Revenue Commissioners

Tax Briefing No 63

2006

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Rental Income – Interest Deduction

Requirement to Register Tenancies with the Private Residential Tenancies Board

Section 11 Finance Act 2006 amended the computational rules in *Section 97 TCA 1997* for determining the amount of rental income chargeable to tax. Entitlement to a deduction for interest paid on borrowed money employed in the purchase, improvement or repair of a rented residential property is now conditional on compliance with the registration requirements of the Residential Tenancies Act 2004 (the Act). The statutory basis for the registration of tenancies is contained in part 7 of the Act. This change applies to interest paid by individuals during the year of assessment 2006 and subsequent years and by companies for accounting periods beginning on or after 1 January 2006.

The establishment of the Private Residential Tenancies Board (PRTB), and other changes to residential landlord and tenant law in the Residential Tenancies Act 2004, arose out of recommendations of the Commission on the Private Rented Residential Sector. The PRTB was established in September 2004 to operate a national tenancy registration system, to provide information and policy advice on the private rented sector and to resolve disputes between landlords and tenants.

Persons who are required to register

The Act applies to the vast majority of private rented dwellings situated in the State (dwellings outside the State are outside the scope of the Act). Section 3 of the Act lists the types of dwellings that are excluded and in respect of which there is no requirement to register tenancies. The main exclusions include:

- Business premises
- Former rent controlled dwellings occupied by the original tenant or by his/her spouse
- A dwelling let by a local authority or a voluntary housing body
- A dwelling occupied under a shared ownership lease
- A dwelling in which the landlord also resides (this would include the 'rent a room' scheme)
- A dwelling in which the spouse, parent or child of the landlord is resident and where there is no written lease or tenancy agreement
- Holiday lettings

A dwelling let by, or to, a public authority is also excluded. A "public authority" includes a recognised educational institution. Therefore, owners of student accommodation dwellings let to a third level college for onward letting to students are excluded from the requirement to register. However, tenancies in dwellings that are let directly to students **must** be registered.

Where an owner of a rental property leases that property to a management company and the management company then on-leases the property to, for example, students or tenants of nursing home residential units, the management company must register those tenancies. While failure by a management company to comply with its registration requirements will not have any consequences for the owner's entitlement to an interest deduction, it will be an offence for the purposes of the Act. However, in a situation where an owner of a dwelling simply contracts with a management company to carry out certain management and letting services without actually leasing the property to that management company, the owner would be required to register tenancies for the dwelling.

The onus is on a landlord to ascertain whether he or she is excluded from the requirement to register tenancies. In this regard section 3 of the Act is relevant. Also, the PRTB has published guidance material on this issue.

Registration requirements

Landlords are required to register details of **all** of their tenancies within one month of the commencement of those tenancies. Once a tenancy is registered it remains a registered tenancy for as long as the tenancy remains in existence. Once the tenancy is terminated, any new tenancy created in respect of the dwelling must be registered with the PRTB. Under the provisions of Part 4 of the Act, if the tenancy has not previously been terminated it will be deemed to be terminated when it has lasted 4 years and a new tenancy will then be deemed to commence. This new tenancy must be registered with the PRTB and the appropriate registration fee paid.

The registration application form PRTB1 is available from local authority Housing Sections or it can be downloaded from **www.environ.ie**. Section 136 of the Act sets out the particulars that must be entered on the PRTB1. The PRTB may return an incorrectly completed or incomplete PRTB1 to a landlord and refuse to register a tenancy until the form has been correctly completed. Landlords are urged to read the 'Frequently asked Questions' section on the PRTB's website, in particular the material on the tenant's Personal Public Service Number (PPSN). The Act states that the PPSN of the tenant(s) must be provided unless it cannot be ascertained by reasonable enquiry. Where a landlord is unable to provide the required PPSN, he or she should send a covering letter to the PRTB with the PRTB1 setting out the reasons why the PPSN is not being provided and the steps that were taken to ascertain the number. Revenue understands that the PRTB takes the view that instances of tenants not having PPSNs or of being unable to obtain a PPSN should be very rare. The PRTB may refuse to register a tenancy if the PPSN is not provided.

Revenue requirements

As already stated, entitlement to a deduction for interest paid on borrowed money employed in the purchase, improvement or repair of a rented residential property is now conditional on compliance with the registration requirements of the PRTB. These registration requirements have been outlined above and must be met for **all** of a landlord's tenancies.

The registration requirements must be complied with in respect of all tenancies in a particular dwelling in the chargeable period for which the interest deduction is claimed. There is no provision for apportionment where only some of the tenancies are registered. If a tenancy commences at some time within the last month of the chargeable period, the registration requirements will be regarded as met if the tenancy is registered within a month of commencement even though the month may finish in the next chargeable period.

Where a landlord is claiming an interest deduction under the normal self-assessment system, he or she will be required to state in the annual return of income that he or she has complied with the registration requirements. Evidence of registration need not be submitted with the return of income but should be retained for inspection in the event of an audit.

For Revenue audit purposes written confirmation of the registration of a tenancy from the PRTB will be accepted as evidence of compliance with the registration requirements for that tenancy. In the case of an exempt dwelling, the onus will be on the landlord to show that he/she is not required to comply with the registration requirements. Landlords claiming interest relief in respect of properties situated outside of the State must be able to show that the interest paid relates to that property.

If it is discovered that a landlord has failed to comply with the registration requirements for a chargeable period any interest relief that has been claimed will be withdrawn. Such a withdrawal of interest relief may result in an underpayment of tax and expose the landlord to interest and penalties.

General rental refurbishment scheme

Section 11 Finance Act 2006 also applies to the general countrywide rental refurbishment scheme. This scheme provides for a deduction against rental income for expenditure incurred on the refurbishment of rented residential accommodation. Qualifying refurbishment expenditure can be written-off over 7 years at the rate of 15% per annum for the first 6 years and 10% in year 7. In addition to any interest deduction that may be claimed, the entitlement to a deduction for the qualifying refurbishment expenditure is now dependent, *inter alia*, on compliance with the registration requirements of the PRTB. Therefore, the obligation to comply with the registration requirements of the PRTB is triggered whether or not a loan is taken out to finance the refurbishment. As outlined above, written confirmation of the registration of a tenancy from the PRTB will be accepted as evidence of compliance with the registration requirements for that tenancy where relief under this scheme is being claimed. Finally, the Finance Act 2006 provided for the termination of this scheme on 31 July 2008. Refurbishment expenditure incurred after that date will not qualify for relief.

Further Information

Information about the Residential Tenancies Act and the registration requirements is available at www.environ.ie or www.prtb.ie. **Enquiries about the registration requirements should be addressed to the Private Residential Tenancies Board and not to Revenue.** The contact details are:

Private Residential Tenancies Board
Canal House
Canal Road
Dublin 6

Telephone:	01 8882960
Fax:	01 8882819
E-mail:	prtb@environ.ie
Website:	www.prtb.ie

Capital Allowances and Property-Based Incentive Schemes

Finance Act Changes

The Finance Act 2006 contains several sections affecting residential reliefs ('section 23' type relief and owner-occupier relief) and capital allowances for the property-based incentive schemes. This article provides some details of the new provisions.

Terminating Schemes

A table at the end of the article summarises the Finance Act changes for the terminating schemes.

Termination Dates

Extended termination dates apply to expenditure qualifying for residential reliefs and to expenditure qualifying for capital allowances for certain commercial and industrial developments. The deadline by which qualifying expenditure must be incurred is extended from 31 July 2006 to 31 December 2006 where existing conditions have been met. This new termination date is further extended to 31 July 2008 where additional conditions are met. The schemes affected and the details of the existing and new conditions are set out below.

Residential Schemes Section 23/ Owner-occupier	Commercial and Industrial Buildings Capital allowances
Urban Renewal	Urban Renewal
Rural Renewal	Rural Renewal
Town Renewal	Town Renewal
Living over the Shop	Living over the Shop
Park and Ride	Park and Ride
Student Accommodation	Hotels**
General rental refurbishment*	Holiday Camps**
	Registered Holiday Cottages
	Sports Injuries Clinics***
	Multi-Storey Car Parks
	Third-Level Education Buildings
	Nursing Home Residential Units****

*There had previously been no termination date for the general rental refurbishment scheme. The termination date of 31 July 2008 now applies without condition. This is a countrywide scheme for the refurbishment of rented residential properties. Tax relief for qualifying expenditure is given against rental income at the rate of 15% per annum for 6 years and 10% in year 7 rather than by means of 'section 23' type relief with a full deduction in year 1. *Section 11 Finance Act 2006* introduced a new condition for eligibility for relief by making entitlement to relief dependent on compliance with the registration requirements of the Residential Tenancies Act 2004. (This issue of ***Tax Briefing*** contains an article on these registration requirements).

**Capital allowances will continue to be available for hotels and holiday camps that are registered with Fáilte Ireland. However, for those buildings that fall outside the current transitional arrangements the capital allowances will only be available at an annual rate of 4% instead of the 'accelerated' rate of 15%.

***There was previously no termination date for incurring qualifying expenditure on sports injuries clinics. The period during which the Health Services Executive is required to provide annual certification in respect of a sports injuries clinic is extended from 7 to 10 years.

**** The original termination date for incurring qualifying expenditure on nursing home residential units was 24 March 2007. Although these units are residential, they qualify for capital allowances as an industrial building rather than for the usual 'section 23' type relief for residential developments. A unit will now be treated as a qualifying unit in circumstances where a unit is leased directly to a registered nursing home, provided that it is leased on condition that it is subsequently leased by the registered nursing home to an elderly or infirm person and is not used for other purposes. Previously, the unit did not qualify for capital allowances until it had actually been leased to the elderly or infirm person. See section on Continuing Reliefs for more changes in relation to nursing home residential units.

Existing conditions

Where certain existing conditions are met the termination date is extended from 31 July 2006 to 31 December 2006. For the **urban renewal scheme** there is a requirement that 15% of the project costs must have been incurred on or before 30 June 2003 and the relevant local authority must have certified this on or before 30 September 2003. For multi-storey car parks there is a requirement that 15% of the project costs must have been incurred on or before 30 September 2003 and the relevant local authority must have certified this on or before 31 December 2003. For buildings used for the purposes of **third-level education** an application must have been submitted to the Minister for Finance on or before 31 December 2004. For some of the other schemes a valid application for full planning permission must have been lodged on or before 31 December 2004 (see ***Tax Briefing*** 60 for details). This latter condition applies to the following buildings or schemes:

- Hotels ('accelerated' allowances only)
- Holiday Camps ('accelerated' allowances only)
- Registered Holiday Cottages
- Rural Renewal
- Town Renewal
- Living over the Shop
- Park and Ride

Additional conditions

The termination date is further extended to 31 July 2008 where certain additional conditions are met. Work to the value of 15% of the actual construction or refurbishment costs must be carried out on or before 31 December 2006. Unlike the earlier 15% expenditure condition for the urban renewal scheme and multi-storey car parks, the new 15% expenditure condition does not include the acquisition of the site or any costs associated with that acquisition.

For certain commercial and industrial projects, hotels etc. (listed below) where the extended 31 July 2008 deadline requires EU Commission approval, qualifying conditions are more onerous. Thus, a binding written contract for the construction or refurbishment work must be in place by 31 July 2006 and the relevant local authority must certify compliance with the 15% requirement. An application for a local authority certificate must be made on or before 31 January 2007 and the certificate must be issued on or before 30 March 2007. A builder/developer who sells the completed building must provide the certificate to the purchaser. Such certification must include details of the actual expenditure that is incurred up to 31 December 2006 and of the projected expenditure to be incurred after that date. The amount of qualifying expenditure incurred in 2007 and 2008 is then restricted to and cannot exceed this projected amount. That amount is in turn subject to the 75% and 50% restrictions outlined below. Where the projected expenditure is exceeded the qualifying expenditure will be treated as incurred in the period 1 January 2007 to 31 December 2007 to the fullest extent consistent with work having actually been carried out during this period. Projects relating to the following are affected by these requirements:

- Hotels ('accelerated' allowances only)
- Holiday Camps ('accelerated' allowances only)
- Registered Holiday Cottages
- Urban Renewal (commercial and industrial buildings)
- Rural Renewal (commercial and industrial buildings)
- Town Renewal (commercial and industrial buildings)

Qualifying conditions for the new 31 July 2008 deadline for other cases and for the residential element of the above schemes where E.U. Commission approval is not required are less onerous. However, there is still a requirement for work to the value of 15% of the actual construction or refurbishment costs to have been carried out on or before 31 December 2006. While local authority certification is not required, the person claiming relief must be able to show that this condition has been met. Revenue expects that builders and developers will provide a statement prepared by a quantity surveyor or architect showing clearly the work that was carried out on or before 31 December 2006, the construction or refurbishment costs attributable to this work, the projected construction or refurbishment costs to completion of the project and the percentage of the total figure represented by the work that was carried out on or before 31 December 2006. This statement may be required in the event of an audit by Revenue. Therefore, a builder or developer who sells the completed building should provide this statement to the purchaser who will be claiming the relief together with the usual statement of costs and certificates of compliance/reasonable cost/consistency as appropriate. There is no requirement to have a binding contract in place by 31 July 2006. Neither is there any restriction of relief where the actual expenditure exceeds the projected post-December 2006 expenditure. However, the 75% and 50% restrictions in respect of expenditure incurred in 2007 and 2008, respectively, apply.

75% and 50% Restrictions

There is a gradual reduction in the amount of expenditure qualifying for relief after 31 December 2006. Expenditure incurred during 2006 can qualify in full without restriction. However, only 75% of expenditure incurred in 2007 and 50% of expenditure incurred in the period between 1 January 2008 to 31 July 2008 can qualify for relief. In the case of nursing home residential units, expenditure incurred on or before 24 March 2007 (the original termination date) can qualify in full with expenditure incurred in the period between that date and 31 December 2007 being subject to the 75% cap. For the purposes of determining when expenditure is incurred, only the amount of the expenditure attributable to work actually carried out during a particular period is taken into account. Therefore, it is not possible to circumvent the deadlines by making an advance payment for materials or for work that will be carried out after the deadlines.

Persons claiming relief will need to know how to calculate the amount of relief that is due in respect of their particular property. **Revenue expects that builders and developers will provide purchasers with sufficient information for this purpose.** Thus, purchasers will need to know the value of the construction or refurbishment work that was carried out on or before 31 December 2006, during 2007 and in the period 1 January 2008 to 31 July 2008. This information may be required in the event of a Revenue audit. It should be noted that it is the amount of the actual construction or refurbishment expenditure, and not the amount of the relief, that is to be reduced by the 75% and/or 50% cap as appropriate. For the purposes of "the net price paid" formula in section 279 TCA 1997, the numerator "C" in the formula (see page 10 of ***Tax Briefing*** 60) should be the amount of the expenditure as appropriately reduced.

Continuing Reliefs

The Finance Act 2006 made changes affecting a number of property relief schemes which are not being terminated.

Tax Life and Holding Period

Changes have been made to the tax life and the holding period for balancing allowances and charges purposes in the case of the buildings listed below. These changes apply to such buildings that are first used (or first used after refurbishment) on or after 1 February 2007. The write-off period which is 7 years in the case of the buildings in question remains unchanged. The tax life of a building relates to the period within which allowances claimed on the building may be transferred to a purchaser. This has been increased from 7 to 15 years. Also increased to 15 years is the 10-year holding period within which a clawback of allowances can apply if the building is sold.

- Private hospitals
- Convalescent Homes
- Registered Nursing Homes
- Nursing Home Residential Units
- Buildings used for Childcare Purposes

For private hospitals there is also a change to the period during which the Health Service Executive is required to provide annual certification. It is extended from 7 to 15 years. As part of the certification process, there will now be a requirement to provide data to the Health Service Executive in relation to private hospital buildings in order to facilitate an assessment of the costs and benefits of the scheme. These changes apply to buildings that are first used (or first used after refurbishment) on or after 1 February 2007. For buildings that are in use before that date the period of annual certification is extended from 7 to 10 years. In relation to expenditure incurred on or after 1 January 2006, the definition of a qualifying hospital is amended to include mental health services in the list of services that may be provided in such a hospital.

Balancing charge - change of use etc.

A balancing charge may be imposed where an industrial building ceases altogether to be used within the holding period for the type of building involved. However, the clawback did not apply where a building underwent a change of use. For certain buildings (defined as "relevant facilities") that are first used (or first used after refurbishment) on or after 1 January 2006 provision is made to claw back allowances where the building in question ceases to be used for the purposes for which the capital allowances were originally granted. However, the new balancing charge provisions will not apply where a building ceases to be used for one type of relevant facility and, within 6 months, begins use as another type of relevant facility. The following buildings are defined as relevant facilities:

- Private hospitals
- Mental Health Centres (see below)
- Convalescent Homes
- Registered Nursing Homes
- Nursing Home Residential Units
- Buildings used for Childcare Purposes

This means that allowances could be clawed back where a private hospital in respect of which allowances had been claimed began trading as a hotel within 15 years of setting up.

New Reliefs

Mental Health Centres

A new scheme of capital allowances, similar to that available for private hospitals, has been introduced for the construction or refurbishment of qualifying mental health centres. The centre must be an "approved centre" for the purposes of the Mental Health Act 2001. To qualify a centre must have the capacity to provide day-patient and out-patient services and accommodation on an overnight basis of at least 20 in-patient beds. The capital allowances regime such as rates, the tax life of the building, the holding period, the annual certification by the Health Service Executive, the data provision requirements, the exclusion of certain categories of investors and the amount of beds to be made available to the Health Service Executive are the same as that available for private hospitals.

Commencement of provisions

Provisions relating to certain buildings and schemes will not come into effect until the Minister for Finance makes a commencement order. These buildings and schemes are as follows:

- Urban Renewal (commercial and industrial)
- Rural Renewal (commercial and industrial)
- Town Renewal (commercial and industrial)
- Living over the Shop (commercial)
- Park and Ride (commercial)
- Hotels
- Holiday Camps
- Registered Holiday Cottages
- Sports Injuries Clinics
- Multi-Storey Car Parks

- Third-Level Education
- Nursing Home Residential Units
- Mental Health Centres

Scheme	**Extension to 31/12/2006 Existing conditions**	**Extension to 31 July 2008**		**Cap on expenditure 75% 2007-50% 2008**	**Section**	
		Work = 15% costs by 31/12/06	**Binding contract by 31/7/06**		**F.A. 2006**	**TCA 1997**
Hotels ('accelerated' allowances)	Full and valid planning application by 31/12/04	Local authority to certify	Yes	Yes	26 27	270/316 268/272/274
Holiday Camps ('accelerated' allowances)	Full and valid planning application by 31/12/04	Local authority to certify	Yes	Yes	26 27	270/316 268/272/274
Registered Holiday Cottages	Full and valid planning application by 31/12/04	Local authority to certify	Yes	Yes	26 27	270/316 268/272/274
Multi-Storey Car Parks	15% project costs by 30/9/03 - certified by 31/12/03	Architect/quantity surveyor to certify	No	Yes	26 29	270/316 344
Sports Injury Clinics	No existing conditions No previous termination date	Architect/quantity surveyor to certify	No	Yes	26 28	270/316 268
Nursing Home Residential Units	No existing conditions	Work = 15% costs not required	No	100% to 24/3/07 75% 25/3/07	26 37	270/316 268

				- 31/12/07 50% 1/1/08 - 31/7/08		
Third Level Educational Buildings	Application to Minister for Finance by 31/12/04	Architect/quantity surveyor to certify	No	Yes	26 34	270/316 843
Urban Renewal	15% project costs by 30/6/03 - certified by 30/9/03	Local authority to certify commercial/Industrial Architect/quantity surveyor to certify residential	For commercial/ industrial only	Yes	25 26 30	372AL/372AS 270/316 372A/372B/372BA /372C/372D
Rural Renewal	Full and valid planning application by 31/12/04	Local authority to certify commercial/Industrial Architect/quantity surveyor to certify residential	For commercial/ industrial only	Yes	25 26 31	372AL/372AS 270/316 372L/372M/372N
Town Renewal	Full and valid planning application by 31/12/04	Local authority to certify commercial/Industrial Architect/quantity surveyor to certify residential	For commercial/ industrial only	Yes	25 26 33	372AL/372AS 270/316 372AA/372AB/372AC /372AD
Living over the Shop	Full and valid planning application by 31/12/04	Architect/quantity surveyor to certify	No	Yes	25 26 30	372AL/372AS 270/316 372A/372B/372BA /372C/372D
Park and Ride (including commercial/ residential)	Full and valid planning application by 31/12/04	Architect/quantity surveyor to certify	No	Yes	25 26 32	372AL/372AS 270/316 372U/372V/372W
Student Accommodation	Full and valid planning application by 31/12/04	Architect/quantity surveyor to certify	No	Yes	25	372AL/372AS
General rented residential	No existing conditions No previous termination date	Work = 15% costs not required	No	Yes	11 25	372AM 372AL/372AS

Composite Meal Packages – VAT

VAT treatment of supplies of composite meal packages for a single consideration

Introduction

The rates of VAT which apply to the supply of taxable goods or services are set out in *Section 11(1) VAT Act 1972*, as amended. While there are no other rates of VAT applicable, Revenue has in the past allowed certain traders in the fast food industry to compute their VAT liability on supplies of composite meals (where the component parts of the meals were taxable at different rates of VAT) by, in effect, using a 'composite rate' of VAT. This practice was designed to ease the administrative burden on the traders in question in complying with their VAT obligations.

What is a composite meal?

Meals of this type typically consist of items liable at different rates of VAT, being hot food liable at the reduced rate (currently 13.5%), and a soft drink liable at the standard rate (currently 21%).

These meals are commonly referred to as 'value meals' or by use of some similar generic term. A meal of this kind can be distinguished by the following characteristics:

- It is marketed and sold as a package
- It contains pre-defined components (some of which may be exchanged for similar pre-defined substitutes)
- There is a standard single price payable for the meal.

VAT treatment of composite meals

The correct approach for meals of this type is for the trader to account for each of the items individually. This is especially appropriate in the fast-food market sector since many traders now use electronic point-of-sale (EPOS) systems, which are capable of segregating the total amount received between the different VAT rates.

However, where a trader satisfies the relevant local Revenue District that he/she is unable to segregate the total consideration in respect of the various components into the appropriate VAT rates, the trader concerned can use a methodology referred to as a "composite rate" in order to apportion the consideration received from the supply of composite meals between the VAT rates.

This composite rate is determined by means of a mathematical calculation based on the separation of the package of items into its components in accordance with the selling price of, and the VAT rate applicable to, each item. This results in the calculation of a special rate that is applied to the meal as a whole. The application of composite rates of this nature is a matter to be agreed with the relevant local Revenue District.

Changes in the prices of individual items

Where a composite rate has been agreed by a trader with the local Revenue District, the rate may continue to apply only where the ratio of the prices of the items to each other remains constant. Accordingly, any increase or decrease in the sale price of any of the individual items will require the composite rate applicable to the meal in question to be amended and agreed with the local Revenue District.

Discounts

Where a discount is applied to the price of a single component of the meal, but not to the price of that component if sold separately, the discount should be apportioned across the different components in the ratio that formed the basis of the original calculations.

VAT treatment of composite meals from 1 January 2006

Traders who have electronic point of sale systems (EPOS)

Where a trader has facilities at point of sale to segregate the consideration received between the 21% and the 13.5% VAT rates, the trader should account for VAT on the individual components of the meal at the appropriate rates.

Traders who do not have facilities to account for VAT on the different components

Where a trader cannot segregate the receipts between the two VAT rates at point of sale, the local Revenue District may advise the trader that the VAT due on "composite meals" may be computed by using a composite rate. The following examples illustrate the methodology to be used to calculate the appropriate composite rate:

How to calculate the composite rate to be used?

Example A - how to calculate the composite rate to be used?

A composite meal (Meal A), with a selling price of €6 (including VAT), contains the following constituents:

Meal A - €6		
Item	VAT Rate %	Price (incl. VAT)
Burger French fries Soft drink	13.5 13.5 21	€3.50 €1.50 €1.50

Apportionment of total consideration between VAT rates

13.5% Rate $\frac{6 \times 5}{6.5}$ = €4.61

VAT Exclusive €4.06 **VAT included €0.55**

21% Rate $\frac{6 \times 1.5}{6.5}$ = €1.39

VAT Exclusive €1.15 **VAT included €0.24**

Total VAT included in composite meal €0.79.

VAT Exclusive price of the composite meal is €5.21.

Composite rate is 15.16314%.

Example B

Assume the trader also sells another type of composite meal, Meal B, for €5, with the components as follows:

Meal B - €5		
Item	VAT Rate %	Price (incl. VAT)
Pizza French Fries Soft Drink Toy*	13.5 13.5 21 21	€4.00 €1.75 €1.50 €0.50

Apportionment of total consideration between VAT rates

13.5% Rate $\frac{5 \times 5.75}{7.75}$ = €3.71

VAT Exclusive €3.27 **VAT included €0.44**

21% Rate $\frac{5 \times 2}{7.75}$ = €1.29

VAT Exclusive €1.07 **VAT included €0.22**

Total VAT included in composite meal €0.66.

VAT Exclusive price of the composite meal is €4.34.

Composite rate is 15.207%.

*This type of calculation should be carried out in respect of each type of composite meal sold in each **VAT** period.*

Discounts

These should be treated as set out at paragraph 5 above.

Toys

In some instances, toys may be supplied as part of the composite meal deal.

Where the trader does not also sell the toys separately, the VAT inclusive cost of the toys should be included in the computation as being goods chargeable at the 21% rate.

Where the toys are also sold separately, the trader should include the VAT inclusive selling price of the toy in the computation as being goods chargeable at the 21% rate.

Return of Trading Details

Traders should show the actual figures for sales at the rates of 13.5% and 21% when completing the annual return of trading details.

EU Savings Directive

Background

The EU Savings Directive was transposed into Irish law as *Chapter 3A, Part 38 TCA 1997*. The purpose of the Directive is to ensure that individuals resident in an EU Member State who receive savings income in the form of interest payments from another Member State, are taxed in the Member State in which they are resident for tax purposes.

To this end, payments of interest made on or after 1 July 2005 are either (1) reportable by paying agents in the EU to the tax authorities in the paying agents home territory or (2) subject to withholding tax in those territories which opted to apply withholding tax rather than report the payment. Most of the EU states have opted to exchange information regarding the interest payments made by paying agents in their jurisdiction to individuals resident in another Member State. However, Austria, Belgium and Luxembourg have opted to apply the withholding tax instead of exchanging information. In addition, some associated and dependent territories, namely, Netherlands Antilles, Jersey, Guernsey, Isle of Man, British Virgin Islands and Turks and Caicos Islands and certain third countries, namely, Andorra, Liechtenstein, Monaco, San Marino and Switzerland will also apply a withholding tax. Irish residents, who receive interest payments from those countries and territories named above, may apply to their tax district for a Certificate for Non-Deduction of Withholding Tax if they so wish.

The legislation places certain obligations on paying agents in relation to:

- Establishing the identity and residence of their customers who are individuals,
- Retaining records of materials used to identify those customers, as well as records of certain transactions, and
- Reporting details to Revenue of interest payments made to certain non-resident individuals and of dealings with residual entities

Establishing identity and residence of individuals

From 1 January 2004 paying agents are required to establish the identity and residence of their customers in order to determine whether or not the individual is reportable under the legislation. A paying agent is defined as a person, established in Ireland, who in the course of its business or profession, makes interest payments to, or secures interest payments for, the immediate benefit of individuals or residual entities. A residual entity is any grouping of individuals (but not companies) e.g. trusts, investment clubs, partnerships etc. A beneficial owner is the person entitled to the interest. Unless an individual can prove conclusively that s/he is not the beneficial owner of the interest s/he is to be regarded as the beneficial owner. The obligations on the paying agent differ depending on whether contractual relations began before or on or after 1 January 2004.

For contractual relations in existence at 1 January 2004 an individual's identity and residence consists of his/her name, address and country of permanent residence and may be established using the paying agent's existing records. For contractual relations commencing on or after 1 January 2004, the paying agent is also require to establish a Tax Identification Number (TIN), which is the equivalent of the Irish PPSN, or if this is not available, the date and place of birth of the client.

Residual Entities

Payments of interest to a residual entity which is resident in another member state are also covered by the Directive. A residual entity is a person or undertaking who receives an interest payment or secures an interest payment on behalf of a beneficial owner and who is **not**:

- A company or other legal person; or
- An entity which is subject to corporation tax in the state or subject to taxation arrangements in another territory which that territory regards as business taxation for the purposes of the Directive; or
- A UCITS (or an equivalent collective investment undertaking in a relevant territory other than an EU member state); or
- An entity that has elected to be treated as a UCITS for the purposes of the legislation.

If a paying agent establishes that an entity falls within one of the excluded categories listed above, the paying agent will not need to report the interest, provided that the paying agent has corroborative official evidence that the entity is a company or UCITS etc.

Interest Payments

The term interest payment is defined widely and includes:

- Interest paid in respect of Government bonds and debentures and similar negotiable instruments including strips of securities
- Accrued or capitalised interest realised at the sale, refund or redemption of a security, unit of a security or a strip of a security
- The accrued interest element of the price when securities are sold before redemption. For example, an interest payment will be considered to arise when a new creditor purchases a security from an individual and the price includes an amount of accrued interest (whether or not this is separately identified in the amount paid).
- The profit realised on the redemption of zero-coupon bonds and other discounted securities, or strips of securities; the profit made on the redemption of any other security sold at a discount (e.g. Government stock or bonds and commercial paper) or which is redeemed for a premium.

Retention of Documents

Paying agents must retain, or be capable of making available, the following information, for a period of 5 years after contractual relations between the paying agent and the customer cease, as respects a transaction carried out on or after 1 January 2004:

- A copy of all material used to identify the individual
- A copy of all material used to establish the residence of the individual
- The original copies, or copies admissible in legal proceedings, relating to the making or securing of any interest payment to an individual on or after 1 July 2005.

Where no contractual relationship exists, the information must be retained or made available for 5 years after the making of the interest payment.

Reporting

First reports covering the period 1 July 2005 to 31 December 2005 were due by **31 March 2006**. Thereafter reports will be due annually by 31 March of the year following the year in which the payments are made and should contain the following details:

- The paying agent's own name, address (registered office if a company) and tax reference number
- Details of the interest payments made to or secured for the immediate benefit of beneficial owners or residual entities resident in another EU territory
- Details regarding the beneficial owners of the interest - the date on which contractual relations with the customer commenced will determine what information is to be reported.

It is expected that most returns will be made electronically via the Revenue On-Line System (ROS). ROS have developed free software to prepare and manage returns. The software is available using the ROS link on the Revenue website - **www.revenue.ie**. However, a paper version of the return will also be available.

The full text of the Directive, the Irish legislation, the guidance notes, the agreements with associated and dependent territories of the UK and the Netherlands, the agreements with certain third countries and the press release are available via the Revenue website - **www.revenue.ie**

P35 End of Year Return

P35 Penalties

The deadline for making the P35 return for the tax year ended 31 December 2005 was the 15 February 2006. Employers who failed to file the return by the deadline should do so immediately to avoid the escalation of penalties or a visit from a tax auditor.

The Collector-General has begun to impose penalties and the amount increases for each month that the return remains outstanding to a maximum of €2,535.

Supplementary P35 Returns

If an employer discovers that s/he has made an incomplete or incorrect P35 return, it is important that a Supplementary or Amended Return is filed without delay.

A supplementary P35 return is required where an employee is not listed on the original P35 return.

The simplest, quickest and most efficient method of filing a supplementary P35 return is via the Revenue On-Line Service (ROS). Information on ROS is available from the Revenue Website at www.revenue.ie.

If submitting a Supplementary P35 return on paper it is important to ensure that:

- The correct stationery is used
- 'Supplementary' is clearly written on the Declaration
- The Declaration is fully completed, and
- A P35L/P35LT form is completed for all supplementary returns.

Amendments to P35 Returns

An amendment changes the P35 declared liability and/or the employee details entered on the original P35 return.

Where an employer or practitioner wishes to amend P35 employee details already submitted on paper or on disk, a P35 Amendment Form should be completed and returned to:

P35 Amendments Section,
Collector-General's Division,
Government Offices,
Nenagh,
Co. Tipperary.

This form is available on the Revenue Website at the following location:

/en/practitioner/tax-briefing/irish/duty/amendfo.xls

The form can also be obtained by ringing the Employer Help-line and any queries in relation to the completion of this form should be directed to the Employer Help-line.

When submitting an amendment to a P35 return it is important to ensure that:-

- The tax year is specified, and
- The employer's registration and employee PPS number are quoted.

As is the case for supplementary P35 returns, a quick and efficient method for filing P35 amendments via ROS is available.

Use Correct Forms

The technology used by Revenue to process returns is designed to operate on the correct stationery only. The P35 Declaration is specific to each employer and must only be used by that employer. In addition, the form can vary from one year to the next to cater for legislative changes. Accordingly, in the case of P35 original and supplementary returns in respect of a particular year, it is important that the form used is the correct one for that year. Forms are available from the Employer Information and Customer Service Unit by calling the Help-line number at 1890 254565.

With regard to the P35 amendment form, as these are not employer or year specific, they may be downloaded from the Revenue Website or obtained by contacting the Employer Help-line.

New Simplified Filing Arrangements for Employers' PAYE/PRSI

Following the 2006 Budget announcement employers with a PAYE/PRSI of less than €30,000 per annum will be able to file their PAYE/PRSI returns on a quarterly basis rather than the current monthly basis.

This new arrangement applies from the 1 April 2006 and is part of Revenue's ongoing customer service improvement programme.

How will the change be implemented?

There is no need for employers to take any action in relation to this change.

Revenue has identified over 70,000 employers who are eligible to change from submitting a P30 return on a monthly basis to a quarterly basis. On a phased basis, which commenced in February 2006, Revenue are contacting each eligible employer and advising them of their new filing arrangements.

Revenue will also issue a PAYE/PRSI return (P30) relevant to the new filing arrangement to each eligible employer specifying the due date for the filing and payment.

Employers who receive a notification from Revenue regarding the new Quarterly Filing of P30 returns and **do not wish to avail** of this new arrangement can contact our special 1890 70 70 71 helpline.

The schedule for submission of PAYE/PRSI returns for eligible employers is as follows:

Tax Period	**Frequency**	**File and Pay**
February 2006	Monthly as usual	Monthly P30 return and payment by *14 March 2006*.
March 2006	Monthly as usual	Monthly P30 return and payment by *14 April 2006*. (your last monthly payment)
April - June 2006	Quarterly	Quarterly P30 return and payment by *14 July 2006*.
July - September 2006	Quarterly	Quarterly P30 return and payment by *14 October 2006*.
October - December 2006	Quarterly	A separate Quarterly P30 return is **not** required for the last quarter of year. Please include payment for the last quarter with your P35 by *15 February 2007*.

Filing and payment will continue on a quarterly basis thereafter.

Conversion Rates (2005)

Average Market Mid-Closing Exchange Rates v. Euro As Supplied By The Central Bank

	2002	2003	2004	2005
U S dollar	0.946	1.1312	1.2439	1.2441
Sterling	0.629	0.6919	0.6786	0.6838
Danish krone	7.43	7.4307	7.4399	7.4518
Japanese yen	118.10	130.97	134.44	136.85
Swiss franc	1.467	1.5212	1.5438	1.5483
Swedish krona	9.16	9.1242	9.1243	9.2822
Norwegian krone	7.51	8.0033	8.3697	8.0092
Canadian dollar	1.484	1.5817	1.6167	1.5087
Australian dollar	1.738	1.7379	1.6905	1.6320

LLOYDS CONVERSION RATE

For accounts closed in the calendar year 2005 the conversion rate of sterling to Euro should be calculated by reference to the sterling mid-closing rate supplied by the Central Bank.

2005 Stg £1 = Euro 1.4592

Employees' Travel Expenses

Reimbursement of expenses of travel to employees who are required to attend an emergency at their normal place of work outside of their normal working hours

General Principle

It is an established principle under tax law that, where an employer pays or reimburses the travel expenses for an employee to attend for duty at his/her normal place of work, the amount paid or reimbursed is to be treated as part of the employee's remuneration and taxed accordingly. Journeys undertaken to return to work in emergency or 'on call' situations do not alter this principle.

Exception to general principle

There is, however, one exception to the general principle. Tax case law has found that a person with 'specialist' skills may be working from the time he/she receives notification to attend his/her normal place of work to deal with an emergency. The type of case to which the exception applies is one where a 'specialist', because of the grave consequences of the relevant situation, must give instruction or direction to those present at the relevant situation and also have a responsibility for the emergency whilst travelling to the normal place of work. It is not envisaged that many such cases arise in practice. The reimbursement by the employer of the expenses of travelling to and from the normal place of work in such cases may be made without deduction of tax.

Practice with effect from 1 January 2006

With effect from 1 January 2006, except for those to whom the previous paragraph may apply, where an employee is required to attend his/her normal place of work outside his/her normal working hours to deal with **emergencies** requiring his/her immediate attention, then the expenses of travelling (i.e. the cost of the provision of taxis or mileage expenses up to the appropriate civil service mileage rate) to and from his/her normal place of work may be paid without deduction of tax in respect of **a maximum** of 60 such emergencies per annum.

Emergency in this context is dependent on the nature of the industry but, in general, encompasses an unforeseen or sudden event:

- That requires immediate or urgent attention; and
- That would have serious consequences if left unattended until the individual commences her/his normal working hours.

An emergency does not include an event where staff are required to attend their normal place of work outside their normal working hours to, for example:

- Replace a scheduled member of staff who fails to attend work, or
- Assist with an increased volume of work; or
- Attend for a non-emergency or other such routine event.

Whether a 'call out' is in respect of a genuine emergency is a question of fact having regard for relevant facts and circumstances supported by the records kept relating to the event.

Whilst it would be expected to be rare, if it is the case that, in a particular situation, the number of emergency 'call outs' is in excess of 60 per annum, the employer should contact the local Revenue office for guidance.

Health expenses

Kidney Patients

In the case of kidney patients, tax relief may be claimed on the following under the heading health expenses for 2005.

Hospital Dialysis Patients

Where the patient attends hospital for treatment, relief under the heading of health expenses may be allowed in respect of expenditure incurred travelling (unlimited journeys) to and from hospital at the following rate:

2002	2003	2004	2005
€0.35 per mile	€0.35 per mile	€0.35 per mile	€0.35 per mile/ €0.22 per km

Home Dialysis Patients

Where the patient uses a dialysis machine at home, relief under the heading of health expenses may be allowed in respect of the following expenditure:

	2002	2003	2004	2005
Electricity	€1115	€1270	€1380	€1440
Laundry & protective clothing	€1595	€1675	€1735	€1780
Telephone	€110	€250	€260	€270
Travelling	€0.35 per mile	€0.35 per mile	€0.35 per mile	€0.35 per mile/ €0.22 per km

Chronic Ambulatory Peritoneal Dialysis (CAPD)

Where the patient has treatment at home without the use of a dialysis machine, relief under the heading of health expenses may be allowed in respect of the following expenditure:

	2002	2003	2004	2005
Electricity	€880	€1010	€1090	€1440
Telephone	€110	€250	€260	€270
Travelling	€0.35 per mile	€0.35 per mile	€0.35 per mile	€0.35 per mile/ €0.22 per km

Child Oncology Patients & Children with Permanent Disabilities

In the case of child oncology patients and children with permanent disabilities, tax relief may be claimed on the following for 2005 under the heading of health expenses.

A. Telephone

Where the child is treated at home, a flat rate of €270 to include telephone rental and calls may be claimed where the expenses are incurred for purposes directly connected with the treatment of the child.

B. Overnight Accommodation

Payments made by the parent/guardian to a hospital, hotel or B&B in respect of overnight accommodation in or near the hospital where the child is a patient where such overnight stay is necessary for the treatment of the child.

C. Travel

The cost incurred in travelling (unlimited journeys) to and from any hospital in respect of

- the patient and accompanying parents/guardians: **and**
- parents/guardians of the patient

Where such trips are shown to be essential to the treatment of the child. If a private car is used, €0.35 per mile/€0.22 per km may be allowed for the year 2005.

D. Hygiene products and special clothing

The cost incurred in respect of these items subject to a maximum of €500 per year.

Unapproved Share Option Scheme

Unapproved Share Option Schemes Mansworth v Jelley

For Capital Gains Tax purposes the allowable cost of shares that have been issued to an individual under an unapproved share option scheme has been, under current interpretation, the sum of the following:

- The cost (if any) of the option (*Section 540(4)*) [1];
- The price paid for shares on exercise of the option (*Section 552(1)*) [2]; and
- The amount charged to income tax on the exercise of the option (*Section 128*).

This interpretation has been published in ***Tax Briefings*** ***31*** and ***40***.

The decision of the UK Court of Appeal in the case of Mansworth v Jelley ([2003] STC 53) has raised doubts about our current interpretation.

[1] Whereas in practice both the cost of an option and its market value at its time of acquisition are usually nil, strictly it is the market value of the option that should be taken into account since the option is acquired in consideration for or in recognition of the individual's services in an office or employment - see *Section 547(1)(c)(iii)*.

[2] By virtue of *Section 547(3)* the market value rules in *Section 547(1)* do not apply where there is no corresponding disposal and the acquisition is at less than market value. This is generally the case where shares are issued on the exercise of a share option.

Mansworth v Jelley

The Mansworth v Jelley case was concerned with the allowable cost for CGT purposes of shares acquired on the exercise of an option that had been granted to the taxpayer concerned by reason of his employment. The option was granted when the taxpayer was not UK resident and exercised when the taxpayer was UK resident. **The shares in question were shares already in existence** i.e. they were not newly issued shares. On acquiring the shares the taxpayer immediately sold them on.

HM Revenue and Customs raised capital gains assessments on the taxpayer on the basis that the allowable cost of the shares was the sum of:

- The market value of the option at the time of grant; **and**
- The price paid for the shares on exercise of the option.

Under UK practice the taxpayer was not liable to an income tax charge on exercise of the option since it had been granted at a time when he was not resident. Since it was agreed that the option was granted in consideration of the taxpayer's services in his employment the market value of the option replaced its actual cost under the UK equivalent of our *Section 547(1)(c)(iii)*. In any event, in this case both the cost of the option and its market value were nil.

However the UK Court of Appeal determined that the allowable cost of the shares to be used in the computation of gain on their disposal was their market value at their time of acquisition - the value (if any) of the acquisition of the option was irrelevant. This meant that the taxpayer had no gain on disposal of the shares since the shares were disposed of immediately after their acquisition on exercise of the option. In brief, the Court's reasoning was that the transaction under which the taxpayer had acquired the shares was a single transaction comprising both the acquisition of the option and its exercise and that that single transaction was an acquisition by reason of the taxpayer's employment. Therefore, the market value rule applied since as the shares were not newly issued shares the equivalent of our *Section 547(3)* was not relevant.

Revenue's View

Having considered Mansworth v Jelley, Revenue **does not** propose to treat the amount charged to income tax as part of the cost of acquiring the shares. The base cost, for capital gains tax purposes, of shares acquired on the exercise of an option under an unapproved share scheme should be calculated as follows:

Where the shares are issued on the exercise of the option:

Regardless of when the options were exercise the cost of acquisition is the sum of the following:

- The cost (if any) of the option
- The price paid for shares on exercise of the option and
- The amount charged to income tax on the exercise of the option.

Where the shares are already in existence at the time of exercise of the option:

For options exercised **before** 12/12/2002 the cost of acquisition is the sum of the following:

- The cost (if any) of the option,
- The price paid for shares on exercise of the option, **and**
- The amount charged to income tax on the exercise of the option.

For options exercised **on or after** 12/12/2002 the cost of acquisition is the market value of the shares at the time of exercise.

Example:

An individual, by virtue of his/her employment, is granted share options under an unapproved share option scheme. The value of the options at time of grant is nil. A few years later the individual pays €10,000 in exercise of the options and acquires shares worth €15,000. The individual immediately sells on the shares for €15,000.

Shares issued on the exercise of the option or already in existence and option exercised before 12/12/2002:

Disposal proceeds		€15,000
Less Costs of acquisition: Cost of shares at time of acquisition	€10,000	
Amount charged to income tax	*€ 5,000*	*€15,000*
Capital gain		NIL

Shares in existence and option exercised on or after 12/12/2002:

Disposal proceeds		€15,000
Less Costs of acquisition: Market Value of shares at time of acquisition:		*€15,000*
Capital gain		NIL

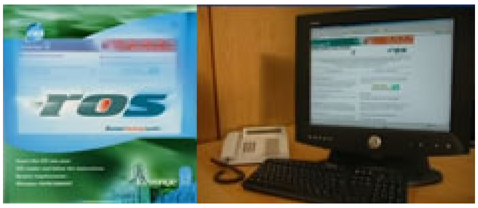
There is no question of adding the amount charged to income tax to the market value of the shares.

Summary

In effect the method of calculating costs of acquisition set out in ***Tax Briefing*** 31 continues to apply to all unapproved share option schemes **with the exception of** options exercised on or after 12/12/2002 where the shares were already in existence at the time of exercise of the option.

ROS - Payments and Digital Certificates

Introduction



Customer usage of ROS again increased significantly in 2005 as more practitioners have come to realise that ROS is the easiest way to help their clients meet their tax obligations. The purpose of this article is to provide a brief summary on:

- The payment options available through ROS,
- The ROS Customer Information Service.
-

The article also takes the opportunity to remind you that the majority of ROS digital certificates are due for renewal shortly.

Payments

Online payments increased by 61% in 2005 with 290,842 payments made. These represented €12.1 billion in monetary value, an increase of 46% over last year.

The three payment methods currently available on ROS are:

- ROS Debit Instruction (RDI) which enables customers to make payments for any of the taxes available in ROS. The RDI contains the same details as shown on a cheque i.e. name, account number and bank sort code. Once the RDI has been set up on ROS, the taxpayer or agent acting on his or her behalf can authorise individual payments for the requisite amount and date.
- Laser card can be used when a payment is due and is being paid online. The details of the taxpayer's bank debit card are input for each individual payment.
- Online banking can only be used for paying Income Tax and Capital Gains Tax.

For each of these payment methods, Revenue assures that only the exact amounts authorised by ROS customers, or practitioners on their behalf, are deducted from bank accounts. The requisite amounts are never deducted by Revenue in advance of the due dates, even where returns are filed early. If, for whatever reason, a customer does not wish to make a payment that is due or is only making a partial payment, it is important to note that Revenue will only arrange payment of the exact amount specified and will not deduct the balance owed without authorisation from the customer.

If you intend to pay using the ROS Debit Instruction (RDI) you should ensure that, in advance of the filing date, you or your client has the RDI in place. Clients who do not wish to have payments made by practitioners should be encouraged to register for ROS and to set up the RDI and make payments themselves.

If using the Online Banking payment method, it is necessary to log on to the relevant bank's Online Banking System to authorise the debit of the specified amount from the account. Instruction to the bank should include the relevant PPS Number as a reference. It is also necessary to ensure that the bank account nominated is suitable for debit; some banks will not allow debits from certain types of account e.g. deposit accounts. If in doubt, check with your bank.

The facility to amend a bank account number and bank sort code on an RDI is currently available on ROS. Any changes involving account name, payment amount or taxheads associated with the mandate will need to be referred to the Collector-General's Division, Apollo House.

If a payment has been filed and it is subsequently discovered that an incorrect amount has been entered, any amendments to the payment amount should be notified in writing as soon as possible to:

ROS/SDA Unit,
Collector-General's Division,
Apollo House,
Tara Street,
Dublin 2

Fax: 01- 6798224.

Remember, payments can now be prepared offline using the ROS Offline facility. This facility allows any member of staff in the practice to complete the payment screens which can later be filed on-line by those authorised in the practice to do so.

Customer Information Service

ROS Customer Information Service allows practitioners access to their clients' Revenue account. Prior to submitting returns for clients it is possible to check their Revenue account for the following details:

- Returns filed and outstanding,
- Payments made,
- Refunds and Repayment,
- Details of tax outstanding,
- The Event List which shows recent activity, and
- Registration details

There were over 4.2 million enquiries on this service in 2005 with nearly 1 million already in the first two months of 2006. The service provides savings on phone calls for Revenue customers and busy practitioners as they can now have their queries answered online at a time and location that suits them best.

ROS Digital Certificate Renewal

The majority of ROS digital certificates are due for renewal in April 2006. Consequently, when ROS customers log in to ROS they will be offered the opportunity to renew their ROS digital certificate. If certificates are not renewed they will expire and a new certificate will have to be requested through the three-step registration process.

It is important to note that if a ROS Administrator's digital certificate expires any associated sub-user certificate[s] will be suspended until a new Administrator certificate is issued. If the ROS Administrator's certificate is not renewed on time all access to ROS for other members of the practice will be suspended indefinitely.

When a ROS digital certificate is renewed the new certificate is installed onto the c drive of the local PC. This certificate is stored in folder *c:/ros/roscerts* and consists of two separate files, a *.txt* file and a *.P12* file. We recommend that these files are copied and stored safely. However, for security reasons ROS digital certificates should not be copied for use by others. If others in a company require access to ROS the Admin Services facility in ROS should be used. Appropriate management of digital certificates is critical.

If copies of a ROS digital certificate have been provided to different users in a firm only one will be allowed to renew the certificate. After the renewal other users of the copied certificate will not be able to access ROS and will get a "BAS110" error message when they try to access the service. Please contact the ROS Helpdesk 1890 20 11 06 for assistance if this happens.

Restricted Stock Units - Income Tax

Income Tax treatment of Restricted Stock Units given to office holders and employees
Overview

NOTE: the contents of this Tax Briefing has been updated in [Part 05-05-30 of the Income Tax, Capital Gains Tax and Corporation Tax section of the Tax and Duty Manuals.]() **(PDF, 97KB)**

In recent years, the award of shares and the entitlement to a future award of shares is made through a variety of schemes. One such scheme is known as Restricted Stock Units (RSUs).

Whilst each case has to be examined on its merits to determine the correct tax treatment of the relevant unit, the following tax treatment will, in general, apply.

Restricted Stock Units (RSUs)

A Restricted Stock Unit is a grant (or promise) to an employee to the effect that, on completion of a 'vesting period', he/she will receive a number of shares or cash to the value of such shares (i.e. in general, no shares or cash value of such shares will pass to the employee until the 'vesting period' has passed). A restricted stock unit is, generally, evidenced by way of a certificate of such entitlement.

The 'vesting period' is the period of time between the date of the grant (or promise) of the shares (or of the cash value of such shares) and the date on which the vesting condition is satisfied. Vesting periods are usually satisfied by, for example, the passage of time or by the individuals' employment performance

Tax treatment of RSUs

An RSU is not a share option to which *Section 128 TCA 1997* applies but rather is a taxable emolument of the employment chargeable to income tax under Schedule E (*Section 112 TCA 1997*) or Case III of Schedule D, as appropriate.

Where chargeable to income tax under Schedule E:

(a) The receipt of shares/stock in the company in which the individual holds his/her office or employment (or shares in a company which has control (within the meaning of *Section 432 TCA 1997*) of that company) is not within the scope of PAYE - see *Section 985A TCA 1997*; and

(b) The receipt of shares other than shares referred to in (a) and / or cash is within the scope of PAYE.

Timing of taxation of awards of RSUs

The income tax liability of the shares (or the cash amount of such shares) arises either:

(a) On the date of vesting (rather than on the date of the grant) of a restricted stock unit; or

(b) Where the shares or cash pass to the employee on a date prior to the date of vesting, on that prior date.

Payment of dividend equivalents

In some instances, employees granted an RSU may be entitled to amounts equivalent to the dividends accruing to the shares promised under an RSU. Such dividend equivalents are taxable emoluments. The rules of the RSU will usually determine the year of assessment although, in general, the year of assessment is likely to be the year of payment.

Revenue Job Assist (Special Categories)

Section 472A TCA 1997 provides tax relief to encourage the long-term unemployed to take up employment and also gives an incentive to employers to employ such individuals. These measures are known as Revenue Job Assist.

The legislation contains a provision whereby a member of a special category of persons can qualify for the relief if that special category of persons has been approved, for the purposes of *Section 472A TCA 1997*, by the Minister for Social, Community and Family Affairs with the consent of the Minister for Finance.

This approval has now been sanctioned in respect of the following categories of persons with effect from the 1 January 2006:

(i) Individuals in receipt of Disability Benefit for a continuous period (of at least three years);

(ii) Individuals in receipt of Invalidity Pensions for a continuous period (of a least one year); and

(iii) Individuals released from prison (periods spent in prison are deemed equivalent to periods of unemployment).

In effect, the relief has now been extended to include the above categories of persons as "qualifying individuals" for the purposes of the Job Assist Scheme.

Prisoners released under the Good Friday Agreement as and from the 31 July 1998 have already been sanctioned by the Minister and added to the list of qualifying individuals. Please note, however, that the period spent in prison will have to be a continuous period of at least 12 months for both categories of prisoners.

Revenue eBrief

A list of Revenue eBriefs which have issue since the 1 January 2006 follows. These, together with earlier eBriefs can be accessed on the Practitioners page on www.revenue.ie

No.1	VAT Council Regulation (EU) No 1777/2005 of 17 October 2005
No.2	Pay & File - Extension Of Filing Date In 2006 - Revenue Online Service (ROS)
No.3	VAT liability regarding “back office” services supplied to the Insurance Industry
No.4	New Simplified Payment Arrangements for Employers PAYE/PRSI
No.5	Average Market Mid-Closing Exchange Rates v. Euro (As Supplied By The Central Bank)
No.6	Reimbursement of travel expenses to employees who are required to attend an emergency at their normal place of work outside their normal working hours.
No.7	Competent Authority Agreement Between Ireland And The United States Concerning The Treatment Of Common Contractual Funds (“Ccf”) Under The Ireland-United States Double Taxation Convention
No.8	Construction Industry Forums
No.9	PAYE and Foreign Employments
No.10	Supplies of services to foreign traders who are not established in the State - relief from VAT: [60A Procedure].
No.11	VAT Treatment of Financial and Insurance Services
No.12	Capital Gains Tax and the Ireland-Italy Double Taxation Convention
No.13	ROS Digital Certificate Renewals
No.14	New Revenue Phone Numbers for Kildare and Meath
No.15	VAT Treatment of Staff Canteens
No.16	Income Tax - Exchange Rates & Foreign Service Relief regarding Termination Payments
No 17	Revenue Internal Review Procedures - Change of Address of Internal Review Unit
No 18	Protective Notifications - Form PN1
No. 19	Guidance Note on Protective Notifications
No. 20	Criteria to qualify for the new SSIA related Pension Incentive Tax Credit Scheme

If you would like to receive Revenue eBrief forward your e-mail address to eBrief@revenue.ie

Revenue News

Protective Notifications

Form PN1 in relation to Protective Notifications in accordance with *Section 811A TCA 1997* (inserted by *Section 126 FA 2006*) is available at **www.revenue.ie/forms/form-pn1.pdf**

A Guidance Note on Protective Notifications, in Question and Answer format, is also available at **www.revenue.ie/leaflets/pn-guide-08.pdf**

Relevant Tax on Share Options (RTSO) - Facility for Taxpayers based outside of the State to pay by Electronic Funds Transfer

Revenue has introduced a new facility for taxpayers based outside of the State to pay RTSO by means of Electronic Funds Transfer (EFT).

This follows a request from tax practitioners at a recent meeting of the TALC Collection sub-committee. Details relating to the provision of this service are available from:

Money Transmission Section,
Collector-General's Office,
Sarsfield House,
Limerick.

Telephone:	00353 61 488109
Fax:	00353 61 488674
E-mail:	**moneytrans@eircom.net**

Form CA.11

A new version of the Capital Acquisitions Tax Form CA.11 (Certificate of Discharge) - which takes account of a Finance Act 2006 change - is now available at **www.revenue.ie/forms/ca11.pdf** Supplies can also be obtained from our Forms and Leaflets service on 1890 306706.

Revenue Internal Review Procedures - Change of Address of Internal Review Unit
Revenue's Internal Review Procedures are set out in Statement of Practice SP-GEN/2/99 (revised January 2005).

Please note that the address to which internal review requests should be made is now:

Internal Review Unit,
Revenue Commissioners,
Room G. 211,
Cross Block,
Dublin Castle.

Any requests sent to the former address will, of course, be redirected.

Clare District

The Customer Service area of the Clare District has recently moved to Ennis; the contact details for this office are:

Revenue Commissioners,
Clare District,
Government Offices,
Kilrush Road,
Ennis,
Co. Clare.

Telephone:	065 6849000
Fax:	065 6849039
E-mail:	**claredistrict@revenue.ie**

About Tax Briefing

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