



INTRODUCTION

The Revenue has recently published the latest issue of their technical magazine, Tax Briefing 63 and has also issued a briefing note in relation to the 'Pensions Cap' introduced in the Finance Act 2006. This tax bulletin highlights some of the tax issues covered in Tax Briefing including late amendments to the transitional rules relating to property incentive schemes in Finance Act 2006 and the entitlement to a deduction for interest in respect of rental properties as introduced in the Finance Act 2006.

Pensions – Personal Fund Threshold

As previously outlined the Finance Act 2006 has introduced new legislation to impose a limit on the total capital value of pension benefits that an individual can draw from tax relieved pension products. The new limit of €5m (the standard fund threshold) has effect from 7 December 2005.

However, if the value of an individual's pension fund at that date exceeds €5m, then that higher figure is the maximum allowable limit applicable to them and is known as the Personal Fund Threshold. Revenue has advised that in order to avail of the Personal Fund Threshold (i.e. the higher figure), individuals must notify the Financial Services (Pensions) Branch of Revenue on or before **7 June 2006**. The relevant form is available at http://www.revenue.ie/wnew/per_fund_thresho ld.htm. For any person who held pension funds in excess of €5m at 7 December last, this should be done immediately.

Property Incentive Schemes

Termination Dates

Finance Act 2006 introduced an extension on the termination dates to 31 July 2008 for expenditure qualifying for residential relief and for certain commercial and industrial developments where certain existing (i.e. planning application filed by 31 December 2004) and additional conditions have been met.

Full relief will be available for qualifying expenditure incurred in the period to 31 December 2006. However, qualifying expenditure incurred in the period from 1 January 2007 to 31 July 2008 will be restricted as to 75% of the expenditure in the tax year 2007 and 50% of the expenditure from January to July 2008.

In order to avail of the extended date of 31 July 2008, the following additional conditions, contained in the Finance Act 2006, must be met:

- At least 15% of actual construction, conversion or refurbishment costs must have been incurred and the actual work carried out by 31 December 2006; and
- A binding written contract under which the expenditure on construction of refurbishment is to be incurred must be in place by 31 July 2006.

Local authority certification of the 15% condition is required and must include details of the actual expenditure incurred at 31 December 2006 as well as projected expenditure to be incurred after that date. This projected expenditure will effectively

cap the amount that may be claimed in respect of qualifying capital expenditure incurred in 2007 and 2008.

An application to have the work certified must be made before 31 January 2007 and the certificate must issue on or before 31 March 2007 from the local authority in order for the expenditure to qualify for capital allowances.

Schemes extended include among others:

- Hotels and Holiday Camps;
- Holiday Cottages;
- Student Accommodation and Third Level Buildings.

There remains no deadline to the private hospitals, childcare facilities and nursing homes schemes (excluding residential units attached to such nursing homes).

Rental Income – Interest Deduction

Pursuant to the Finance Act 2006 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. Essentially, landlords are required to register details of all of their tenancies within one month of the commencement of the tenancy.

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.

Under the Residential Tenancies Act, certain types of dwellings are excluded and there is no requirement to register tenancies. The main exclusions would include:

- lettings by a public authority (which include accommodation let by an educational institution);
- holiday lettings;
- business premises;

- houses where rent a room relief is being claimed; or
- a house in which the spouse, parent or child of the landlord is resident where there is no written agreement.

Where property is let to a management company for on-lease, the registration onus is on the management company. However, failure by the management company in relation to such requirement will not restrict the owner's entitlement to an interest deduction.

Evidence of registration need not be submitted with the return of income but should be retained for inspection in the event of an audit. If it is discovered that a landlord has failed to comply with the registration requirements any interest relief that has been claimed will be withdrawn and may result in an underpayment of tax and exposure to interest and penalties.

For further information on any of the above matters or on any tax matters, please contact **John Cuddigan**, Head of Tax at 021-4802700 or at john.cuddigan@rdj.ie