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TAX ALERT

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Disclaimer

Finance Bill 2007

In preparing this alert, Ernst & Young Tax Services have highlighted the most significant measures included in Finance Bill 2007. The Bill now proceeds to Committee and Report stages, where additional amendments may be tabled. Further developments will be closely monitored and detailed tax alerts will issue on certain aspects of the Bill as published and any significant amendments.

Business Taxes

Association of Irish companies with Foreign Branches

Probably the most significant provision in the Finance Bill, as initiated, is the change to the tax treatment of foreign branches of Irish companies (and, even, foreign branches of the Irish branches of EU companies). First of all, where an Irish company has branches in more than one country, the Irish company can now pool its foreign tax credits between the different branches. Hitherto, if one branch suffered the foreign equivalent of corporation tax at a tax rate higher than 12.5%, and another branch suffered tax at a rate lower than 12.5%, the latter branch profits suffered additional tax in Ireland with no reflection of the additional tax paid in the former branch. Secondly, the Bill introduces an Irish tax credit for taxes equivalent to corporation tax and capital gains tax paid by a branch in a country with which Ireland does not have a tax treaty, or where the treaty may not provide for relief (this is called unilateral relief for branch profits tax).

This provision removes an anomaly between the Irish tax treatment of dividends and branch profits. Pooling was available for the former but not for the latter; this is now changed. However, a company can still carry forward excess credits on dividends but not on branch profits. It is unclear why this carry forward was not made available for branch credits.

A further technical change deals with the Irish capital gains tax position on gains that arise in a number of countries, where the tax treaty between Ireland and that country pre-dated the introduction of capital gains tax in 1975. The new provision provides for a tax credit in Ireland for capital gains tax suffered in the other country, even though the treaty may not provide for such a credit. The countries are Belgium, Cyprus, France, Germany, Italy, Japan, Luxembourg, the Netherlands, Pakistan and Zambia.

These new rules arise for accounting periods ending on or after 1 January 2007.

Corporation tax - relief for cross-border losses

In December 2005, the European Court of Justice (ECJ) delivered its decision in the Marks and Spencer (M&S) case (C-446/03). This case concerned a claim that under European law non-UK losses incurred by EU subsidiaries of the well-known UK retailer should be eligible for offset against profits of the parent in the UK.

Irish group relief provisions are similar to those in the UK. To take account of the court's decision it is now proposed that certain 'trapped' trading losses incurred by 75% subsidiaries of Irish companies resident in European Economic Area (EEA) States (excluding Liechtenstein) will be available for surrender under the existing group relief provisions. In this regard a 'trapped loss' is a foreign loss that under the laws of the other State cannot be utilised in any accounting period of the non-resident surrendering company or indeed other companies located in that other State. In view of the fact that losses can be capable of being carried forward for significant periods of time without being utilised, it may be difficult on a practical level to obtain relief for losses of entities that are still trading within the 2-year time limit for making group relief claims. Fortunately, provisions have been introduced to allow for claims in later years where it can be demonstrated that the losses have been permanently lost other than by reason of the passing of time (a reference to the fact that other countries have limited loss carry forward rules).

Any losses must be computed under the rules applicable under the laws of the surrendering State and cannot be attributable to a trade carried on in Ireland through a branch or agency. Another important restriction is that the losses must not be capable of being offset under the laws of any third Member State. The new provisions will be introduced retrospectively for accounting periods ending on or after 1 January 2006.

A number of potential issues arise. If another Member State enacts legislation on foot of the M&S decision to allow for the surrender of losses on a cross-border basis, it is not inconceivable that the losses might be capable of being surrendered to more than one EU company.

In view of the relatively low rates of Irish corporation tax, one would have thought that, given a choice, Ireland would not be the primary home for cross-border loss claims. Furthermore, the vast majority of Irish companies operating within international groups are unlikely to have too many 75% subsidiaries, making the inability to claim losses from 75% sister companies or parent companies a notable restriction.

It is interesting to note that the Finance Bill makes no provision for the ECJ decision of 12 December 2006 in the *Franked Investment Income Group Litigation Case (C-446/04)*. Under the Irish tax code distributions received from EU resident companies are fully liable to Irish corporation tax (at rates of up to 25%) subject to any tax credit for underlying taxes suffered by the non-resident companies.

Bearing in mind what the ECJ had to say about the importance of foreign-sourced dividends not being "*subject in that member state to a higher rate of tax than the rate which applies to nationally-sourced dividends*", it is arguable that the Finance Bill should have proposed some amendments in this area.

Corporation Tax Payments

As announced in the Budget, with a view to alleviating the administrative burden on 'small' companies, the corporation tax liability threshold for treatment as a 'small' company for preliminary corporation tax purposes is being increased from €50,000 to €150,000. 'Small' companies can base their preliminary tax payment on 100% of their prior year liability. Additionally, start-up companies with a corporation tax liability of less than €150,000 are relieved from having to make any corporation tax payment until their tax return filing date – nine months after year end. These measures are effective for preliminary tax payment dates arising after 6 December 2006.

In a separate effort to alleviate the preliminary tax calculation burden on 'large' companies, a new measure has been introduced in the Bill by which groups of companies can elect to offset excess preliminary tax payments in one group company against shortfalls in other group companies that have not met their 90% payment requirement. This should help to reduce interest exposures on estimated preliminary tax payments across a group, and will be effective for accounting periods ending on or after 1 February 2007.

Foreign currency matching

Revenue e-brief no.47/2006 (published 1 December 2006) indicated the intention to make certain amendments to section 79B TCA 1997 ("Matching of foreign currency assets with certain foreign currency share capital") with a view to ensuring that section operated as originally intended. These amendments are included in the Finance Bill. The proposed effective date of the amendments will be the original commencement date of the section 79B TCA 1997 provisions (i.e. 1 January 2006).

Investment Funds Changes

A number of important changes are included in the Bill.

Offshore Funds – Change in Tax Treatment

Irish investors in certain offshore funds are taxed on a self assessment basis on any income received at 20% and at 23% on any gains arising on disposal of units in the fund. These offshore funds are located in what are regarded as "good locations" i.e., EU and EEA Member States and countries with which Ireland has tax treaties.

The Bill proposes that the favourable tax treatment above only apply to Irish investors in offshore funds which are companies, unit trusts, UCITS or arrangements similar to the Investment Limited Partnership structure. All income from other offshore funds will be taxed at the investor's marginal rate of tax and any gains will be taxed at 20%.

Personal Portfolio Investment Undertakings

Certain Irish and foreign investment funds do not pay tax as investments roll up gross. Irish investors, before 1 February 2007, paid tax on exit at 23%.

This will change for investment funds which are now regarded as personal portfolio investment undertakings ("PPIU"). In basic terms an investment undertaking will be regarded as a PPIU for an investor if he, or someone connected to him, can influence the selection of the investments a fund holds on his behalf. The legislation is a response to perceived use of these investment funds for tax efficient planning. The concern was that a certain number of these funds were used to hold personal assets of individuals or to follow certain investment strategies for those individuals and avoid paying the marginal income tax rate.

The anti-avoidance provisions introduced changes the tax rate on gains arising from disposals on or after 1 February 2007. The new penal tax rate is the standard rate plus 23%, i.e., a 43% effective tax rate. A more penal rate of 61% could apply for offshore investment funds if income or gains are not correctly included in an individual's tax return.

This is yet another unwelcome surprise visited upon the funds industry. In particular fund administrators will have to review funds on which they deduct exit tax and assess whether they are PPIUs or not. The focus of the review should be on Qualifying Investor Funds or Professional Investor Funds but other Irish investment funds should not be overlooked.

Life Assurance

In a move to simplify administration of the deemed disposal rules introduced in the last two Finance Acts, the Bill removes the 12 year rule so that a deemed chargeable event will now occur in respect of all life policies after 8 years, regardless of the level of premium. Similar changes have been made in respect of foreign life policies.

For domestic life policies, a number of technical amendments have also been introduced regarding the calculation of the gain and the exit tax on a chargeable event following a deemed chargeable event. The purpose of these amendments is to ensure that, in calculating the gain on a subsequent chargeable event, a deduction is not obtained for the tax deducted on the previous deemed event.

Business expansion scheme

The Bill contains a number of provisions implementing the extension to the Business Expansion Scheme (BES) not all of which were announced in the Budget. One such measure is the intention to extend the scheme to recycling companies that have received grants or other financial assistance from an industrial development agency. The BES provisions are subject to obtaining European Commission approval.

Treatment of interest as a distribution

It is hard to fathom the purpose of this change. Hitherto, interest payments by an Irish company to 75% group companies in countries with which Ireland did not have a tax treaty were treated as distributions which were not tax deductible and dividend withholding tax may have applied. The new section provides that trading companies can elect to make the interest deductible where the interest is paid in the course of the trade. This election only applies to 'yearly interest', which means that interest withholding tax, at 20%, may be an issue. In any event, as 'short interest' is still not deductible, this section is of little use to treasury and cash pooling operations. To be frank, this provision, which was supposed to be helpful, as currently drafted, adds a pretty useless complication to the Irish system unless it is coupled with an exemption for interest withholding tax.

The section takes effect for interest paid on or after 1 February 2007.

Research and Development

This section simply gives effect to the measures announced in the Budget, i.e. for the 'look-back' period to be increased from 3 years to 6 years for the purpose of comparing the amount by which the company's R&D expenditure has increased (with 2003 remaining as the base year for all years up to and including 2009 - or perhaps part of 2010 for non-calendar year companies). In effect this measure only applies if the company was already established as at 1 January 2004, otherwise the look-back period remains 3 years. This may be an oversight.

The Bill also makes provision for outsourcing of the R&D work to unconnected parties, other than third-level institutions, provided this does not exceed 10% of the costs and provided the recipient is not claiming Irish R&D credits.

Since the Budget, industry groups have continued to lobby for improvements to the regime, but these have not been forthcoming. It remains to be seen whether it is intended to include any or all of these in a later version of the Bill. The changes sought include:

- The move to a volume-based system of credits rather than an incremental system;
- Alignment of administrative requirements with those for R&D grants, and simplification of the administration in relation to both;
- Some moves to address anomalies arising out of uneven patterns of expenditure. These are particularly acute where there is heavy expenditure on plant and equipment in the first year, resulting in very high threshold amounts for several years.

A further concern with the legislation is that companies are not given the option to decide whether they want to continue using 2003 as the base year. There may be particular circumstances where a company was looking forward to 2004 being the base year for 2007, and now finds it will not be the base year until 2010.

Share-based payments

The Bill amends provisions relating to expenditure on stock options and similar share-based compensation. A corporate tax deduction is now available in situations where a company makes payments in respect of the right to receive shares. The proposed amendment does not deal with significant ambiguities as to the period in which the tax deduction is to be granted. Representations have been made in this area and other shortcomings in the law in this area have been highlighted. We are urging Finance/Revenue to deal with these matters as the Bill progresses.

Relevant Contracts Tax

The Bill proposes a number of changes to the legislation governing the administration of Relevant Contracts Tax (RCT). RCT is a withholding tax (35%) which principal contractors in the construction, meat processing and forestry sectors are obliged to deduct from payments to certain sub-contractors. The changes are:

- the expansion of the definition of ‘construction operations’ to include the installation in buildings or structures of systems of telecommunications (mobile telecommunication networks and local wireless networks);
- the extension of the definition of ‘principal contractor’ to include persons involved in land development and any board or body established by or under royal charter. The stated intent of the latter inclusion is to place such boards on the same footing as boards established under statute which are already obliged to operate RCT. However, the potential

impact of this provision could have the effect of bringing such bodies as the Royal Irish Yacht Club and Royal St George Yacht Club within the definition of 'principal contractor'!;
- the inclusion of a requirement that principal contractors may be obliged to deliver forms RCT1 to the Revenue. The Form RCT1 is a joint declaration signed by the principal and the sub-contractor stating that the contract is not a contract of employment. The inclusion of the provision is intended to meet commitments made by the Government to the Unions under the Social Partnership Agreement;
- the extension of the penalty provisions to include a failure to deliver the Form RCT1 to Revenue as a punishable offence.

It should be noted the provisions extending the definition of 'construction operations' and 'principal contractors' are to impact 'relevant contracts' entered into after 1 May 2007. Unfortunately all of these amendments will increase the RCT burden on industry and it is disappointing no measures were included to reduce the administration of this significant withholding tax.

Dividend Withholding Tax

To facilitate the harmonisation of stock markets scheduled for 2008, provision is made for the use of electronic vouchers where the dividend payment is handled by an "intermediary" - i.e. a person whose trade includes the receipt of dividends from Irish companies on behalf of other persons. The provision sets out some detailed requirements for electronic vouchers, including the use of special identifiers for the company paying the dividend, the recipient, and the particular voucher in question. The removal of the requirement to issue paper vouchers will be welcomed by the persons affected.

The existing tax code provides for a DWT exemption where a dividend is paid to a listed company or a subsidiary of a listed company. At present this exemption applies only where the ultimate parent is quoted on certain recognised stock exchanges outside Ireland. The exemption has been extended to apply where the ultimate parent is listed only in Ireland.

Third, a technical change is made to the legislation dealing with repayment and crediting of DWT to confirm that the normal 4-year rule for repayment claims also applies to such claims in respect of DWT.

Interest repayments

In a welcome move, the Bill provides for a reduction in the period after which the Revenue are obliged to pay interest on tax repayment claims from 183 days to 93 days after making a valid claim. The new period applies to repayments made on or after the passing of the Finance Act.

Revenue Powers

As happens in most years, the powers of the Revenue have been further increased. The increased powers in this instance are directed at tax investigations for the purposes of criminal proceedings. The additional powers are:

- the authorised officer of the Revenue, on foot of a District Court warrant, may among other things, enter any premises, search those premises, interview persons on the premises, examine, seize and retain any material found on the premises or in the possession of persons found there, or take such other steps as appear necessary. In addition, the Revenue officer may be accompanied by a Garda who may arrest any person obstructing the Revenue officer. Failure to comply with the Revenue officer's search leaves the person at risk of a penalty of up to €3,000 and/or imprisonment;
- the authorised officer of the Revenue may seek an order from the District Court compelling a third party to produce material which might be of value (in the Revenue officer's view) in the investigation of a tax offence. While legal privilege is to be respected, third parties must otherwise assist the Revenue Officer or risk a penalty of up to €3,000 and/or imprisonment.

Income Tax

Tax incentives for tourism facilities in the mid-Shannon region

The Finance Bill contains proposals for the introduction of a new tax incentive scheme for tourism facilities in the mid-Shannon region, i.e. specified areas within a seven to eight mile corridor of the Shannon river. The proposed relief consists of an entitlement to accelerated capital allowances over seven years for expenditure incurred on the conversion, refurbishment or construction of certain commercial buildings and structures. The precise nature of the buildings or structures that will qualify is to be set out in guidelines to be issued by the Minister for Arts, Sports and Tourism in consultation with the Minister for Finance.

It is specifically provided that certain properties will not qualify under the new scheme. These include pubs (but not restaurants) and any facilities '*in which gambling or wagering of any sort is carried on for valuable consideration or which supports the carrying on of such activities*'. It remains to be seen whether the latter exclusion is interpreted widely. In addition, a cap is to be imposed on the amount of accommodation facilities that may qualify for relief, stated to be 50% of the overall project-spend unless a lower percentage for such projects is specified in the guidelines.

The relief will only be available for those property projects approved by a newly created Tourism Infrastructure Board which will be established by the above ministers. Important approval and certification procedures will apply.

The existing restrictions on the use of excess capital allowances against non-rental income by passive investors and by high-income individuals will apply. Nevertheless the proposal would appear to be something of a reversal of policy regarding the need for tax incentives to promote property projects especially when considered in the context of the phasing out of other tax-based property incentives by 2008. Given that the scheme is described as a pilot scheme one might expect a significant number of submissions from interested parties seeking similar tax incentives for other regions.

The new scheme is subject to European Commission approval and will apply for three years from the date of the relevant commencement order.

Transfers of assets abroad

The Bill increases the tests for an individual seeking exemption under the transfers of assets abroad legislation. This anti-avoidance legislation is designed to prevent individuals transferring assets abroad free of income tax. Currently an individual must satisfy the Revenue that the purpose of the transfer of the assets was not to avoid tax or that the commercial transaction itself was genuine.

This 'bona fide' test has been strengthened. The Revenue will now examine both the subjective intentions of the individual himself and the substance of the transaction itself in determining whether or not a transaction has an avoidance purpose.

Some additional technical amendments are introduced to tighten up the section. Transitional arrangements are also included to ensure that transfers effected either side of 1 February 2007 are treated appropriately.

Pensions/Retirement Benefit Plans

Proprietor directors, and employees making Additional Voluntary Pension Contributions (AVCs), are entitled to establish Single Member pension schemes of which they are the sole beneficiaries. Historically it has been necessary to seek the approval of the Revenue Commissioners on a case by case basis to establish such a scheme. The administration and complexity associated with establishing such a scheme has made it extremely costly to implement. The Finance Bill contains provisions permitting the promoters of single members pension schemes to receive approval for a generic scheme, which will remove the necessity to have each scheme approved separately. Approval will be granted subject to conditions, with the Revenue retaining the power to withdraw approval where any conditions are breached. Unlike regular pension schemes a condition of approval is that the aggregate of the individual contribution and the employer contribution, if any, on an annual basis cannot exceed the maximum age related contribution (15% to 40% of earnings, subject to a maximum earnings limit of €254,000). It is interesting to note that the focus is on the contribution level and therefore it is not possible to make a larger contribution and carry the excess forward so that relief could be claimed in the following tax year.

Tax Avoidance Schemes

From 1 January 2007, individuals with income in excess of €250,000 per annum who have specified tax reliefs (e.g. capital allowances, artist's exemption, patent dividends etc) available to them are restricted in the amount of tax relief they can claim. The Finance Bill addresses a number of concerns which arose following the announcement of these measures in last year's Finance Act. The new provisions ensure that individuals assessed to tax as married couples will be treated as separate individuals when determining the relief available to them so that each spouse's entitlement to relief will be examined in isolation without reference to their spouse's income. In addition where one or both spouses have income below the €250,000 threshold the restriction of relief will not be applied.

The Finance Bill also provides that all individuals with specified tax reliefs must file an annual Tax Return, even if no tax liability ultimately arises. This will ensure that the Department of Finance can quantify the level of income which is not liable to income tax.

Partnerships

Undistributed profits of a partnership are taxed at the standard rate. However when the profits are ultimately distributed the partners are taxed at their marginal rate with a credit for any standard rate tax paid previously. The Finance Bill contains provisions which deem undistributed profits to have been distributed and taxed at each partner's top rate of tax. This measure has the affect of prohibiting a partnership from deferring the payment of tax at the higher rate on undistributed profits.

Taxation measures for stallions

As highlighted previously the current tax exemption for stallion stud fees will terminate on 31 July 2008. With effect from 1 August 2008 stallions are to be treated as stock in trade and income or gains deriving from stallion stud fees will become fully liable to income tax or corporation tax as appropriate. The rumoured 12.5% rate for individuals has not emerged.

However, it is proposed, subject to European Commission approval, to allow stallion owners to write-off the purchase cost of stallions over a four-year period. In some instances the market value of the stallion as at 1 August 2008 may be used for the purpose of the 4-year deduction.

Transitional measures will be introduced to ensure that where high income individuals suffer an effective loss of stallion exemption relief prior to 31 July 2008 by virtue of the income cap restrictions introduced in the 2006 Finance Act, such restrictions will be taken into account for the purposes of ascertaining the tax payable on stallion profits for future years.

Information Returns from Special Savings Incentive Account (SSIA) Managers

While the SSIA scheme is coming to an end, the information gathering powers of the Revenue Commissioners have been extended to require SSIA managers to supply certain information electronically regarding SSIA accounts. The actual information has not been specified in the draft legislation but the intent of the provision is to allow the State monitor the movement of funds during the life of the scheme.

CGT withholding provisions

The assessment and collection provisions that apply where a person is required to withhold CGT at 15% on the purchase of Irish land (or shares deriving the greater part of their value from Irish land) have been amended. The main change is a relaxation of the former requirement that the 15% tax must be paid to the Revenue "forthwith".

For disposals made on or after 1 February 2007 (note that this refers to the date of the contract and not the date on which the consideration passes), the withholding tax must be paid to the Revenue within 30 days of the date of the consideration passing.

Other amendments include:

- the removal of the requirement on the inspector to make an assessment on the purchaser - the tax is payable whether or not it is assessed;
- the removal of the rule that the tax was due on the day following the date of assessment - the tax is due 30 days from the date consideration passes, whether or not it is assessed; and
- a slight re-wording of the provision to the effect that the tax is creditable for the vendor only once it has been paid by the purchaser.

From a practical perspective a vendor is presumably not going to wish to complete the contract unless he/she has certainty that the withholding tax has been paid to the Revenue and is therefore creditable.

Medical expenses

In his 2007 Budget speech the Minister announced the introduction of measures aimed at ensuring that taxpayers could more readily avail of tax reliefs to which they were entitled. As part of this process the Bill contains simplification measures in connection with the tax relief available for medical expenses.

With effect for 2007 the aggregate threshold above which medical expenses qualify for tax relief is being reduced from €250 to €125. The alternative 'per person' limit of €125 has been removed. In addition, the Bill extends the tax relief to payments of medical expenses on behalf of any persons. Previously relief was only available in respect of personal expenses and expenses of dependants as defined in the tax code.

Charities

Under the Irish tax code donations to charities attract tax relief only if the charities are established in Ireland. Last October the European Commission took the view that the omission of charities established in other Member States from this relief is contrary to the EC Treaty. A similar challenge was initiated against UK rules.

In response the Finance Bill will remove the requirement that certain educational bodies must be established in Ireland in order for the tax relief for donations to apply. While the Minister has indicated that there will be negotiations over the next few months on how to deal with the question of cross-border donations to charities it is clear that the Commission's action was based on a previous ruling of the European Court of Justice (ECJ). Some difficult negotiations may lie ahead.

The decision not to equalise the tax treatment of donations to foreign and Irish charities will preserve for a little time longer the 'competitive advantage' possessed by Irish charities when it comes to soliciting donations from Irish taxpayers.

Capital Taxes

Irish stock exchange – Intermediary relief

Section 100 of the Finance Bill 2007 introduces two new types of relief. In the first instance, it creates a relief for persons who are stock exchange 'intermediaries'. The main outcome of this section is that it should result in more certain Irish stamp duty rules for member firms and market makers. The effect of this section is to remove the uncertainty that has been present since the Revenue announced in early 2006 that the hedging of CFD positions could give rise to stampable transactions. It should be noted, however, that any such transactions which occur before the commencement of the section remain potentially liable to stamp duty, as the Bill has not stated that the relief is to be enforced retrospectively.

In addition the Bill also creates an exemption from stamp duty for stock exchange clearing houses.

The section takes effect from the date of a Ministerial Order. Helpfully, the provision is somewhat loosely drafted which means that it should track changes to market practice on exchanges.

The 1% stamp duty charge which applies to share transfers needs to be reconsidered. It discourages Irish people from investing in the companies they know best; it drives down liquidity in the Irish market, it reduces the value of pension funds, it causes Irish people foreign exchange difficulties when they buy shares in foreign markets where there is no stamp duty. Worst of all it encourages Irish people to invest indirectly in Irish shares using short-term leveraged derivatives and not by buying real shares.

Capital Acquisitions Tax Amendments

Gifts/inheritances deemed to be taken from a discretionary will trust can now qualify for the 50% reduction in the initial discretionary trust tax charge if all assets are appointed out of the trust within 5 years of the transfer of assets into the trust by the executors, rather than within 5 years of the date of death of the disponer.

Provisions relating to the imposition of the 1% annual discretionary trust tax are now redundant as a result of the High Court decision in the Irvine case in 2006. It was held in that case that property did not become subject to the discretionary trust created by the will of the deceased until the residue of the estate had been ascertained and transferred to the trust.

Interest payable on CAT arising from a clawback of agricultural or business relief following a disposal of development land will be payable only from the date the land is disposed of, and not the valuation date of the original gift or inheritance on which relief was claimed.

The relief which allows a residential property to be transferred to a person who has occupied it as their main residence for 3 years, subject to certain conditions has been amended. In the case of a gift of a property from a parent to a child, any period in which the property was the parent's only or main residence will not count as part of the child's 3 year qualification period.

Stamp Duty changes

A number of new Stamp Duty measures have been introduced which were not specified in the budget.

- The area of a site which is transferred to a child which qualifies for relief from stamp duty where the child constructs and occupies the house as his/her principal private residence has been limited to one acre excluding the actual area of the building itself. This amendment comes into effect for instruments executed on or after 1st February 2007.

- An exemption from stamp duty has been introduced on certain transfers of farmland from a child to a parent in the context of family arrangements. This amendment applies to instruments executed on or after the date of the passing of the Finance Act 2007. This may apply in circumstances when parents and a child swap farmland. The child could potentially qualify for stamp duty relief as a "young trained farmer", but prior to this new provision there was no such relief for the parent.

- In the case of a person who is divorced, separated or where a decree of nullity has been granted and who wishes to purchase a new house following the separation/divorce, that person may be treated as a first time purchaser where he/she does not retain an interest in the former family home. The relief is now available provided the former marital home does not cease to be occupied at the date of the decree by the spouse of the claimant as his/her only or main residence. Previously, the former partner of the person purchasing a new house was required to continue to live in the former marital home until the time of the purchase of the new house.

  However, first time purchaser relief will not be available where at the date of the deed of separation/divorce etc., the purchaser has an interest in another home not being the former family home. This amendment comes into effect for instruments executed on or after 1st February 2007.

Disposals of sites to children

The Finance Bill proposes to amend the Capital Gains Tax (CGT) exemption that permits the transfer of land by parents to their children for the purpose of enabling the child to construct a principal private residence on it without the imposition of CGT. In order to qualify for the exemption the market value of the land cannot exceed €254,000.

With effect for disposals made on or after 1 February 2007 it is now proposed to restrict the relief to transfers of land which does not exceed 0.4047 hectares (1 acre) in area excluding the footprint of the intended house itself. This mirrors the stamp duty provisions introduced in the Bill.

Indirect Taxes

VAT

VAT on Property

As a precursor to the raft of VAT on property related measures expected in next year's Finance Act, measures have been proposed to remove a landlord's right to waive exemption from VAT in relation to residential property where that property is acquired or developed after the date of passing of the Finance Act. A waiver will be allowed where a binding contract to acquire the property was entered into or a planning application to develop was lodged before the passing of the Act.

Conference-related expenses

The Finance Bill has clarified the specific measures to be introduced in relation to the deductibility of VAT incurred in respect of conference-related accommodation expenses as announced in the Budget. It allows for the deduction of VAT incurred on expenses relating to the letting of property or accommodation to a delegate described as a taxable person or his agent for a period which covers the night before the conference commences and concludes on the night the conference ends. Only those conferences or meetings held in the course or furtherance of business which cater for 50 or more delegates and take place after 1 July 2007 will qualify. The conference venue must have been designed and constructed for the purposes of hosting such events. This is a welcome development which goes some way to address Ireland's competitive disadvantage vis-à-vis other EU Member States when attempting to attract the lucrative conference centre business to Ireland. There is, however, still scope to extend the legislation further to include other services such as meals etc.

State Departments & Local Authorities

Currently Irish VAT legislation provides that Irish local authorities and departments of State are liable to self assess VAT on certain services provided by foreign suppliers. The Finance Bill proposes to delete this provision with the result that when such organisations are not acting as taxable persons, no requirement to self assess VAT will arise. The organisations are, however, likely to suffer foreign VAT on these services when supplied by EU suppliers.

Hire-purchase of motor vehicles

A number of measures are proposed with regard to the VAT treatment of finance companies engaged in hire-purchase transactions. The proposed measures will allow finance companies to deduct VAT on the purchase of motor vehicles which are supplied by the finance company under hire-purchase arrangements. The measures will also have the effect of enabling finance companies to recover VAT on bad debts, and the sale of repossessed motor vehicles will become subject to VAT.

Place of supply rules

The Bill proposes that the place of supply of intermediary services (with the exception of intermediary services related to intra-Community transport and ancillary services) will be the place of supply of the underlying transaction.

VAT exempt connected persons

A measure is proposed to allow Revenue to determine the open market price of certain supplies of goods or services between connected persons. This is an anti avoidance measure principally aimed at supplies of goods or services by a supplier to a VAT exempt or partly exempt connected person.

Excise

Betting shops

The Bill proposes to allow the late opening of betting shops on days on which an evening race-meeting is taking place in Ireland, regardless of the time of year. Currently, late opening is allowable when daylight hours facilitate evening race-meetings (April through to August). This change is in response to the advent of floodlit night time horse racing in Ireland from the latter half of this year.

Electric vehicles

It is proposed, as announced in the Budget, to introduce a relief scheme under which the Revenue Commissioners may remit or repay 50% of the vehicle registration tax payable or paid on the registration of series production electric vehicles. The scheme is intended to encourage the purchase of electric vehicles that can achieve vehicle propulsion exclusively from an electric motor.