

Tax Bulletin – Budget 2010

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The Minister for Finance, Brian Lenihan, delivered his third Budget in 14 months yesterday. What was probably the most leaked Budget ever delivered swingeing cuts in public sector pay and also reduced social welfare payments. On the surface, the tax changes were fairly modest but it is clear that many tax ‘surprises’ are coming down the tracks in the Finance Bill, which will be published early in the New Year, and for 2011.

Therefore, whilst many may see the Budget as indicating an end to tax increases, it is clear that any respite is temporary.

This Bulletin explores some of the tax changes in the Budget speech and also indulges in a bit of ‘crystal-ball gazing’ in highlighting certain areas likely to be the subject of amendments in the Finance Bill.

Personal Taxes

- **No Increase in Tax Rates?** In a welcome development, the Minister has signalled a limit has been arrived at in relation to taxes on income. This is possibly in response to submissions made to the Department highlighting the negative impact of high income tax rates in attracting highly talented individuals to Ireland. Separately, there were no increases announced in rates of CGT and gift/ inheritance tax.
- **Reform of Tax System** The Minister has announced a reform of the tax system, outlining that in 2011, a new two-tier system of taxation is to be introduced. Firstly a universal social contribution, which is to be at a low rate, will apply to a wide base. This will replace employee PRSI, the health levy and the income levy. Secondly, income tax will apply on a progressive basis with those earning more expected to pay more. The focus of this move is to broaden the tax base and also, it would seem,

to allow for a number of different progressive rates of income tax.

- **Restriction on use of Property Reliefs/ Exempt Income** The high earners restriction, which was introduced in Finance Act 2006, imposes a limit on the annual use of tax reliefs by individuals with high incomes. The restriction has, to date, applied to individuals with income of over €250,000 per annum, with a graduated application of the restriction applying for incomes between €250,000 and €500,000. The object of the restriction was to ensure the individual’s effective income tax rate was at least 20% once the higher threshold was reached. The entry level threshold for the restriction is now to apply to individuals with income of €125,000 per annum with the full restriction applying at €400,000. Additionally, the effective income tax rate at the higher level now to be 30%. This amendment will impact on individuals in receipt of certain ‘tax free’ income such as patent royalties/ dividends and those utilising property reliefs to shelter income. The net effect of the changes in many property schemes may be to extend the period over which affected individuals can utilise the reliefs.
- **Taxing the Wild Geese:** Whilst there is no change in residence rules, Irish nationals and Irish domiciled individuals, whose worldwide income exceeds €1 million and whose Irish located capital is greater than €5 million, are to be made pay an Irish domiciled levy of €200,000 per annum regardless of where they are tax resident in the world. This announcement appears to be a last minute inclusion as whilst included in the Minister’s speech, it was not referred to at all in the Budget documentation produced by the Department of Finance. Whilst the legislation will clarify the scope of the charge, it is difficult to see how the charge will apply where such individuals are resident in Tax Treaty States. Also, will the reference to Irish nationals lead to the charge potentially being payable by diaspora who have taken out Irish passports for sentimental reasons?

This release is intended as a general guide to the subject matter and should not be used as a basis for decisions. Whilst every effort has been made to ensure the accuracy of the content no liability can be taken for any omissions or errors. Professional taxation advice should always be taken prior to proceeding with any transaction giving rise to tax consequences.

- **Mortgage Interest Relief** In an apparent effort to encourage house purchases, the Minister announced that mortgage interest relief is to be given at current rates to loans taken out before 1 July 2011, with transitional provisions for the following 18 months. The Minister also appeared to announce a relaxation of the 7 year cap, which limits relief to the first 7 years from the date of taking a qualifying loan, making the relief available out to 2017.
- **Pensions:** The Minister signalled strongly that a tax on pension lump sums over €200,000 will be introduced once the National Pensions Framework report is published. Additionally, he signalled that tax relief on pension contributions is likely to be reduced to 33%. Possible further changes, perhaps to be included in the Finance Bill, are reduced caps on the size of pension funds permitted. Interestingly, the UK Pre-Budget Report, handed down also yesterday, has included certain limitations on pension tax relief which may provide further food for thought for our Minister.
- **Anti-avoidance** Whilst Finance Bills usually contain a number of anti-avoidance measures, the Minister has specifically flagged that this will be the case. These are expected to be targeted at perceived abuses of reliefs.

Property

- **Property Tax?** Again, the Minister made reference to the introduction of a property tax possibly in 2011. Interestingly, he referred to the prospective tax as being a 'site valuation tax'.

Commercial

- **Start Up Exemption from Corporation Tax** Newly set-up companies, which commenced trading in 2009, were exempted from tax on trading income, including capital gains on the disposal of any qualifying assets used in the new trade, for three years provided their annual tax liability

did not exceed €40,000. The Minister has announced that this scheme is to be extended to new companies starting to trade in 2010. This clears up some uncertainty for new enterprises. One can expect however a tightening up of the rules to obtain the exemption for companies commencing to trade in 2010.

- **100% Year 1 Capital Allowances** The scheme of accelerated capital allowances for energy efficient equipment is being expanded from 7 categories of qualifying equipment to 10 and will include expenditure on refrigeration and cooling systems, electro mechanical systems and catering and hospitality equipment.
- **Carbon Tax** The well flagged carbon tax has been introduced at a rate equivalent to €15 per tonne. The tax will apply to petrol and diesel from midnight 9th December 2009 while home heating fuel will be affected from 1 May 2010. Exemption from the tax will apply only to participants in the EU Emissions Trading Scheme. Whilst this would seem to exclude the ESB, the position of smaller electricity generators is less clear.
- **R&D Tax Credit** Whilst the Budget did not make any amendments, the Minister has flagged the fact that changes will be contained in the Finance Bill. Changes may include the removal of the 2003 base year threshold and/ or an increase in the value of the credit.
- **VAT** The standard rate of VAT will be reduced from 21.5% to 21%, with effect from 1 January 2010, reversing the 0.5% increase imposed by the Minister in his first budget last year.

For further information on any of the above matters or on any tax matters, please contact [John Cuddigan \(john.cuddigan@rdj.ie\)](mailto:john.cuddigan@rdj.ie) or [Eoin Tobin \(eoin.tobin@rdj.ie\)](mailto:eoin.tobin@rdj.ie) at 021-4802700