



*cutting through complexity*

# Highlights of Finance Bill 2012

as initiated on 9 February

14 February 2012

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**Personal Taxes**

**Property**

**Business Taxes**

**Capital Taxes**

**Value-Added Tax**

**Tax Administration**

# Personal Taxes

# Personal Taxes – The journey so far

- No increase in income tax rates in 2012
- No reduction in tax credits in 2012
- No narrowing of income tax bands in 2012
- Significant increases in tax and social insurance from 2008 to 2011

Gross Income	€75,000		€125,000	
	2008	2011	2008	2011
Net Income	€56,619	€51,483	€84,921	€75,483
% Net Difference	9%		11%	

\*Based on married employee one income

## Universal Social Charge

- Exemption threshold increased to €10,036
- Share-based remuneration
- PAYE exclusion orders

## Mortgage Interest Relief

- Increased 30% rate of mortgage interest relief
- Mortgage interest relief for 2012 first-time buyers:
  - 25% (yrs 1 & 2), 22.5% (yrs 3 to 5), 20% (yrs 6 and 7)
- 15% mortgage interest relief for other 2012 buyers
- No relief for purchases after 2012

## Taxes on Investment Income

- DIRT rate increased to 30%
- EU deposit interest
  - 30% for Marginal rate taxpayers filing on time
- Non-EU deposit interest
  - 30% for standard rate taxpayers
- Exit taxes increased by 3%

## Tax Relief for Charitable Donations

- Announcement in parallel with Finance Bill
- 3-month consultation process:

## Technical amendments

- Illness Benefit and Occupational Injury Benefit
- Domicile levy
- Civil partnerships
- Credit for third level fees
- Artists' exemption
- Relief for expenditure on significant buildings
- Income tax relief for sportspersons

# Foreign Earnings Deduction ('FED')

## Background to relief

- Support for companies expanding into emerging markets
- BRICS countries only
- Will apply for tax years 2012-2014

## Employee requirements

- 60 qualifying days
- Continuous 12-month period
- Refund claim
- Specified reliefs

## Employer requirements

- None



# Foreign Earnings Deduction

## Operation of the relief

- Formula-based deduction from gross remuneration (max. deduction of €35,000):

$$\frac{A * B}{C}$$

- A = Number of qualifying days in a year of assessment
  - B = Qualifying income
  - C = Aggregate number of days in the year of assessment that the individual held a relevant office or employment
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- Maximum refund = €14,350

# Foreign Earnings Deduction

## Worked example

- Mary is an Irish-resident individual who is responsible for marketing and business development activity in Brazil. This requires that she spend at least three weeks at a time working in Brazil
- Mary has spent 90 qualifying days in total in Brazil during 2012
- Her remuneration for the year is a base salary of €150,000, taxable share award of €20,000 and a gain on the exercise of share options of €10,000

$$- \frac{90 * (150,000 + 20,000 + 10,000)}{365} = 44,384$$

- Deduction limited to €35,000
- Mary's refund = €35,000 \* 41% = €14,350

# Foreign Earnings Deduction

## Positive features

- Applies to broad range of employment remuneration
- Incentivises employees to spend required time in important markets
- Limited conditions for relief
- Simple to explain and low burden on employers

## Features which might limit effectiveness

- Maximum deduction of €35,000
- Applies only to BRICS
- Does not apply to BIKs
- Does not apply to USC

## Share-Based Remuneration

- Share forfeiture
- USC on share-option gains
  - Rate
  - Payment
- Discharge of PAYE on share awards

## Share-Based Remuneration (cont'd)

Scheme type	Income tax (41%)	USC (7%)	Employee PRSI (4%)	Employer PRSI
Share awards	PAYE	PAYE	PAYE	n/a
Share-option gains	Self-assessment within 30 days	Self-assessment within 30 days	PAYE (self-assessment if no longer in employment)	n/a
Approved Profit-Sharing Schemes (APSS)	n/a	PAYE	PAYE	n/a
Save As You Earn (SAYE) share-option schemes	n/a	PAYE (self-assessment if no longer in employment)	PAYE (self-assessment if no longer in employment)	n/a

## Pensions

- Tax reliefs
- Deemed distribution rules
  - Scope
  - Rate
- Employer PRSI relief
- Tax on ARF assets on death

## Pensions' Chargeable Excess

- Encashment of private pension (public sector)
- Tax paid by scheme administrator
- Amount of tax liability on chargeable excess over SFT
- Credit for tax paid at standard rate on pension lump sum

**Property**



## Significant measures introduced to stabilise and improve sector

- Stamp duty (non residential)
  - 2% rate applies for all instruments executed from 7 Dec 2011
  - 2% rate also applies to goodwill and other property (if not already exempt)
  - Intra family transfers will attract 1% rate until the end of 2014
  
- Incentive CGT relief for property purchased between 7 Dec 2011 and 31 Dec 2013
  - EU/EEA located property
  - Property must be held for 7 years to qualify for exemption
  - Gain time apportioned where held for more than 7 years

- Legacy property reliefs
  - Economic Impact assessment now published
  - Schemes with tax life ending after 1 Jan 2015
    - Capital allowances available until end of scheme
  - Schemes with tax life ending before 1 Jan 2015
    - No carry forward of allowances to 2015
  - Individuals with gross income over €100k
    - 5% surcharge (USC) on income sheltered with property reliefs
    - Effective from 1 Jan 2012
- Annual property tax
  - €100 household charge to be replaced with full valuation based property tax by 2014

# Business Taxes

## Overview

- Reinforced commitment to the 12.5% rate in Budget 2012
- Improvements to R&D tax credit regime to benefit SME's
- Enhanced offering for inward investment and indigenous businesses
  - Introduction of SARP –inbound employees
  - Reintroduction of FED – outbound employees
- Renewable energy investment incentives
- Extension of 3 year start up relief for companies
- Package of measures aimed at Financial Services sector
  - Technical enhancements to aid competitiveness
- New EII/Seed capital schemes now in force

# Research and Development ('R&D')

## Improvements to R&D tax credit regime

- Volume-based relief
  - Base year relaxation for first €100,000 of expenditure
  - €25,000 value
  
- Outsourced expenditure
  - R&D costs to universities eligible where less than 5%
  - R&D costs to other third parties eligible where less than 10%
  - Bill introduces higher of 5%/10% and €100,000
  - Impact on third-party service provider
  
- Intra group transfers of a trade and unused R&D credits

# Research and Development ('R&D')

## Employee Tax incentive mechanism

- Applies to 'key' employees involved in qualifying R&D:
  - Is not/was not a Director
  - Must not hold/have held a Material interest (5%)
  - Condition re activities of employee
  - Interaction with R&D tax credit entitlement of employer
    - Only applicable to profitable companies
- Minimum ETR on employee's total income
- Excess/Unused credits carried forward
- Clawback

# Research and Development ('R&D')

## Positive features

- Employer flexibility for utilisation of R&D credit

## Features which might limit effectiveness

- High potential early stage companies may not be tax paying and therefore excluded
- Minimum 23% annual tax level ignores USC and PRSI
- Restriction for directors and material interest holders may rule out applicability for SME's where equity incentive stakes are an important feature
- Timing of tax benefit

# Special Assignee Relief Programme ('SARP')

## Background to relief

- Intended to encourage the relocation of key talent within organisations to Ireland
- Important link between having an attractive regime for mobile talent and companies' investment decisions
- The KPMG Global Assignment Policies and Practices Survey 2011 reports that 73% of all surveyed companies operate tax equalisation policies for their assignees
  - Tax savings under an expatriate regime are a key driver of total costs
- Applies for first 5 years of an employee's Irish residence



# Special Assignee Relief Programme

## Employer requirements

- Employer must:
  - Be a company incorporated and tax-resident in a double tax treaty country or an associated company
  - Certify that certain conditions required in order to qualify for the relief have been satisfied

# Special Assignee Relief Programme

## Employee requirements

- Employee must:
  - Arrive in Ireland in any of the tax years 2012, 2013 or 2014
  - Not have been resident in Ireland for the 5 years preceding the year of arrival
  - Have been employed by the relevant employer for the 12 months before arriving in Ireland
  - Perform substantially all of their duties in Ireland for 12 consecutive months
  - Have a minimum base salary of €75,000

# Special Assignee Relief Programme

## Operation of the relief

- Formula-based deduction from gross remuneration:

$$(A - B) * 30\%$$

- A = Total remuneration of the employee subject to a cap of €500,000
- B = €75,000

- Maximum refund = €52,275

# Special Assignee Relief Programme – worked examples

Remuneration	€100k	€250k	€500k
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## Old SARP

Tax and USC payable	€37,100	€78,400	€147,100
Effective tax rate	37%	31%	29%

## New SARP

Tax and USC payable	€34,000	€87,600	€176,800
Effective tax rate	34%	35%	35%

<b>Tax increase/(reduction)</b>	<b>(€3,100)</b>	<b>€9,200</b>	<b>€29,700</b>
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# Special Assignee Relief Programme

## Positive features of the regime

- Application to Irish-resident companies
- Not remittance based
- Applies to share awards and other benefits
- Base salary entry point reduced to €75,000
- Will apply to Irish domiciled individual's
- Return trip to home country & school fee exemptions

# Special Assignee Relief Programme

## Features which may limit effectiveness:

- Combination of cap and no relief for USC/PRSI mean resulting ETR will not be competitive against similar EU based regimes
- Limit of 30 days incidental duties outside Ireland
- Not available to “new hires” – SME’s
- Relevant employer requirement unlikely to be satisfied by many SME’s.

## Employment and Investment Incentive

- Introduced in November 2011
- Development funding
- Trading activity
- Fixed place of business in the State

## Green Economy

- Investment in renewable energy
- Forest carbon offsets
- Emissions allowances



## Miscellaneous

- Dividend taxable @ 12.5% - OECD Convention on Mutual Assistance in Tax Matters
- Loss groups extended to include:
  - Companies resident in an EU or tax-treaty country, and
  - Companies whose principal class of shares are substantially and regularly traded on a recognised stock exchange
- Foreign tax suffered on royalties and interest income
- Long-term unemployed

## Miscellaneous

- eRCT: Information requirements
- Corporation tax exemption for start-up companies
- Mergers without liquidation

## Financial Services

- Interest paid on deposits and loans in a lending trade to non-treaty resident connected companies will be deductible to the extent that the recipient jurisdiction levies a tax on the interest
- Tax on some domestic Irish funds increased to 30%
- Requirement for non-residence declarations from investors in inward migrating funds abolished
- Transfer of assets from an Irish investment undertaking to a 'good' offshore fund not a chargeable event

## Financial Services (cont'd)

- Exchange of units in one sub-fund for units in another sub-fund of a 'good' O/S fund no longer a taxable event
- Reorganisation relief where assets of non-Irish fund transferred to Irish fund in exchange for issue of units in Irish fund to the non-Irish fund (rather than the investors therein)
- Revised information reporting for investment undertakings
- Unilateral relief for foreign tax suffered on equipment-leasing rental income

## Financial Services (cont'd)

- Time limit for notification of securitisation company
- Insurance Levy and Insurance Compensation Levy to be paid within 25 days of quarter-end (rather than 30 days)
- Increase in Health Insurance Levy from €205 to €285 per insured adult
- Technical charge to Irish income tax on interest arising to a non-resident
- Interest reporting requirements
- Islamic finance

## Encashment tax

- Subject to Ministerial Commencement Order
- Pay and file obligations
- Interest on unpaid tax
- Agent remuneration

# Capital Taxes

# Capital Gains Tax

## Rate Increase

- 30% rate to apply from 7 December 2011

## Property Incentive relief

- Covered earlier

## Miscellaneous

- Gains made by a non-resident trust
- Shares in an Irish-incorporated company
- Contingent liabilities



# Capital Gains Tax

## Retirement Relief (Business or farms)

- Applies to disposals from 1 January 2014
- Disposals to children
  - Unlimited relief where aged 55-65
  - Relief capped at €3m for those aged 66+
- Disposals to third parties
  - Relief capped at €750k for those aged 55-65
  - Relief capped at €500k for those aged 66+

# Capital Acquisitions Tax

## Rates and Thresholds

- From 7 December 2011:
  - Increase in capital acquisitions tax rate to 30%
  - Group A tax-free threshold reduced to €250,000 (€521,208 in 2008)
  - Group B and C tax-free thresholds rounded up to €33,500 and €16,750 respectively

## Business and Agricultural property reliefs

- No material change to reliefs
- Debt on non-farm dwellings
- Residence condition

# Capital Acquisitions Tax

## Discretionary Trusts and Similar Entities

- Entities similar to discretionary trusts
- Discretionary Will trusts
- Anti-avoidance

## Miscellaneous

- Solicitors' liability
- Interest v capital
- Filing date

## Rates

- Share options
- Non-residential property

## Various exemptions

- Corporate mergers without liquidation
- Grangegorman Development Agency
- Pension and charity scheme assets
- Transfers of units in an exempt unit trust

## Exemptions (cont'd)

- Shares in foreign bodies corporate
- Carbon credits
- Cross-border mergers of investment funds
- Reconstruction or amalgamation of EU/treaty-based funds
- Amalgamation of a unit trust under a corporate fund
- Transfers of leases related to land
- Transfers of foreign immovable property

## Administration

- Self-assessment
- Refund claims
- Adjudication and expressions of doubt
- Assessments, audits and appeals
- Penalties
- Surcharge for late filing

# Indirect taxes

# Value-Added Tax

- Rate increased to 23% from 1 January 2012
- Bakery products
- Reverse-charge
- Capital Goods Scheme adjustment period
- VAT on conference accommodation
- Repayments of VAT to unregistered persons



# Tax Administration

- 'Pay and file' system v 'self-assessment'
- Notices of Assessment
- Expressions of doubt
- Film relief
- Liquidated/struck-off companies

## Revenue Powers

- Payment cards
- Statements of affairs
- Security
- Documents and information

# Summary

## **Finance Bill subject to amendment:**

2<sup>nd</sup> stage – 14<sup>th</sup> /15<sup>th</sup> February

Committee Stage – 28<sup>th</sup>/29<sup>th</sup> February/ 1<sup>st</sup> March

Report Stage – 13<sup>th</sup>/14<sup>th</sup> March

Seanad – 21<sup>st</sup>/22<sup>nd</sup> March

Last day for signature – 6<sup>th</sup> April

## Tax Strategy – What's next?

- EU/IMF programme
- Medium Term Fiscal Statement
  - €4.7bn tax increase over 4 years to 2015
  - €1.6bn in 2012/extra €3.1bn by 2015
- Budget 12
  - Emphasis on indirect and local taxes
  - No increases to income tax
- Revenue measures 2013 – 2015
  - Same principles to apply
  - Emphasis on all forms of indirect tax and a substantial broadening of general tax base
  - Fair and sustainable

# Thank You

Presentation by Johnny Hanna



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