards
Married – Two Income Couple	20%	0 – 64,000*
	42%	64,001 upwards

** Assumes the second spouse has an income of at least €23,000 per annum. If the second spouse's income is less than €23,000, the €41,000 band (Married – One Income Couple) is increased by €1 for each €1 of income up to a maximum of €23,000.*

Tax credits

	€
Single Person	1,630
Married Person	3,260
Single Parent (additional)	1,630
Widowed	
year of bereavement	3,260
subsequent years (no dependent children)	2,130
subsequent years (with dependent children)*	1,630

** Qualifying for Single Parent credit. Also, additional credit due (reducing from €3,100 to €1,100) for widowed individuals with dependent children for the 5 years after bereavement.*

PAYE	1,490
Home Carers Credit (maximum)	770
Age (65 or over in the tax year)	
Single	250
Married	500
Blind Person	
Single/widowed	1,500
Both spouses	3,000
Rent Relief (for private accommodation)	
Single – under 55	330
Single – 55 or over	660
Married/widowed – under 55	660
Married/widowed – 55 or over	1,320
Incapacitated Child (maximum)	1,500
Dependent Relative (maximum)	80
Medical Insurance (relief granted at source)	@ 20%

Dental Insurance	@ 20%
Medical Expenses	
Individual – expenses incurred in excess of €125	@ 42% *
Family – expenses incurred in excess of €250	@ 42% *
Waste Charges paid in previous year	@ 20%
Permanent Health Insurance (on premiums of up to 10% of total income)	@ 42% *
Educational Fees (maximum €5,000 per annum in respect of qualifying courses for academic year 2005/06 and onwards)	@ 20%
Business Expansion Relief (maximum relief per annum @ 42% *)	31,750
Film Investment (@ 42%) (maximum relief per annum €31,750 x 80%)	25,400

** Assuming individual pays tax @ 42%; otherwise 20%.*

Small income exemption thresholds

Under 65 – Single/widowed	5,210
Over 65 – Single/ widowed	17,000
Under 65 – Married, jointly assessed	10,420
Over 65 – Married, jointly assessed	34,000
Increase per dependent child	
For each of the first two children	575
For each subsequent child	830

Mortgage interest

For tax year commencing 1 January 2006, maximum tax relief available at the standard rate of 20% is shown in the tables below. The mortgage provider should grant this relief at source. (If in doubt, contact your bank or building society.) A first time buyer is an individual who first purchased a residence up to 7 years preceding the current tax year.

First Time Buyer	**€**	**Maximum interest on which relief is granted**
Single	800	(4,000 x 20%)
Married/widowed	1,600	(8,000 x 20%)

Non-First Time Buyer	**€**	**Maximum interest on which relief is granted**
Single	508	(2,540 x 20%)
Married/widowed	1,016	(5,080 x 20%)

Interest on loans to invest in a business

In certain circumstances, interest paid on money borrowed to acquire shares in, or to lend to, a private trading or holding company, or invest in a partnership, may be allowed in whole or in part as a deduction from total income. Interest on loans taken out with an EU-based financial institution is now also allowable for tax relief purposes. Relief cannot be claimed on interest paid on loans taken out to acquire shares issued under the Business Expansion Scheme or Film Investment Scheme.

Tax relief available to individuals for interest on loans taken out to acquire an interest in property rental income companies is no longer available for all new loans taken out after 7 December 2005. However, tax relief will continue to be available to individuals for interest on existing loans taken out to acquire an interest in such companies and on new loans taken out in relation to trading companies.

Business expansion relief

This relief gives individuals a tax deduction for the cost of acquiring shares in certain Irish companies. Maximum relief of €31,750 per annum is available at the individual's top tax rate. This relief terminates on 31 December 2006.

Seed capital scheme

This relief provides that an individual who leaves employment (or an unemployed person) to start their own business may claim a refund of tax on previous income for up to 6 tax years in respect of investment in the new business. Maximum relief is €31,750 per annum at the individual's top tax rate. This scheme terminates on 31 December 2006.

Film investment

An individual who invests in a qualifying film may claim a tax deduction at their top rate of tax. The deduction is capped at €31,750 x 80%, i.e. €25,400 per tax year.

Donations to charities and other approved bodies

There is a uniform scheme of tax relief for donations to charities and other approved bodies. Both individuals and companies may claim relief. The minimum donation in any year is €250. If an individual is associated with an approved body, relief is restricted to 10% of the individual's total income for that tax year.

With effect from 1 January 2006, tax relief will be available in respect of qualifying donations in the form of publicly quoted securities. Previously, tax relief was available only on donations made in the form of money.

Donations of heritage items in lieu of payments

Heritage items donated by an individual or company to a body approved by the State may be used to discharge income, capital gains, gift/inheritance or corporate tax liabilities arising in the year in which the gift is made. To claim this relief, the items donated must have a minimum value of €100,000.

A new tax relief is being introduced for the donation of heritage property to the proposed Irish Heritage Trust. The scheme will provide for up to 100% of the total market value of the heritage properties donated to the Trust to be offset against the tax liabilities of the donor. There is a ceiling on the aggregate value of property qualifying for the scheme in any one year of €6m.

Childminding relief

A new childminding relief is available from the tax year 2006 onwards. Where an individual minds up to three children (excluding their own children) in the minder's own home, no tax will be payable on the childminding earnings received, provided the amount is not more than €10,000 per annum. If childminding income exceeds this, the total amount will be taxable, as normal, under self-assessment.

Principles of tax resident, ordinarily resident and domiciled

An individual who is resident, ordinarily resident and domiciled in Ireland is subject to Irish tax on their worldwide income and gains, subject to any relief under a relevant Double Tax Treaty. An individual who is resident in Ireland but either not domiciled or not ordinarily resident may be entitled to the remittance basis of assessment on investment income and gains arising outside of Ireland and the UK. With effect from 1 January 2006, the remittance basis of assessment is no longer available in respect of employment income insofar as an employment is exercised in the State.

Tax resident

An individual is tax resident for a tax year if present in Ireland for:

- a total of 183 nights or more in the tax year; or
- a total of 280 nights or more in aggregate in the current tax year and the preceding year. This test only applies where an individual has spent more than 30 nights in Ireland in each year.

Ordinarily resident

An individual becomes ordinarily tax resident in Ireland after being tax resident in Ireland for 3 consecutive tax years. An individual who is ordinarily resident and who ceases to be tax resident in Ireland will be treated as continuing to be ordinarily tax resident for 3 tax years after the tax year of departure and can therefore remain taxable in Ireland.

Where an individual is ordinarily tax resident but not tax resident in Ireland, they will not be liable to Irish income tax on profits of a trade or profession or remuneration from employment where all the duties are exercised abroad (incidental duties performed in Ireland will not be taxable). However, investment income, if it exceeds €3,810, and capital gains in the tax year will be liable to Irish tax.

Domiciled

An individual is domiciled in Ireland if their habitual ties are with the Republic of Ireland or their father was domiciled in the Republic of Ireland. Domicile of origin is retained unless the individual takes steps to acquire a domicile of choice elsewhere.

Remittance basis of assessment

Individuals domiciled outside Ireland and Irish citizens who are not ordinarily tax resident in the State are entitled to a remittance basis of assessment in Ireland on investment income. The remittance basis was available on employment income up to 31 December 2005, but is restricted to investment income and employment income arising from duties performed outside Ireland and outside the UK with effect from 1 January 2006.

Cross border relief

This relief is available to an individual who is tax resident in Ireland but required to perform employment duties outside Ireland. In order to avail of the relief, the individual must exercise an employment outside Ireland in a country with which Ireland has a Double Tax Treaty for a continuous period of at least 13 weeks in a tax year. For every week during which the individual works outside Ireland in a qualifying employment, the individual must be present in Ireland for at least one day in that week. The relief does not apply to State employment or semi-State employment.

Professional services withholding tax

Individuals who are paid for professional services rendered to certain bodies (such as government departments, local authorities, semi-State companies, health boards) are paid net of tax at the standard rate of 20%. A Form F45 is issued as evidence of the tax withheld and this document should be submitted by the individual when filing their tax return. Professional advice should be sought in this regard.

Self-assessment

Tax returns

Proprietary directors, individuals who have been granted or exercised share options, and individuals with non-Pay As You Earn (PAYE) income are obliged to file their annual tax returns by 31 October following the end of the tax year (i.e. the tax return for the year 31 December 2006 must be filed by 31 October 2007). If a completed tax return is not filed by the due date, a surcharge liability will arise. The surcharge is 5% of the tax liability if the tax return is submitted by 31 December (maximum €12,700) and 10% thereafter (maximum €63,500). The surcharge is calculated on the full tax liability even if the correct amount of tax has been paid.

Payments

Income tax for those governed by the self-assessment regime, apart from share options, is due for payment by 31 October in the following tax year. Final income tax for 2006 is due by 31 October 2007. In addition, preliminary tax (a prepayment of the current year's tax liability) is due for payment by 31 October for the relevant tax year, i.e. 31 October 2006 in respect of 2006.

Three options are available when calculating the amount of preliminary tax payable:

- 100% of the preceding year's final income tax liability;
- 90% of the current year's final income tax liability; or
- 105% of the pre-preceding year's final income tax liability. This option is only available to those who wish to pay preliminary tax by direct debit instalments and where they had a liability in the pre-preceding year.

Where the correct amount of preliminary tax is paid, any balance of income tax payable is due for payment no later than the due date for filing the tax return (i.e. 31 October following the tax year). The due date for any balance of tax payable for the 2006 tax year is 31 October 2007. If the amount of preliminary tax paid is incorrect, the shortfall will attract interest at a rate of 0.0322% per day from 31 October to the date of payment, subject to the 'Margin of Error' *(see below)*. With effect from 1 April 2005, interest on overdue tax is charged at a rate of 0.0273% per day.

Computation of margin of error

When a taxpayer miscalculates their own liability in the absence of a Revenue assessment, the following margin of error is allowed where the taxpayer has otherwise made a correct return. The margin of error allowed is up to 5% of the actual liability, subject to a maximum of €3,175. For example, if the taxpayer's actual liability for a year is €12,700 or less, then the margin of error permitted is €635. In certain circumstances, interest and penalties will not apply where there is a small margin of error in the individual's own calculation which results in too little tax being paid and the shortfall is paid on or before 31 December in that year (i.e. within 2 months of the tax return filing date).

Taxation of married couples

There are three methods of taxation available to married couples:

- **Single assessment:** Each spouse has the option to be treated as a single person. However, excess income tax credits or allowances of one spouse cannot be transferred and set against the income of the other. A married couple must elect to be assessed on a single basis by the end of the relevant tax year.

- **Joint assessment:** Joint incomes are treated as belonging to the spouse nominated by the couple. If neither spouse is nominated, the spouse with the greater income in the previous tax year is treated as being the nominated spouse. The nominated spouse is given all the credits and the rate bands applicable to married couples, and assessed on the income and gains of both spouses.

- **Separate assessment:** Each spouse is treated as a single person. However, an application can be made to apply to have the unused tax credits of one spouse allocated to the other spouse. An application for separate assessment must be made before 1 April in the relevant tax year or before 1 April in the tax year following the year of marriage.

Taxation of separated/divorced couples

Maintenance payments

Since 8 June 1983, income tax is not to be deducted at source from legally enforceable maintenance payments. Maintenance payments are deductible for income tax purposes in the hands of the payer, but chargeable to income tax in the hands of the recipient. In such cases, both spouses are assessed to income tax as single persons.

Separated spouses (i.e. a marriage that has not been dissolved or annulled) may elect for joint assessment, provided that both spouses are tax resident in Ireland. The 1997 Finance Act extended this election for joint assessment to divorced couples who remain unmarried and tax resident in Ireland. If an election is made, the spouse making the maintenance payments is assessed to income tax without regard to the maintenance payments and is granted the relevant married person's tax credit. If both spouses have income in their own right, their respective income tax liabilities are calculated by the separate assessment procedures *(see above)*, ignoring any maintenance payments. These procedures apply in respect of maintenance arrangements entered into on or after 8 June 1983.

Where payments are made to a spouse for the maintenance or benefit of a child, the payment is to be made to the spouse without deduction of income tax and the payer's taxation liability is calculated without granting any deduction for the payment. The payment is not treated as income in the hands of the recipient.

Investment income

Rental income

Rental income is taxed on the basis of the amount receivable in a tax year less allowable expenses. Allowable expenses include mortgage interest, rates, repairs, insurance, mortgage protection, maintenance, wear and tear, and management charges. From 1 January 2006, in order to claim tax relief for interest paid on money borrowed for the purchase, improvement or repair of rented residential accommodation, owners are obliged to meet the registration requirements contained in Part 7 of the Residential Tenancies Act 2004 (registration of landlords with the Private Residential Tenancies Board). Interest relief will be denied if these registration requirements are not met in respect of every tenancy in the rental property during the tax year.

Rent-a-Room scheme

Rent received by an individual renting out a room for residential purposes in their principal private residence is exempt from income tax if the gross rental income does not exceed €7,620 per annum. If the rental income from this source exceeds €7,620, the entire amount will be liable to income tax, subject to the deduction of allowable expenses *(see above)*.

Special Savings Incentive Accounts (SSIA)

The time limit for opening an SSIA ended on 30 April 2002. The scheme consists of a Government subsidy of 25% on the sum placed on deposit each month. Tax at a rate of 23% will apply to the investment return achieved at the end of the full 5-year period, excluding the Government subsidy. No tax will be charged on the capital element of the investment. However, all sums withdrawn early, both capita and interest, will be taxed at a rate of 23%.

SSIAs that commenced in the period 1 May 2001 to 31 December 2001 will mature in 2006. As an incentive to individuals, the Finance Act 2006 provides for the transfer of SSIA monies (up to €7,500) into pension funds (whether RACs, PRSAs or AVCs) without being penalised by the exit tax of 23% (i.e. 20% + 3%). This only applies to those individuals with a gross income not exceeding €50,000 in the preceding year, all of which was taxable at 20% or exempt from tax. In addition, a €1 bonus will be paid by the Exchequer for every €3 transferred to a pension fund, up to a maximum of €2,500. No additional tax relief is available on SSIA pension contributions to individuals who qualify for this incentive.

Credit Union savings accounts

Tax exemptions are available for certain medium and long-term savings accounts held in credit unions and other financial institutions. When the account holder is an individual, a tax exemption will apply for the first €480 per annum of interest/dividends paid on the account when the funds are invested for a period of 3 years. The limit increases to €635 per annum when invested for 5 years in a special term account. Any interest/dividends in excess of this amount is liable to DIRT at 20%.

Deposit interest

Irish deposit interest is taxed at source at the standard rate (20% for 2006). No additional tax is payable on interest received. However, liabilities to PRSI and the Health Levy may arise.

The Finance Act 2006 includes an enabling provision that allows for the making of regulations requiring financial institutions to make an annual return giving the names, PPS tax reference number and addresses of customers resident in the State to whom any interest or other profit was paid, together with the amounts of such payments made to each customer.

Irish dividend income

Irish dividends are subject to withholding tax of 20% (unless considered as ‘Exempt Income’, *see below*). Individuals are liable to income tax on the gross dividend (i.e. the amount received plus the tax withheld). A credit will be granted for the tax withheld. Thus, an additional liability to income tax will only arise where the individual is liable to income tax at 42%. A liability to PRSI and the Health Levy may also arise.

Foreign investment income

This includes foreign interest, dividends and rents. The source of income must be declared on an individual’s Irish tax return. In certain cases, tax paid in the source country will be refunded to Irish tax resident taxpayers or may be claimed as a credit against Irish income tax payable on the same income. UK dividends are taxed in Ireland on the net amount received, with no relief available in respect of the tax credit attaching to the dividend. From the 2005 tax year onwards, Irish resident individuals in receipt of deposit interest from EU financial institutions are liable, under self-assessment, to Irish income tax at the standard rate of 20%.

Exempt income

Certain sources of income in Ireland are exempt from income tax. These include income arising from certain patent companies, woodlands, stallion services, greyhound services and income received in respect of exempt artistic works. Dividends paid from exempt sources are not subject to withholding tax of 20%. The recipient of profits or gains from exempt sources is required to report details to the Revenue on their annual tax return. It should be noted that there are quite stringent conditions to be met for these sources of income to qualify for an exemption from income tax.

The Finance Act 2006 abolishes the income tax exemptions for stallion services and greyhound services with effect from 31 July 2008. Discussions will take place with the industry and the European Commission on a replacement scheme.

Residential property tax

Residential property tax was abolished on 5 April 1997. However, persons disposing of residential property will be required to obtain a Residential Property Tax Clearance Certificate where the market value exceeds the valuation threshold. The valuation threshold was €1,140,000 from 5 April 2004 and was increased to €1,300,000 from 5 April 2005. At the time of publication, no threshold has been announced for 5 April 2006. There is no requirement to obtain a clearance certificate if the vendor acquired the residential property after 5 April 1996, the last valuation date on which tax was payable.

2. Social Welfare Taxes

PRSI contributions

Employees aged between 16-66 years who are in insurable employment must contribute to Pay Related Social Insurance (PRSI). In addition, their employer is also liable to PRSI. ‘Insurable employment’ means employment in Ireland under a contract of service. The normal rate at which contributions are made is Class A1. PRSI (including the Health Levy) applies to benefits-in-kind from 1 January 2004, but these provisions do not apply to employee share schemes. The Health Levy is not payable by individuals who are aged 70 or over. Self-employed individuals aged between 16-66 years are liable to PRSI on total income. The Health Levy is also payable by self-employed individuals who are aged 69 or under.

Social Insurance contribution rates

	Contribution rate	Earnings ceiling
Employer Class A1 Employer contribution (including Training Fund Levy)	10.75% *	*no ceiling*
Employee Class A1 (earnings greater than €356 per week or equivalent)		
PRSI (first €127 of weekly earnings exempt)	4%	€46,600
Health Levy	2% **	*no ceiling*
Total	**6%**	
Self-employed contributions		
PRSI	3% ***	*no ceiling*
Health Levy	2% **	*no ceiling*
Total	**5%**	

** Where weekly earnings are less than €356, employer’s PRSI is 8.5%*
*** No Health Levy where aggregate annual earnings are less than €22,880*
**** Minimum annual PRSI contribution of €253*

3. Employee Remuneration

Employment-related income

Employment-related income, such as salary, bonuses, expense allowances, benefits and other compensation payments, are taxed through the Pay As You Earn (PAYE) system.

Individuals who were not domiciled in Ireland, and Irish citizens who were not ordinarily tax resident in the State, if employed under non-Irish and non-UK employment contracts were entitled to benefit from the remittance basis of assessment up until 31 December 2005. From 1 January 2006, the remittance basis is withdrawn on the employment earnings (including benefits) relating to the exercise of duties in Ireland, irrespective of whether those duties are performed on behalf of an Irish or foreign entity, and PAYE withholding tax must be operated.

Benefits-in-kind (BIK)

From 1 January 2004, the tax due on benefits-in-kind (BIK) is also collected through the PAYE system, together with the appropriate PRSI charge. While income tax is due on employee share benefits, PAYE and PRSI do not apply once the shares are in an employer company.

The employer must account for the PAYE by the 15th of the month following the month in which the benefit is provided (e.g. bonus bond) or the expense is borne by the employer (e.g. medical insurance). There are specific rules for calculating the value of the benefit (notional pay) where the benefit is in the form of a company vehicle, preferential loan, employer-provided accommodation or the use of an employer asset. The PAYE on notional pay is accounted for monthly throughout the period in which the benefit is enjoyed.

The employer must account for the PAYE as above irrespective of whether the PAYE has been withheld from the employee. Where the PAYE has not been recouped from the employee by the end of the tax year, the tax becomes part of the individual's notional pay in April following the end of the tax year and assessable to PAYE and PRSI accordingly.

Cars

The calculation of the BIK charge on a company car changed with effect from 1 January 2004 and is computed as follows:

- The assessable benefit is 30% of the original market value of the car. There is no longer any reduction in BIK where the employee pays directly for private fuel, road tax, repairs or insurance. The benefit may be reduced by any contribution made by the employee to the employer towards the cost of providing the car.
- Employees with business mileage of less than 15,000 miles per annum who spend at least 70% of their time away from the business premises can claim a 20% reduction in their BIK figure.
- The BIK may also be reduced where the employee has business mileage in excess of 15,000 miles in a year. This relief operates by reducing the taxable benefit based on the table below for the year 2005.

From (miles)	To (miles)	% Charge
0	15,000	30
15,001	20,000	24
20,001	25,000	18
25,001	30,000	12
30,000	plus	6

Vintage cars

The taxable benefit of an employer-provided vintage car is 30% of the original market value of the car when it was first registered in Ireland. As such, the taxable benefit will generally be much lower for such a car than for a new car.

Pooled cars

No liability to tax will arise for an employee who has use of a car from a company car pool, subject to certain conditions being met.

Company-provided vans

Where the following conditions are met, BIK will not apply to vans:

- the van is supplied for the purposes of the employee's work;
- there is an employer requirement to bring the van home;
- any auxiliary private use of the van is prohibited;
- the employee spends most of their time working away from the employer's workplace.

Where any of the above conditions are not met, a BIK charge of 5% of the original market value applies.

Preferential loans

An employee or director who has a loan from their employer at a preferential rate of interest is regarded as having a taxable benefit. The value of the benefit is the difference between the rate of interest charged and the specified rate. The specified rate from 1 January 2004 is 3.5% in the case of qualifying home loans and 11% for other loans.

Employer-provided accommodation

A BIK arises where an employer provides accommodation for an employee on the gross amount of the rent paid or on 8% of the current market value of the property where the property is owned by the employer. In addition, a BIK of 5% of the value of furniture arises where this is supplied by the employer. A limited tax credit may be claimed by the employee (as tenant) for rent paid.

Employer-provided assets

With effect from 1 January 2004, where an employer provides an asset (other than a car or accommodation) for use by an employee, a BIK will be charged at 5% of the asset's market value at the date first provided by the employer. Art objects owned by a company and given on loan to a director or employee will be exempt from the charge to tax in certain limited circumstances.

Other taxable benefits

- Medical insurance cover (employee is liable to tax on the gross premium paid and is entitled to a credit of the gross premium at the standard rate of tax)
- Club subscriptions
- Holiday tickets/vouchers
- Bonus bonds
- Staff Suggestion Scheme awards
- Staff discount (on the difference between the cost to the employer and the price paid by the employee)

Benefits exempt from the BIK provisions

- Employer contributions to a Revenue-approved Occupational Pension Scheme (OPS)
- Bus/rail/LUAS/commuter ferry passes provided by the employer subject to certain conditions
- Course and exam fees, provided they are specifically required for the employment
- Professional subscriptions where relevant to the employer's business

- Crèche facilities provided or subsidised by an employer subject to certain conditions
- Provision of computers where private use is incidental to business use
- Provision of mobile phones where private use is incidental to business use
- Small benefit exemption of €250 per annum per employee for one-off benefits where the value of the benefit does not exceed this amount
- Expenses borne by an employer in connection with an 'asset' or 'service' for the improvement of personal security where there is a threat to the personal physical security of the employee

Expenses

Expenses incurred by employees are only allowable as deductions for tax purposes where they are incurred wholly, exclusively and necessarily in performing the duties of the employment. The following expenses are allowable subject to certain conditions:

- motor;
- travel and subsistence;
- removal/relocation;
- professional subscriptions;
- protective clothing.

Certain professions are entitled to flat rate expenses, which should be coded onto the employee's tax credit certificate. The list of trades and professions to which this applies is provided annually by the Revenue.

Termination of employment

Payments exempt from tax

- Statutory redundancy
- Payments made in connection with the termination of the holding of an office or employment due to the death of the holder or on account of injury or disability of the holder of the office or employment
- Payments made where a high proportion of the employee's employment was foreign service

Payments on leaving employment

Where a payment is made in connection with the termination of an employment, which falls liable to Irish income tax, exemptions are available to reduce or eliminate the liability. The individual may claim the most favourable of the following:

- basic exemption = €10,160 + €765 for each complete year of service;
- increased exemption = basic exemption + €10,000 where no claim for relief for the increased exemption was made in the previous 10 years;*
- Standard Capital Superannuation Benefit (SCSB)*, which is calculated as follows:

$$\frac{\text{average remuneration for last 3 years} \times \text{no. of complete years' service}}{15}$$

** The increased exemption or the SCSB must be reduced by any tax-free lump sum received or the net present value of a future tax-free lump sum receivable under an approved pension scheme, unless the claimant waives their right to the lump sum.*

Top slicing relief

A tax refund may be due where the rate of income tax suffered on the taxable lump sum is higher than the individual's effective rate of tax for the previous 3 years.

Payment to compensate for reduction in salary arising from pay restructuring scheme

Subject to certain conditions, an employer may make tax-free payments to employees when there is a substantial reduction in basic pay arising from a reorganisation of some or all of the employer's business as a result of substantial adverse changes to its competitive environment. Such a reorganisation must be registered with the Labour Relations Commission.

Share incentive schemes

Save As You Earn (SAYE)

SAYE schemes allow employees to save a fixed amount of their salary (after tax), between €12 – €320 per month, over a period of at least 3 years. At the end of the savings period, the accumulated savings are used to purchase shares in the employer or parent company at a predetermined price. This predetermined price is the market value of the shares at the beginning of the savings period less a discount of up to 25%.

On the occasion of shares being purchased, there is no income tax charge despite the fact that the shares may have been purchased at a price substantially below the market value of the shares on that date. However, when the shares are sold or otherwise disposed of, their market value, less the base cost to the shareholder, will be subject to capital gains tax. Since the current top rate of income tax is 42% compared to a rate of capital gains tax of 20%, there is a substantial benefit for the employee.

Approved profit sharing

Employees and full-time directors may be entitled to receive shares in their employer company or employer's parent company without incurring a tax liability. To achieve this, the employer must seek Revenue approval to implement the Approved Profit Sharing Scheme and establish a special trust for the purposes of acquiring shares on behalf of employees. An employee or full-time director may then sacrifice an element of their bonus (plus, in certain cases, salary), which is paid into the trust to purchase shares on their behalf. The shares must be retained within the trust for a period of 3 years to avoid an income tax charge. The maximum value of shares that can be purchased on behalf of any one employee or full-time director per annum is €12,700.

No income tax arises when the shares are transferred to the employee. For capital gains tax purposes, the allowable cost is the market value of the shares at the date they were purchased by the trust on behalf of the employee or director.

Employee share ownership

A company may claim a deduction for the costs of establishing and making contributions to an Employee Share Ownership Trust. The trust must be established for the purpose of acquiring shares in the founding company for distribution to employees or a charity at a future date. If the shares in the trust are transferred at a future date into an Approved Profit Sharing Scheme *(see above)*, this transfer will not be treated as a disposal for capital gains tax purposes.

Share purchase

Subject to certain conditions, an employee may purchase shares up to the value of €6,350 (a lifetime limit) in the employer company and claim a tax allowance for the cost of the shares. To claim the relief, the shares must be newly issued shares and the employer company must be resident and incorporated in the State. If the employee disposes of the shares within 3 years of purchase, the relief will be withdrawn. The cost of the shares for capital gains tax purposes is reduced by the amount of income tax relief given for the purchase of the shares.

Approved share options

Favourable tax treatment applies to options granted under a Revenue-approved share option scheme. Income tax will not be payable on either the grant or exercise of an option under an approved scheme. Capital gains tax may, however, arise on ultimate disposal on the difference between market value at the date of disposal and the option exercise price. This effectively charges the option gain to capital gains tax rather than income tax.

There are a number of conditions that need to be met before the Revenue will approve such a scheme. The main conditions are:

- The scheme must be made available to all employees and full-time directors on similar terms subject to a maximum service requirement of 3 years. Up to 30% of the total number of shares granted on an annual basis under the scheme can be made available to key employees and key directors.

- The option price at date of grant must not be less than the market value of the shares on that date.
- The shares acquired must not be disposed of within 3 years of the option being granted, otherwise the favourable tax treatment will not apply.

Unapproved share options

Options granted under any scheme for which Revenue approval has not been obtained are treated as 'unapproved' options. As a result, any differential between the exercise price and the market value of the shares at the date of exercise is liable to income tax at the taxpayer's top tax rate (20% or 42%). Income tax is payable on exercise regardless of whether the individual disposes of the shares or not. (Exceptions may apply to individuals who were granted options in respect of foreign employments.)

Where an option is capable of being exercised more than 7 years from the date of grant and the exercise price is less than the market value of the shares at the date of grant, an income tax charge will arise at the date the option is granted. Any income tax paid at the date of grant will be deducted from the income tax charge arising at the date of exercise.

Employee in receipt of share options – Chargeable person for self-assessment purposes

Irish tax legislation treats an employee or director who exercises share options under an unapproved share option scheme as a 'chargeable person'. This means that the individual is automatically within the self-assessment system and is obliged to file an income tax return by 31 October after the end of the tax year in which the share option is exercised. Where a tax return is not filed by this date, a surcharge of up to 10% of the person's tax liability may be applied *(see Chapter 1 under 'Self-assessment')*.

Deferment of payment of income tax on the exercise of unapproved share options up to 28 March 2003

Where an individual exercised unapproved share options before 28 March 2003, they are still entitled to defer the income tax liability arising on the exercise. An election to defer the income tax payable on an option exercised between 1 January 2003 and 28 March 2003 should have been made by 31 October 2004. The income tax is then due for payment by 31 October after the 7th anniversary of the exercise or on the date of 31 October following the date of disposal, whichever is the earlier. Capital gains tax may also be due on the disposal on the difference between the sales proceeds and the market value at the date of exercise. (For details on payment dates on disposal of assets, *see Chapter 6: Capital Gains Tax*.)

There is no entitlement to defer the income tax liability arising on share options exercised on or after 29 March 2003. Income tax arising on options exercised between 29 March 2003 and 29 June 2003 was due for payment by 31 October 2004, subject to preliminary income tax obligations being met in 2003.

Share options exercised after 29 June 2003

Income tax payments must be made within 30 days of the exercise of all unapproved options exercised on or after 30 June 2003. A Form RTSO1 must be filed by the individual, together with the relevant income tax payment. Tax at the top rate (currently 42%) must be paid in respect of the option gain unless the individual can satisfy the Revenue that they are liable to income tax at the standard rate (20%) on the full amount of the gain. (The onus is on the individual to seek advance clearance from the Revenue for the standard rate of tax to apply.) Failure to pay income tax by the due date carries an interest exposure of 0.0322% per day, or part thereof, from the due date.

Employer filing requirements – Unapproved share options

Where an employer, including a non-resident company, grants options to Irish resident employees, the Irish resident entity has an obligation to report details of any grants and exercise of options to the Revenue on Form S02. The due date for the filing of this form is 31 March following the end of the relevant tax year.

4. Pensions

Pension contributions

Tax relief on pension contributions can be claimed by the self-employed and by members of Occupational Pension Schemes (OPS) in any one tax year on the following basis:

Age	% of Net Relevant Earnings/Remuneration*
Under 30	15
30–39	20
40–49	25
50–54	30
55–59	35
60 and over	40

** Net Relevant Earnings (NRE) apply to self-employed individuals, while Remuneration applies to members of Occupational Pension Schemes (OPS).*

With effect from 4 December 2002, a single earnings cap of €254,000 applies for all types of pension contributions by individuals, but not for employers' contributions to an OPS. This will be indexed from 2007.

Self-employed

For the self-employed, tax relief can be gained by contributing to a personal pension plan via a Retirement Annuity Contract (RAC) and/or to a Personal Retirement Savings Account (PRSA).

Net Relevant Earnings (NRE) can be defined as earnings from trades, professions and non-pensionable employments, less certain payments and deductions.

The 30% limit (apart from those aged 55 or over) applies to specified individuals whose NRE are derived wholly or mainly from certain listed occupations, such as athletes, boxers, rugby players or swimmers. The earnings of a husband and wife are treated separately for the purpose of determining NRE; the relief is available in respect of each spouse with non-pensionable earnings.

A self-employed individual may avail of income tax relief for the immediate preceding year by making a pension contribution by 31 October following that year and subject to the age-related scale *(see table above)*.

Employees

Contributions may be made by an employee to an Occupational Pension Scheme (OPS) in any tax year for tax relief purposes. These contributions must be made to a Revenue-approved OPS.

Remuneration broadly means basic salary, plus any fees, commission, bonuses, taxable share incentive benefits and benefits-in-kind. Relief is available at the employee's top tax rate (20% or 42%).

With effect from 1 January 2002, employees may, subject to guidelines prescribed by the Revenue, make special contributions to an OPS or make Additional Voluntary Contributions (AVC) to avail of any unused relief between 15% – 40% as per the age-related scale *(see table above)*. For example, under the rules of an OPS, an individual aged 35 may be required to make a personal contribution to the scheme of 5% of their salary. If the scheme rules allow and subject to certain conditions as advised by the Revenue, the individual may also make an AVC of 15% of their remuneration to an AVC Fund to increase pension benefits at retirement.

With effect from 1 January 2003, a member of an OPS may also avail of income tax relief for the immediate preceding year by making a pension contribution by 31 October following that year and subject to the age-related scale.

Note: Any individual who joins an OPS and who has a personal pension plan *(as described under 'Self-employed' above)* may continue such contributions, but will not receive tax relief unless they can demonstrate separate earnings for such contributions.

Options on retirement

Self-employed individuals can:

- use all of the retirement fund to purchase a retirement annuity; or
- withdraw up to 25% of the total retirement fund as a tax-free lump sum and with the balance of the remaining fund, either:
  – purchase a retirement annuity; or
  – draw down the balance subject to their top income tax rate; or
  – invest in an ARF, subject to the AMRF provisions *(see below)*.

Members of an OPS can:

- use all of the retirement fund to purchase an annuity (subject to a maximum pension of 66.67% of final remuneration); or
- withdraw up to 150% of final remuneration as a tax-free lump sum and with the balance of the remaining fund purchase a retirement annuity.

Note 1: For proprietary directors (with more than 5% shareholding), there is the option to withdraw up to 25% of the total fund as a tax-free lump sum and invest the balance in an AMRF or ARF *(see below)*.

Note 2: With effect from 7 December 2005, a cap of €5m applies to all individual retirement funds. In the event of the value of such a fund being higher at 7 December 2005, then this will be taken as the maximum fund amount. Both of these fund limits will be index-linked from 2007. Any excess will be subject to a once-off tax charge of 42% on drawdown and will apply to the aggregate of all pension provision held by an individual.

Note 3: For lump sum payments, the maximum tax-free lump sum for an individual retiring has been capped at €1.25m. Any balance of lump sum payable will be taxed at the individual's marginal rate of income tax with effect from 7 December 2005.

Approved Minimum Retirement Fund (AMRF) and Approved Retirement Fund (ARF)

The retirement fund monies of self-employed individuals, AVC contributors and proprietary directors (who own more than 5% shareholding of the company) may be invested in post-retirement funds (AMRFs or ARFs) after drawing down up to 25% of the total fund as a tax-free lump sum. If people are availing of such funds, certain criteria must be met. Both types of fund are managed by Qualifying Fund Managers.

Funds invested in an ARF can be withdrawn at any stage and in any amount, either by lump sum or by regular income, but subject to the investor's top rate of income tax.

Where a retiree cannot demonstrate that they will have more than €12,700 per annum as a guaranteed income in retirement, they must invest an amount of €63,500 in an AMRF. Income from an AMRF may be drawn (subject to income tax), but the initial full capital amount cannot be withdrawn until 75 years of age (subject to income tax).

If, on death, there are residue funds from an AMRF or ARF, these can be passed on by will to dependents subject to inheritance tax and/or income tax implications.

Note: With effect from 2007, for those ARFs effected since 6 April 2000, the ARF will be deemed to have distributed 1% of the fund's value, rising to 2% in 2008 and 3% from 2009 onwards, and taxed at the marginal rate. Any actual distributions in the year will be deducted from the imputed distribution.

Special Savings Incentive Accounts (SSIA)

For those who have SSIA accounts maturing in 2006 and 2007, who have an income limit of €50,000 and who are taxable at 20% (or exempt from tax), the Finance Act 2006 has made provision for such individuals to transfer up to €7,500 into their pension fund (whether RAC, PRSA or AVC) without being penalised by the exit tax of 23% (i.e. 20% + 3%). In addition, a €1 bonus will be paid by the Exchequer for every €3 transferred, up to a maximum of €2,500.

5. Capital Allowances and Tax-based Property Incentives

Capital allowances

Capital allowances are granted to individuals and companies on the purchase of certain assets. These allowances write off, against taxable profits, the cost of the asset over a certain period of time at a predetermined rate. Capital allowances are given under two main headings:
- wear and tear allowances; and
- industrial buildings allowances.

Wear and tear allowances

Plant and machinery

Expenditure incurred on the purchase of plant and machinery, used for the purposes of the trade, profession, vocation or employment, qualifies for wear and tear allowances. The capital allowance rate will depend on the date the expenditure was incurred, as follows:

Date expenditure incurred	Rate	Basis
6 April 1996 to 31 December 2000	15%	straight line
1 January 2001 and before 4 December 2002	20%	straight line
On or after 4 December 2002, but before 31 January 2003 (contracts are evidenced in writing before 4 December 2002)	20%	straight line
On or after 4 December 2002	12.5%	straight line

Motor vehicles

The annual rate of wear and tear allowances for motor vehicles (other than taxis and short-term hire vehicles) is as follows:

Date expenditure incurred	Rate	Basis
Pre 1 January 2001	20%	reducing balance
1 January 2001 to December 2002	20%	straight line
On or after 4 December 2002, but before 31 January 2003 (contracts are evidenced in writing before 4 December 2002)	20%	straight line
On or after 4 December 2002	12.5%	straight line

The maximum qualifying cost of motor vehicles purchased on or after 1 January 2006 is €23,000. This restriction applies to both new and second-hand motor vehicles.

Industrial buildings allowances

These allowances are granted to people who hold the 'relevant interest' in an industrial building. Several types of buildings or structures qualify. The annual allowance for an industrial building used for manufacturing purposes is 4%, with accelerated allowances being available in certain circumstances. Any capital allowances unutilised against rental income of passive investors can be offset (up to a maximum of €31,750 per annum) against other non-rental income.

From 1 January 2007, there will be a limit on the use of allowances by individuals with 'adjusted income' over €250,000. Allowances will be limited to 50% of the individual's 'adjusted income', with tapering relief applying to individuals with income between €250,000 and €500,000. Any excess relief will be available to 'carry forward' to the following and subsequent years, subject to the 50% income cap.

Schemes 1 to 7 below are set to terminate at 31 July 2008, providing conditions are met. Transitional measures apply to 31 July 2008 and include the availability of 100% relief for qualifying expenditure up to 31 December 2006; 75% relief in the period 1 January 2007 to 31 December 2007; and 50% relief in the period 1 January 2008 to 31 July 2008. (Note: Schemes 8 to 11 are not set to terminate in July 2008.)

1. Hotels

Prior to 4 December 2002, the annual allowance for qualifying expenditure incurred on hotels was 15% per annum for years 1 to 6, and 10% in year 7. From 4 December 2002, the annual allowance is 4%. Transitional arrangements apply where an application for full planning has been made on or before 31 December 2004 and expenditure is incurred by 31 December 2006. If these conditions are met, then the annual allowance will remain at 15% for years 1 to 6, and 10% in year 7. Where the planning application conditions were met before 31 December 2004 and work to the value of at least 15% of the actual construction or refurbishment is carried out by 31 December 2006, then the annual allowance will remain at 15% for years 1 to 6, and 10% in year 7 for expenditure incurred on or before 31 July 2008.

The tax life of a qualifying hotel where expenditure is incurred post 4 December 2002 is 25 years. Where expenditure is incurred before that date or the transitional arrangements apply, the tax life is 7 years. If the building or structure is sold within the tax life, then there will be a clawback of any of the allowances claimed up to the date of disposal.

A building or structure in use for the purpose of the trade of hotel-keeping will not qualify for capital allowances in respect of capital expenditure incurred on or after 3 February 2005 on its construction, unless it is registered in the register of hotels kept under the Tourist Traffic Acts 1939 to 2003. Where a hotel is not registered, capital allowances will only be available in respect of capital expenditure incurred on or before 31 December 2006 where certain planning conditions are met.

If any grant assistance is received, then the hotel will not qualify as an industrial building. Certain large projects require EU approval.

In order for a hotel to qualify for relief for expenditure incurred from 1 January 2007 to 31 July 2008, the developer needs to apply to the local authority before 31 January 2007 for a certificate stating that more than 15% of actual construction has been carried out by 31 December 2006. The certificate should state the actual amount of construction carried out, and confirm the projected amount of the balance of the capital expenditure. Any excess over the projected balance as confirmed by the local authority will be disallowed for relief. Also, for expenditure incurred on or after 31 July 2006, a binding contract must be in place at 31 July 2006.

2. Guest houses and holiday hostels

Guest houses and holiday hostels that are registered in the registers of guest houses and holiday hostels under the Tourist Traffic Acts 1939 to 2003 will be deemed to be buildings in use for the purposes of the trade of hotel-keeping. Any capital expenditure incurred on or after 3 February 2005 will qualify for capital allowances at the rate of 4% per annum with a tax life of 25 years. The same conditions as apply to hotels in relation to expenditure incurred after 1 January 2007 also apply to guest houses and holiday hostels.

3. Holiday camps and holiday cottages

Capital expenditure incurred between 27 January 1994 and 3 December 2002 on a building or structure used for the purposes of a holiday camp, and which is registered in the register of holiday camps kept under the Tourist Traffic Acts 1939 to 2003, qualifies for annual allowances of 15% for the first 6 years and 10% in year 7.

The allowance was reduced to 4% per annum in respect of expenditure incurred on or after 4 December 2002. The old rates will apply where an application for full planning has been made on or before 31 December 2004 and capital expenditure is incurred by 31 December 2006. Where the planning application conditions were met before 31 December 2004 and work to the value of at least 15% of the actual construction or refurbishment is carried out by 31 December 2006, then the annual allowance will remain at 15% for years 1 to 6, and 10% in year 7 for expenditure incurred on or before 31 July 2008.

The tax life of a holiday camp is 7 years.

Capital expenditure incurred on or before 3 December 2002 on a building or structure used for the purposes of a holiday cottage, and which is registered with Fáilte Ireland, qualifies for annual allowances of 10% for the first 10 years. Expenditure after that date will not qualify unless certain planning conditions and expenditure dates have been met (see above). If these conditions are met, then the allowance will remain at 10% per annum.

The tax life of a holiday cottage is 10 years.

The same conditions as apply to hotels in relation to expenditure incurred after 1 January 2007 also apply to holiday camps and holiday cottages.

4. Sports injury clinics

Certain conditions must be met in order for a building to qualify as a sports injury clinic. Once these conditions are met, capital allowances are available at the rate of 15% per annum in years 1 to 6, and 10% in year 7.

The tax life of the building is 10 years, with a writing-down period of 7 years.

With effect from 1 May 2004, tax relief will be denied where the relevant interest in relation to capital expenditure incurred on a qualifying building is held by any of the following:

- a company;
- a trust;
- individuals involved in the operation or management of the clinic; or
- property developers, either in their sole capacity or in partnership with others.

Prior to 1 May 2004, where any of the above persons held a relevant interest, all of the allowances would be denied for the property.

5. Buildings used for third-level education purposes

Capital expenditure incurred on construction of certain buildings used for the purposes of third-level education and let to an approved institution qualify for capital allowances. The allowances are granted at the rate of 15% per annum for years 1 to 6, and 10% in year 7.

The termination date for this relief is 31 December 2006. An application for certification from the Minister for Finance must be made before 1 January 2005. Where the application conditions were met and work to the value of at least 15% of the actual construction or refurbishment is carried out by 31 December 2006, the date on which the scheme terminates is extended to 31 July 2008.

The tax life of such buildings is 7 years.

6. Multi-storey car parks – Designated area

For multi-storey car parks located outside the counties of Cork and Dublin, the qualifying period in which capital expenditure must be incurred is 31 December 2006. The relevant local authority must give a certificate in writing on or before 31 December 2003, stating that it is satisfied that at least 15% of the project costs, including site costs, have been incurred by 30 September 2003. The termination period date is extended to 31 July 2008 where the application conditions are met and work to the value of at least 15% of the actual construction or refurbishment costs is carried out by 31 December 2006.

With effect from 1 August 1998, the allowances available are 100% in cases where double rent allowances are not available. However, the allowances actually made are then restricted to one-half of the amount that would be claimable, effectively resulting in owner-occupiers claiming 50% in year 1 and passive investors claiming 25% in year 1 and 2% annual allowance thereafter.

The tax life of such buildings is 13 years. The writing-down life is 25 years.

7. Park-and-ride facilities

Capital allowances are available on certain park-and-ride facilities and other ancillary buildings in certain areas. The allowances available are 50% initial allowances in year 1 and 4% annual allowances thereafter for both owner-occupiers and passive investors. For owner-occupiers, 100% free depreciation is available in year 1.

The qualifying period for incurring the capital expenditure is the period commencing 1 July 1999 and ending on 31 December 2004 — or 31 December 2006 where a full planning application has been submitted to the planning authority by 31 December 2004. The termination period date is extended to 31 July 2008 where work to the value of at least 15% of the actual construction or refurbishment costs is carried out by 31 December 2006.

The tax life of such buildings is 13 years.

Property developers are excluded from qualifying for the allowances where they, or persons connected to them, incurred the capital expenditure in respect of that relevant interest.

Note: Schemes 8 to 11 are not set to terminate in July 2008.

8. Private nursing homes and private convalescent homes

Qualifying capital expenditure incurred on or after 3 December 1997 on a building used as a private registered nursing home qualifies for capital allowances at the rate of 15% per annum in years 1 to 6, and 10% in year 7.

The same rates of allowances are also available in respect of capital expenditure incurred on or after 2 December 1998 on a convalescent home.

Capital expenditure incurred between 25 March 2002 and 24 March 2007 on qualifying residential units will also be eligible for 100% capital allowances at the same rates as those available for private registered nursing homes. Expenditure incurred between 25 March 2007 and 31 December 2007, will qualify for 75% relief for qualifying expenditure, and expenditure incurred between 1 January 2008 and 31 July 2008 will qualify for 50% relief for qualifying expenditure.

The tax life for the above properties is 10 years (15 years for buildings or structures used after 1 February 2007), even though the writing-down period is only 7 years.

9. Private hospitals

Certain conditions must be met in order for a building to qualify as a private hospital. Once these conditions are met, capital allowances are available at the rate of 15% per annum in years 1 to 6, and 10% in year 7.

The tax life of the building is 10 years (15 years for buildings or structures used after 1 February 2007), with a writing-down period of 7 years.

With effect from 1 May 2004, tax relief will be denied where the relevant interest in relation to capital expenditure incurred on a qualifying building is held by any of the following:

- a company;
- a trust;
- individuals involved in the operation or management of the hospital; or
- property developers, either in their sole capacity or in partnership with others.

Prior to 1 May 2004, where any of the above persons held a relevant interest, all of the allowances would be denied for the property.

10. Childcare facilities

Capital expenditure incurred on or after 2 December 1998 on a building used, or to be used, for the provision of childcare facilities qualifies for capital allowances at the rate of 15% per annum in years 1 to 6, and 10% in year 7.

For capital expenditure incurred on or after 1 December 1999, 100% year 1 capital allowances are available for owner-occupiers and passive investors. Property developers are excluded from qualifying for these accelerated allowances.

The tax life of the building is 10 years (15 years for buildings or structures used after 1 February 2007).

11. Mental health centres

Certain conditions must be met in order for a building to qualify as a mental health centre. Once these conditions are met, capital allowances are available at the rate of 15% per annum in years 1 to 6, and 10% in year 7.

The tax life of the building is 15 years, with a writing-down period of 7 years.

Tax-based property incentives

Schemes 12 to 16 below are set to terminate at 31 July 2008, providing conditions are met. Transitional measures apply to 31 July 2008 and include the availability of 100% relief for qualifying expenditure up to 31 December 2006; 75% relief in the period 1 January 2007 to 31 December 2007; and 50% relief in the period 1 January 2008 to 31 July 2008.

As with industrial buildings allowances (above), from 1 January 2007 there will be a limit on the use of allowances by individuals with income over €250,000. Allowances will be limited to 50% of the individual's 'adjusted income', with tapering relief applying to individuals with income between €250,000 and €500,000. Any excess relief will be available to 'carry forward' to the following and subsequent years, subject to the 50% income cap.

12. Urban renewal

The existing termination date for incurring qualifying capital expenditure has been extended from 31 December 2004 to 31 December 2006, provided 15% of the total project costs have been incurred by 30 June 2003, an application for certification is submitted to the local authority by 31 July 2003 and a certificate has been issued by 30 September 2003. The termination period date is extended for residential property to 31 July 2008 where work to the value of at least 15% of the actual construction or refurbishment costs is carried out by 31 December 2006 and existing scheme conditions are met. For relief of expenditure for commercial developments incurred from 1 January 2007 to 31 July 2008, the developer needs to apply to the local authority before 31 January 2007 for a certificate stating that more than 15% of actual construction has been carried out by 31 December 2006. The certificate should state the actual amount of construction carried out, and confirm the projected amount of the balance of the capital expenditure. Any excess over the projected balance as confirmed by the local authority will be disallowed for relief. Also, for expenditure incurred on or after 31 July 2006, a binding contract must be in place at 31 July 2006.

Double rent allowance is no longer available under the 1998 Urban Renewal Scheme. However, 100% capital allowances are available to both owner-occupiers and passive investors at the rate of 50% in year 1 and 4% annual allowance thereafter.

The tax life of commercial properties qualifying for urban renewal relief is 13 years.

'Section 23'-type relief is available against Irish rental income in respect of capital expenditure incurred on rented residential accommodation. The tax life for 'Section 23' properties is 10 years.

Property developers are excluded from qualifying for the allowances where they, or persons connected to them, incurred the capital expenditure in respect of that relevant interest. Capital allowances are not available for certain industries and large projects. The Minister for Finance has the discretion to deny allowances for office developments and multi-storey car parks. Certain large projects require EU approval.

13. Rural renewal

This relief covers all of the counties of Leitrim and Longford, and part of Cavan, Roscommon and Sligo. The termination date for incurring qualifying capital expenditure has been extended from 31 December 2004 to 31 December 2006, provided an application for full planning permission has been received by the planning authority by 31 December 2004. The termination period date for residential property is extended to 31 July 2008 where the planning conditions are met and work to the value of at least 15% of the actual construction or refurbishment costs is carried out by 31 December 2006. To qualify for relief for expenditure for commercial developments incurred from 1 January 2007 to 31 July 2008, the developer needs to apply to the local authority before 31 January 2007 for a certificate stating that more than 15% of actual construction has been carried out by 31 December 2006. The certificate should state the actual amount of construction carried out, and confirm the projected amount of the balance of the capital expenditure. Any excess over the projected balance as confirmed by the local authority will be disallowed for relief. Also, for expenditure incurred on or after 31 July 2006, a binding contract must be in place at 31 July 2006

EU approval is required for the extension of the termination date for commercial developments. Certain large projects require EU approval.

Double rent allowance is no longer available under the 1998 Rural Renewal Scheme. However, 100% capital allowances are available to both owner-occupiers and passive investors at the rate of 50% in year 1 and 4% annual allowance thereafter.

The tax life of commercial properties qualifying for rural renewal relief is 13 years.

'Section 23'-type relief is available against Irish rental income in respect of capital expenditure incurred on rented residential accommodation. The tax life for 'Section 23' properties is 10 years. Leases must be for a minimum period of 3 months and must be the sole or main residence of the lessee throughout the period of the lease.

Property developers are excluded from qualifying for the rural renewal relief where they, or persons connected to them, incurred the capital expenditure in respect of that relevant interest.

Where any part of the capital expenditure incurred on or after 6 April 2001 on commercial or residential property is met by way of grant assistance, capital allowances will be denied. Allowances are also denied for premises used in a trade where the number of employees exceeds 250 and for certain specified industries.

14. 2000 Town renewal

This scheme provides incentives for smaller towns in respect of commercial and residential property. The termination date for incurring qualifying capital expenditure has been extended from 31 December 2004 to 31 December 2006, provided an application for full planning permission has been received by the planning authority by 31 December 2004. The termination period date is extended to 31 July 2008 for residential property where the planning conditions are met and work to the value of at least 15% of the actual construction or refurbishment costs is carried out by 31 December 2006. For commercial property in order to qualify for relief for expenditure incurred from 1 January 2007 to 31 July 2008, the developer needs to apply to the local authority before 31 January 2007 for a certificate stating that more than 15% of actual construction has been carried out by 31 December 2006. The certificate should state the actual amount of construction carried out, and confirm the projected amount of the balance of the capital expenditure. Any excess over the projected balance as confirmed by the local authority will be disallowed for relief. Also, for expenditure incurred on or after 31 July 2006, a binding contract must be in place at 31 July 2006

Double rent allowance is specifically denied. For both owner-occupiers and passive investors, 100% capital allowances are available at the rate of 50% in year 1 and 4% annual allowance thereafter.

The tax life of commercial properties qualifying for the 2000 Town renewal relief is 13 years.

'Section 23'-type relief is available against Irish rental income in respect of capital expenditure incurred on rented residential accommodation. The tax life for 'Section 23' properties is 10 years.

As with urban and rural renewal schemes (above), property developers are excluded from qualifying for the allowances where they, or persons connected to them, incurred the capital expenditure in respect of that relevant interest.

Where any part of the capital expenditure incurred on or after 6 April 2001 on commercial or residential property is met by way of grant assistance, capital allowances will be denied. Allowances are also denied for premises used in a trade where the number of employees exceeds 250 and for certain specified industries. Certain large projects require EU approval.

15. Living over the shop (LOTS)

This tax incentive applies to an area being used for residential purposes above a commercial property. It is available for properties in Dublin, Cork, Galway, Limerick and Waterford. The incentive is a 'Section 23'-type relief. The qualifying period for incurring capital expenditure is from 6 April 2001 to 31 December 2006 where a full planning application has been received by the local authority on or before 31 December 2004. The termination period date is extended to 31 July 2008 where the planning conditions are met and work to the value of at least 15% of the actual construction or refurbishment costs is carried out by 31 December 2006.

16. Student accommodation

A 'Section 23'-type relief is available for 100% of the capital expenditure incurred on rented residential accommodation provided for third-level students. Certain conditions must be met in order for the development to qualify as student accommodation. The termination date for the application of the relief has been extended to 31 December 2006 where an application for full planning permission has been received by the local authority on or before 31 December 2004 and where the capital expenditure qualifying for relief is incurred by 31 December 2006. The termination period date is extended to 31 July 2008 where the planning conditions are met and work to the value of at least 15% of the actual construction or refurbishment costs is carried out by 31 December 2006.

6. Capital Gains Tax (CGT)

Scope of tax

The following individuals are liable to capital gains tax (CGT):

- individuals resident or ordinarily resident and domiciled in Ireland – on the disposal of worldwide assets;
- individuals who are resident or ordinarily resident in Ireland but non-domiciled – on Irish and UK source gains and on all other gains to the extent that the proceeds are remitted to Ireland;
- non-resident, non-domiciled individuals – on the disposal of Irish-specified assets (e.g. Irish land or shares deriving the greater part of their value from Irish land).

Calculation of gains

The gain is calculated by deducting the acquisition costs from the sales proceeds. Costs of disposal are also deductible. If the asset has been owned for more than 12 months and was acquired prior to 31 December 2002, the acquisition cost may be indexed to account for inflation up to 2003.

Indexation factors for disposals in 2006 are outlined in the table below:

Year expenditure incurred	Indexation factor	Year expenditure incurred	Indexation factor
1974/75	7.528	1989/90	1.503
1975/76	6.080	1990/91	1.442
1976/77	5.238	1991/92	1.406
1977/78	4.490	1992/93	1.356
1978/79	4.418	1993/94	1.331
1979/80	3.742	1994/95	1.309
1980/81	3.240	1995/96	1.277
1981/82	2.678	1996/97	1.251
1982/83	2.253	1997/98	1.232
1983/84	2.003	1998/99	1.212
1984/85	1.819	1999/00	1.193
1985/86	1.713	2000/01	1.144
1986/87	1.637	2001	1.087
1987/88	1.583	2002	1.049
1988/89	1.553	2003 *et seq*	1.000

Exemptions and reliefs

- Annual exemption of €1,270.
- Gains made on tangible moveable assets sold for €2,540 or less.
- Gains made on wasting tangible moveable assets.
- Gains on the disposal of a principal private residence (or a dwelling house occupied rent-free by a dependent relative), provided the proceeds of sale do not reflect any development value.
- Prize bonds and lottery winnings.
- Gains from the sale of Irish Government securities.
- Gains arising to a sporting body where the gain is applied solely for the promotion of games and sports.
- Gains arising to a registered trade union or approved body where the gain is applied solely towards the objectives of the body in question.
- Gains made by a superannuation fund.
- Gains on the transfer of a site from parent to child to enable the child to construct a principal private residence, provided the market value of the site does not exceed €254,000. The relief will be clawed back if the child disposes

of the site without having constructed and occupied a principal private residence on the site for 3 years.

- Gains made by Irish companies on the disposal of substantial shareholdings in trading subsidiaries where the subsidiaries are located in EU countries or countries with which Ireland has a tax treaty.
- Retirement relief on the disposal of chargeable business assets or farming assets owned for 10 years or more by an individual aged at least 55 years. The relief is restricted to proceeds of €500,000 where the sale is to a third party. However, there is no restriction on a disposal to a child, including a niece or nephew, who has worked full-time in the business or farm for 5 years prior to the transfer. Relief will be clawed back if the assets are disposed of by the child within 6 years of the original transfer. An individual does not have to retire to avail of this relief.
- Gains on the disposal of certain fine art objects where the object has been on loan to and on public display in a gallery or museum in the State for the previous 10 years. In order to qualify, the object must have had a market value of not less than €31,740 when it was loaned to the approved body.

Losses

Losses that arise on the sale of assets can be offset against chargeable gains arising in the same year. Unused losses may be carried forward and offset against future gains. Losses arising on a disposal of development land may only be offset against gains made on the disposal of development land.

Rate of tax

The rate of CGT is 20%, with the exception of certain foreign life assurance policies that remain taxable at 40%.

Clearance certificates

A clearance certificate is required where sales proceeds from certain assets, such as land, exceed €500,000. Otherwise, the purchaser (or his agent) must deduct CGT at 15% from the sales proceeds and pay this to the Collector-General.

Companies and chargeable gains

Chargeable gains realised by resident companies are subject to corporation tax at a rate of 20%. (For details of preliminary tax and filing dates, *see Chapter 9: Corporation Tax.*) However, gains deriving from disposals of development land (assuming such a gain is not taxable as part of a trade of dealing in developing land) are subject to CGT, as are chargeable gains made by non-resident companies on disposal of Irish-specified assets.

Payment of CGT

Disposal of asset	Payment of CGT
Between 1 January and 30 September	Due by the following 31 October in that tax year
Between 1 October and 31 December	Due by the following 31 January

CGT returns

Capital gains for a year of assessment must be included in the tax return due for filing by 31 October in the year following the year of assessment.

7. Capital Acquisitions Tax (CAT)

Scope of tax

Capital Acquisitions Tax (CAT) includes both gift and inheritance tax.

In respect of gifts or inheritances received after 1 December 1999, a charge to gift or inheritance tax arises where:

- the disponer is resident or ordinarily resident in Ireland;
- the beneficiary is resident or ordinarily resident in Ireland;
- the gift or inheritance consists of Irish situate property.

From 1 December 2004, if the disponer or beneficiary is non-domiciled in Ireland, they will not be regarded as resident or ordinarily resident unless they have been resident for 5 consecutive years immediately preceding the year of the gift or inheritance.

In respect of gifts or inheritances received prior to 1 December 1999, a charge to gift or inheritance tax arises where:

- the disponer is domiciled in Ireland at the date of the gift or the date of the disposition;
- the gift or inheritance consists of Irish situate property.

Appointments from certain trusts settled prior to 1 December 1999 remain chargeable under the old charging provisions.

Tax-free thresholds

There are three tax-free thresholds depending on the relationship between the disponer and the beneficiary. The following are the group thresholds for 2006:

Group A	€478,155	Applies where the beneficiary is a child (including certain foster children) or minor child of a deceased child of the disponer. Parents also fall within this threshold where they take an inheritance from a child.
Group B	€47,815	Applies where the beneficiary is a brother, sister, niece, nephew, or lineal ancestor or lineal descendant of the disponer.
Group C	€23,908	Applies in all other cases.

Calculation of tax

Any benefit received since 5 December 1991 within the same group threshold is aggregated for the purposes of determining whether any tax is payable on the current benefit. Tax at the rate of 20% is payable once the relevant tax-free threshold is exceeded.

Exemptions and reliefs

- A gift or inheritance received from a spouse.
- First €3,000 of all gifts taken from each disponer in any one calendar year.
- Inheritance taken by a parent on the death of a child to whom either parent had previously made a taxable gift.
- A gift or inheritance for public or charitable purposes.
- A gift or inheritance of a dwelling house where the beneficiary has been living in the house for 3 years prior to the gift or inheritance, and remains in the house for a further 6 years. The beneficiary cannot have any interest in any other residential premises.

- Where a gift or inheritance consists of agricultural property, the market value of the agricultural property may be reduced by 90% provided certain conditions are met.
- Where a gift or inheritance consists of business property, the value of the business may be reduced by 90% provided certain conditions are met.
- Where capital gains tax (CGT) *and* capital acquisitions tax (CAT) arise on a gift of an asset, the CGT can be credited against the CAT liability. From 21 February 2006, if the asset is disposed of within 2 years of the date of the gift, the relief will be clawed back.

Administration

A beneficiary is required to make a return where benefits of at least 80% of the tax-free threshold are received. The return must be filed and the tax liability paid within 4 months of the valuation date of the gift or inheritance. Payment of tax may be facilitated by the use of Section 60 and Section 119 insurance policies, the proceeds of which are exempt from CAT provided they are used to pay the tax liability.

Discretionary Trust Tax

There is a once-off charge to discretionary trust tax at the rate of 6% on the latest of the following events:

- the date on which the property becomes subject to the trust;
- the date of death of the settlor;
- the date on which there are no principal beneficiaries of the trust aged under 21 years. (The principal beneficiaries are the spouse, the children and children of a predeceased child of the settlor.)

An annual charge at the rate of 1% also arises on 31 December each year.

8. Stamp Duty

Rate of tax

The rate of stamp duty applicable on a transfer depends on the property being transferred. For stocks and shares, the rate is 1%. The rates vary for properties, leases, and cheque and bank cards (*see below*).

Non-residential property

Non-residential property includes non-residential land and buildings, goodwill, book debts, cash on deposit and the benefit of contracts. Prior to 1 April 2004, the transfer of intellectual property was also stampable.

Consideration (€)	Rate of stamp duty
Up to 10,000	Exempt
10,001 – 20,000	1%
20,001 – 30,000	2%
30,001 – 40,000	3%
40,001 – 70,000	4%
70,001 – 80,000	5%
80,001 – 100,000	6%
100,001 – 120,000	7%
120,001 – 150,000	8%
Over 150,000	9%

Residential property – Second-hand houses

Consideration (€)	Rate of stamp duty for First time buyer	Rate of stamp duty for Owner-occupier and Investor
Up to 127,000	0%	0%
127,001 – 190,500	0%	3%
190,501 – 254,000	0%	4%
254,001 – 317,500	0%	5%
317,501 – 381,000	3%	6%
381,001 – 635,000	6%	7.5%
Over 635,000	9%	9%

Residential property – New houses

An exemption from stamp duty applies to the purchaser of a new house or apartment not exceeding 125 square metres if the property is the purchaser's only or main residence (i.e. does not apply to investors) and no rent is derived during the first 5 years, other than rent arising under the Rent-a-Room scheme *(see Chapter 1)*.

Where the floor area of a new house or apartment is in excess of 125 square metres, the value of the house is reduced when assessing the stamp duty liability of first time buyers and owner-occupiers.

Leases

Term of lease	Rate of stamp duty
0 – 35 years or indefinite	1% of average annual rent
36 – 100 years	6% of average annual rent
Over 100 years	12% of average annual rent

Any premium payable under the lease is assessed to duty under the non-residential property rates *(see above)*.

No stamp duty is payable on lease of residential property for a term of less than 35 years or an indefinite term, provided the rent is less than €19,050 per annum.

Where the rent exceeds €19,050, stamp duty is payable at the rate of 1% of the average annual rent.

Cheque and bank cards

Type of card	Rate of stamp duty per annum (€)
Credit card	40
ATM card	10
Laser card	10
Combined ATM and Laser card	20

Exemptions & reliefs

- Transfers of property between spouses are exempt.
- Transfers of property between associated companies are exempt where certain conditions are satisfied.
- Transfers of shares or businesses as part of a reconstruction or amalgamation of companies are exempt provided certain conditions are satisfied.
- Transfers of certain financial services instruments are exempt.
- Transfers of intellectual property with effect from 1 April 2004.
- Transfers of shares in foreign companies provided they do not relate to Irish land or shares.
- Transfers of property between related persons are subject to stamp duty at half the usual rate.

Capital Duty

Capital duty has been abolished with effect from 7 December 2005.

9. Corporation Tax

Tax residency

Companies, regardless of their place of incorporation, are Irish tax resident if they are managed and controlled in Ireland. In addition, Irish-incorporated companies are treated as being Irish tax resident unless either of the following applies:

- the company or a related company carries on a trade in Ireland and either of the following conditions is satisfied: the company is ultimately controlled by persons resident in an EU Member State or in a country with which Ireland has a Double Tax Treaty; or the company or related company is traded on a recognised stock exchange in an EU Member State or in a Treaty country; or
- the company is regarded as not resident in Ireland under a Double Tax Treaty.

The ‘place of incorporation’ rule applies from 11 February 1999 (in respect of companies incorporated on or after that date) and 1 October 1999 (for companies that were incorporated before 11 February 1999).

The Finance Act 2006 provides that a Societas Europaea (SE) or a European Cooperative Society (SCE) is generally to be regarded as resident in Ireland.

Charge to corporation tax

A company resident in Ireland for tax purposes is subject to corporation tax on its worldwide profits (income plus capital gains). A non-resident company trading through a branch or agency in Ireland is subject to corporation tax on trading profits of the branch or agency, other income from property or rights used and chargeable gains on the disposal of Irish assets used or held for the purposes of same. A non-resident company is liable to income tax in Ireland on Irish source income not derived from a branch or agency.

Rates of tax

With effect from 1 January 2003, the following rates of corporation tax apply:

Corporation tax	**Rate**
Standard rate (applies to trading income)	12.5%
Higher rate (applies to income other than trading income)	25%
Manufacturing rate	10%*
Special rate (applies to profits/gains from the disposal of residential land)	20%

** Eligibility for this rate will cease on 31 December 2010 for manufacturing generally.*

Close companies

Undistributed investment and rental income of a closely held company is subject to a 20% surcharge if it is not distributed within 18 months of the end of the accounting period in question. A closely held professional services company is additionally subject to a 15% surcharge on 50% of its undistributed trading income.

Relief for trading losses

Subject to restrictions, the general rule is that trading losses may be used to reduce other income and chargeable gains in the current year or for the preceding year (provided the same trade was then carried on) or they may be carried forward, without time limit, for offset against future income from the same trade. However, trading losses incurred in a 10% or 12.5% activity cannot be set against income taxed at the 20% or 25% rate, but may be used to offset corporation tax payable in the current or preceding period on a value basis.

Groups of companies

Group relief for trading losses and excess charges on income is available if all of the companies are in a 75% group and are tax resident in the EU or in European Economic Area states (excluding Liechtenstein).

In a 75% group, assets can be transferred without generating a chargeable gain. A non-resident company that is resident in an EU Member State, Iceland or Norway may be considered when determining whether a group exists for chargeable gains purposes. Assets transferred to or from Irish branches of EU, Icelandic or Norwegian resident companies can qualify subject to certain conditions.

A 51% subsidiary resident in Ireland may pay dividends free of dividend withholding tax *(see below)* without the parent company making a formal declaration. Withholding tax is not imposed on interest and royalty payments between members of a 51% group.

Dividend withholding tax (DWT)

Dividend withholding tax (DWT) applies at a rate of 20% to dividends and other distributions made by Irish resident companies. Exemptions apply to dividends and other distributions to certain shareholders, such as:

- Irish resident companies;
- certain residents of EU Member States or Tax Treaty countries;
- non-resident companies controlled by residents of EU Member States or Tax Treaty countries;
- non-resident companies whose shares are regularly traded on a recognised stock exchange in an EU Member State, in a Tax Treaty country or in another country approved by the Minister for Finance, or 75% subsidiaries of such companies. Exemptions are also available where the recipient is wholly owned by two or more such quoted companies.

Detailed certification procedures apply to most exemptions from DWT.

DWT does not apply to dividends covered by the EU Parent-Subsidiary Directive, although anti-avoidance provisions prevent the use of EU holding companies to avoid DWT.

Distributions paid out of certain types of exempt income (such as exempt stallion fees, woodland income or patent income) are not subject to DWT.

Companies must file a DWT return within 14 days after the end of the calendar month of distribution. The return is required regardless of whether DWT applies to the distributions. Any DWT due must be paid to the Collector-General when the return is filed.

Headquarters and holding companies

With effect from 2 February 2004, an exemption from capital gains tax applies where an Irish holding company disposes of shares in another company (the ‘investee’ company) where, at the time of disposal, the following tests are met:

- the investee company is resident for tax purposes in Ireland, in another EU Member State or in a country with which Ireland has a tax treaty;

- the holding company has held, directly or indirectly, for a period of at least 12 months ending in the previous 24 months, a minimum holding of 5% of the shares in the investee company. This test may be met by including shareholdings held by other members of the same 51% group; and
- the investee company is wholly or mainly a trading company or, taken together, the holding company and its 5% group and the investee company are wholly or mainly a trading group.

If a loss occurs, where a gain would have been exempt, the loss cannot be used to shelter other gains. The exemption applies automatically. There is no claim, election or ruling required.

Foreign tax relief

Currently, Irish companies in receipt of foreign dividends are taxed at a rate of 25%, with a credit for any underlying tax. Foreign tax relief is available as either a deduction in calculating taxable income or as a credit against Irish tax.

An amended EU Parent – Subsidiary Directive is effective from 1 January 2004. The key amendments reduce the shareholding requirement from 25% to 5% and extend the ability of a parent company to obtain credit for underlying taxes paid overseas by lower tier subsidiaries (subject to a 5% voting-right test at each level).

Unilateral credit relief may be available for Irish resident companies, or Irish branches of companies resident in the EU or in EEA states with which Ireland has entered into a tax treaty, receiving dividends from foreign subsidiaries. Under the measures, such a company receiving a dividend from a 5% subsidiary (25% pre 2 February 2004) is entitled to reduce the Irish tax on the dividend by any direct or withholding tax imposed on the dividend and by an appropriate portion of the foreign tax imposed on the income underlying the dividend. For this purpose, a 5% subsidiary relationship exists if the parent company owns, directly or indirectly, 5% of the voting rights. Unilateral credit relief may be claimed even if a double tax treaty applies. This is useful if the relief provided under a tax treaty is not as beneficial as unilateral tax relief.

A parent company receiving a dividend from its 5% subsidiary (whether resident in a tax treaty country or not) that itself has subsidiaries is entitled to reduce the Irish tax by an appropriate amount of tax (direct or withholding) and by the underlying tax borne by that subsidiary and its subsidiaries, and so on down through the chain of companies. This relief is subject to the following conditions: the payer of the dividend must be a 5% subsidiary of the recipient of the dividend; and the distributing company must be connected with the ultimate parent company. A company is connected if 5% (10% pre 2 February 2004) of its voting rights are held, directly or indirectly, by the ultimate parent company.

The holding company regime allows companies to ‘mix’, with effect from 2 February 2004, the credits for foreign tax on different dividend streams (from 5% subsidiaries) for the purpose of calculating the overall tax credit in Ireland (this is called ‘onshore pooling’). Any excess credit balance unused can be carried forward indefinitely and offset in subsequent periods. The dividend-paying company can be resident in any country.

These provisions apply to shareholdings of companies resident anywhere, unlike the rules for capital gains tax relief *(see above, ‘Headquarters and holding companies’)*, which apply only to Treaty partners and EU Member States.

Research and Development credit

Incremental expenditure on qualifying research and development (R&D) incurred by companies in respect of R&D activities carried on by them in the European Economic Area qualifies for a corporation tax credit of 20%. This credit is in addition to any existing deduction or capital allowances for R&D expenditure and means an effective benefit of up to 32.5% of R&D expenditure. Any unused credit may be carried forward and offset against the corporation tax liability of the company for future periods.

International Financial Reporting Standards (IFRS)

The starting point in preparing a corporation tax computation is the accounts of a company prepared under the ordinary principles of commercial accounting. Therefore, any change to these principles is going to have a tax impact. The change in Irish accounting principles to International Financial Reporting Standards (IFRS), or to Irish generally accepted accounting practice (GAAP) embodying IFRS, is going to result in major changes to the tax treatment of certain items. The Finance Act 2005 introduced detailed rules to address this transition and a number of technical amendments were made in the Finance Act 2006.

Self-assessment – Pay and File

A company's corporation tax liability is determined by self-assessment. A new system for paying preliminary corporation tax is being phased in over a 5-year period. During the transition period, companies must pay two instalments of preliminary tax.

The first instalment *(see table below)* is payable 31 days before the end of the accounting period, while the second instalment (to bring the total liability up to at least 90% of the final liability) is payable 6 months after the end of the accounting period. If the due date falls after the 21st day of the month, the 21st day becomes the due date.

Any balance of tax due must be paid by the due date for filing the return. This is normally 9 months after a company's accounting period. Where the 9-month period ends on or after the 21st day of a month, the 21st day of that month becomes the due date for filing the Form CT1 and for payment of any balance of corporation tax. Returns and balancing payments must be sent to the Office of the Collector-General.

The current year payment basis will be phased in as follows:

Year in which accounting period ends	% of corporation tax due 31 days before end of accounting period (first instalment)	Small Company Option:* % of corporation tax due 31 days before end of accounting period (first instalment)
2002	18%	20%
2003	36%	40%
2004	54%	60%
2005	72%	80%
2006	90%	100%

** A company qualifies as a 'small company' if its corporation tax liability for the previous year did not exceed €50,000. A small company may opt to pay its first instalment based on a percentage of its liability for the previous year.*

Companies that do not comply with filing obligations are subject to a surcharge of 5% or 10% of the tax payable, up to a maximum ceiling depending on how late the return is filed. Those who file late may also suffer a restriction on offsetting losses against their own profits and those of group companies.

Chargeable gains

See Chapter 6: Capital Gains Tax (CGT)

Capital Duty

Capital duty has been abolished with effect from 7 December 2005.

Irish tax treaty network

As at 1 January 2006, the following 44 Double Tax Treaties are in force:

Australia	Hungary	Pakistan
Austria	Iceland	Poland
Belgium	India	Portugal
Bulgaria	Israel	Romania
Canada	Italy	Russian Federation
China	Japan	Slovakia
Croatia	Korea	Slovenia
Cyprus	Latvia	Spain
Czech Republic	Lithuania	South Africa
Denmark	Luxembourg	Sweden
Estonia	Malaysia	Switzerland
Finland	Mexico	United Kingdom
France	Netherlands	USA
Germany	New Zealand	Zambia
Greece	Norway	

10. Value Added Tax (VAT)

Taxable transactions

Value Added Tax (VAT) is chargeable on the supply of certain goods and services, and applies to each stage of the production and distribution cycle within Ireland.

Goods imported into Ireland from countries outside the EU are subject to VAT at the point of entry at the same rate applicable to the sale of these goods within Ireland.

Irish VAT-registered traders must self-account for VAT on receipt of goods from other EU Member States (known as intra-Community acquisitions). If the goods are used for the purpose of the trader's taxable activities, the trader will be entitled to claim a simultaneous VAT input deduction.

Certain services, including advertising and legal services, received from abroad by businesses in Ireland are subject to Irish VAT. Businesses that obtain such services from abroad must self-account for VAT on the amount charged for those services. They are entitled to claim a simultaneous VAT input deduction based on their normal VAT recovery rate. If they are engaged in exempt activities only, they must register for VAT in order to account for VAT on the receipt of the service *(see below)*.

Taxable persons

Any person, other than an employee, who supplies taxable goods or services within Ireland in the course of business and whose annual turnover exceeds, or is likely to exceed, €27,500 from the supply of services or €55,000 from the supply of goods must register and account for VAT. Most non-established foreign traders supplying taxable goods or services in Ireland are obliged to register and account for Irish VAT. Such foreign firms not established in Ireland must register regardless of the level of supplies.

A person whose annual taxable turnover is below the appropriate threshold is not required to account for VAT, but may voluntarily elect to do so. The potential advantage in electing to register is that VAT-registered suppliers may claim a refund or credit for VAT paid on business purchases.

Exempt transactions

A person engaged in an exempt activity is not required to charge VAT on receipts and is not entitled to a credit on purchases, unless the person engages in what are termed 'qualifying activities'. In this context, qualifying activities are supplies of financial services to non-EU customers and the transport of passengers outside Ireland.

Rates of tax

VAT rates vary according to the goods or services, as follows:

Goods or services	VAT rate
Standard rate (goods or services not specifically categorised as exempt or subject to VAT at any of the rates listed below)	21%
Construction services, hotel accommodation, short-term car rentals, newspapers, magazines, electricity, hotel and restaurant meals, cinema admission, general agricultural and veterinary services, driving tuition, general repair and maintenance services, property (freehold and long leases)	13.5%
Horses, livestock and certain agricultural products	4.8%
Items including children's clothing, food, oral medicines, certain books, certain medical equipment and appliances, and exported goods	0%

Taxable persons who derive 75% or more of their sales from the intra-Community supply of goods to VAT-registered entities in the EU and/or from the export of goods from the EU may be entitled, subject to the necessary authorisation, to receive most goods and services and imports at the zero rate (0%). This facility is known as a Section 13A authorisation and provides a cashflow benefit.

Deductible VAT

A taxable person may deduct VAT paid on the purchase of most goods and services, as well as VAT paid on imported goods that are used for the purposes of a taxable business. No deduction is allowed for tax paid on the purchase of goods and services used for any other purpose. VAT incurred on any of the following goods or services is not deductible:

- food and drink (unless for resale by a registered trader);
- hotel and other accommodation;
- personal services for an employee, even if the expense is incurred for business purposes;
- entertainment expenses;
- purchase and hire of passenger motor vehicles;
- petrol (other than as stock in trade);
- goods and services used for non-business purposes.

VAT compliance

Periodic VAT returns

The standard period for making a VAT return is bi-monthly. Returns and payments due must be filed with the Collector-General no later than the 19th of the month following the end of each 2-month period. For example, a January/February return must be filed by 19th March. Estimated or preliminary returns are not permitted.

Authorisation may be obtained to file VAT returns on a monthly basis where a taxpayer is in a permanent VAT repayment position.

Traders may submit an annual return if they agree to pay a monthly amount by flexible direct debit. If a trader's liability for a year is less than the total of the direct debits, a refund of excess VAT will be paid. If liability is greater, the excess with the final VAT return for a 12-month period must be paid. If outstanding liability at year end exceeds 20% of total liability for the year, excess will be subject to interest charges of 0.0322% per day on outstanding amounts, backdated to the mid-point of the year.

Traders with low VAT liabilities may be permitted to make one annual VAT return without entering into a direct debit arrangement. Participation (not obligatory) is not available on the request of taxable persons, but is at the discretion of the Collector-General. At year end, a detailed analysis of supplies, purchases, imports and acquisitions of goods and services for the previous 12 months must be submitted ('Annual Return of Trading Details').

If a repayment of VAT arises, a registered trader is entitled to a refund. This will be made by the Collector-General and is normally paid directly to the bank account of the trader.

EU Sales Listings

Traders who engage in intra-Community supplies of goods must complete periodic EU Sales Listings (known as VIES statements) that provide specific details of their trade (i.e. intra-Community supplies of goods and certain transfers of goods) with other Member States. EU Sales Listings may be submitted either calendar quarterly or monthly. Returns are due by the last day of the month following the end of the period of return.

INTRASTAT

Traders who engage in intra-Community supplies or acquisitions of goods are obliged, subject to certain thresholds, to submit detailed INTRASTAT returns. These provide information on the movement of goods from VAT-registered traders in EU Member States to other EU Member States.

The INTRASTAT threshold for Arrivals is €191,000 per annum.

The INTRASTAT threshold for Dispatches is €635,000 per annum.

INTRASTAT returns (Arrivals and Dispatches) must be submitted for every calendar month. The due date for submission is the 10th working day immediately following the end of the month to which the return relates.

11. Customs Duty, Excise Duty and Vehicle Registration Tax

Customs Duty

Import/tariff classification

Goods imported into the EU must be declared to the Customs authorities at the time of import. Customs duty is normally paid at the time of import and is calculated on the value of the goods and the rate appropriate to the tariff classification of the goods in question. Since the tariff classification of the goods determines the rate of duty, it is important that the correct 10-digit tariff code is used. It is possible to obtain a Binding Tariff Information (BTI) ruling from the Customs authorities in relation to the tariff classification of all imported goods. BTI rulings are legally binding throughout the 25 EU Member States.

Origin duty relief

Depending on the origin of the goods, there may be preferential duty rates available for imported goods. For example, the EU has negotiated a series of bilateral agreements with many countries (e.g. Bulgaria, Chile, Iceland, Israel, Mexico, Norway, South Africa and Switzerland) whereby goods that meet certain origin criteria qualify for duty-free entry into the EU, with reciprocal treatment for EU goods upon arrival in the respective country. The EU has also agreed to grant preferential treatment to goods that originate in the developing countries of the world (e.g. most African and South American countries). It is necessary to have the relevant 'Certificate of Origin' to avail of this duty relief.

Duty relief procedures

The EU operates different procedures whereby manufacturers can benefit from a duty relief on imported raw material. These procedures, which require prior authorisation, are designed to help increase or maintain employment in the EU. Manufacturers that import raw material and subsequently re-export the manufactured product outside the EU can benefit from these procedures. Duty relief is also available when the duty rate applicable to the manufactured product is less than the duty rate applicable to the imported raw material.

Excise Duty

Excise duty is imposed on a very select range of goods, known as excisable goods. In Ireland, excise duties are the third largest source of taxation, after income tax and VAT. According to the 2004 *Annual Report of the Revenue Commissioners*, excise duty receipts were €5,066m. The traditional excisable goods in Ireland are alcoholic beverages, mineral oils and tobacco products.

Excise duty also extends to a number of particular activities requiring a licence:

- betting;
- brewing of beer;
- retailing spirits (both 'on' licence and 'off' licence);
- operating as a wine dealer;
- selling liquefied petroleum gas (lpg);
- operating gaming machines;
- operating amusement machines.

In most cases, excise duty is imposed on the manufacturer of the excisable goods, such as the brewery producing beer or the tobacco manufacturer making cigarettes. The excise duty is then passed on in the price of the goods to the ultimate consumers of the products.

Vehicle Registration Tax (VRT)

Vehicle Registration Tax (VRT) was introduced on 1 January 1993 and it applies to new and used vehicles that are registered for the first time in Ireland.

The amount of VRT payable on any particular vehicle depends essentially on the category of the vehicle:

- Category A – Cars
- Category B – Car-derived vans, jeep-derived vans, certain crew cabs and motor caravans
- Category C – Commercial trucks
- Category D – Special vehicles, such as ambulances, fire engines and refuse carts
- Motor cycles

VRT is calculated on the Open Market Selling Price (OMSP) at the appropriate VRT rate. The OMSP is determined by the Revenue Commissioners. The current rates of VRT are as follows:

Category A (cars)

Engine capacity	VRT rate
Up to 1,400cc	22.5% of OMSP
1,401cc – 1,900cc	25% of OMSP
1,901cc upwards	30% of OMSP

The minimum amount of VRT payable on a Category A vehicle is €315.

Category B (car-derived vans)

The VRT rate is 13.3% of OMSP or €125, whichever is the greater.

Category C (commercial trucks)

The VRT rate is a flat €50, regardless of the value of the vehicle.

Category D (special vehicles, e.g. ambulances)

These vehicles are exempt from VRT.

Hybrid electric vehicles

A hybrid vehicle is a vehicle that derives its power from a combination of an electric motor and an internal combustion engine, and is capable of being driven on electric propulsion alone for a material part of its normal driving cycle. 50% of VRT payable may be remitted or repaid in respect of certain hybrid vehicles.

Motor Cycles

Engine capacity	VRT rate
Up to 350cc	€2 per cc
351cc upwards	€2 per cc for the first 350cc, plus €1 per cc for every cc over 350cc

In the case of motor cycles, it should be noted that reductions apply depending on the age of the motor cycle.

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