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tax booklet 2011

A GUIDE TO YOUR TAX AFFAIRS FOR THE YEAR 2011

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INCOME TAX

Income Tax Rates

Bands of Taxable income	2011	2010
Single/Widowed *(Without dependent Children)*	€32,800 @ 20% Balance @ 41%	€36,400 @ 20% Balance @ 41%
Single Parent / Widowed Parent (With dependent children)	€36,800 @ 20% Balance @ 41%	€40,400 @ 20% Balance @ 41%
Married couple (one income)	€41,800 @ 20% Balance @ 41%	€45,400 @ 20% Balance @ 41%
Married couple (two incomes)	€65,600 @ 20% Balance @ 41%	*€72,800@ 20% Balance @ 41%

*In the case of a married couple with two incomes the standard rate band is transferable between them up to €65,500 (the band for two income married couples). In effect this means that up to €23,800 may be transferred between them, if one spouse earns less than €23,800 there is a loss of some of the benefit of the higher band.

Income Exemption Limits	2011	2010
Single/Widowed	€	€
65 years of age and over	18,000	20,000
Married Couples		
65 years and over	36,000	40,000

The relevant exemption limits are increased by €575 for each of the first two dependent children and by €830 for the third and any subsequent dependent children.

Tax Credits @ 20%		2011	2010
		€	€
Single		1,650	1,830
Married (Jointly assessed)		3,300	3,660
Widowed Person in year of bereavement		3,300	3,360
Widowed person no children		2,190	2,430
Widowed person/single person with dependent child		3,300	3,660
Additional Allowances in years following bereavement			
Year 1		3,600	4,000
Year 2		3,150	3,500
Year 3		2,700	3,000
Year 4		2,250	2,500
Year 5		1,800	2,000
Home carer's credit *(see restriction pg 9)*	max	810	900
Incapacitated child	max	3,300	3,660
Dependent relative	max	70	80
Age credit	single	245	325
	married	490	650
Blind person	single	1,650	1,830
	married	1,650	1,830
	both spouces	3,300	3,660
Additional Credit Guide dog*		165	165
PAYE		1,650	1,830
Allowances @ 41%			
Allowance to employ a carer for an incapacitated person max		50,000	50,000

*Relief in respect of the cost of maintaining a guide dog (max €825 @ 20% = €165 may be claimed under the heading of Health Expenses.

Relief for the Long Term Unemployed

An employee who is long term unemployed is entitled to two separate allowances, as follows:

	Personal Tax Allowance	Child Tax Allowance	
	€	€	
Year 1	3,810	1,270	for each qualifying child
Year 2	2,540	850	for each qualifying child
Year 3	1,270	425	for each qualifying child

An individual is treated as long term unemployed where they have been continuously unemployed for a minimum period of twelve months. . The relief is also available for persons who have been in receipt of either disability allowance, blind persons pension or invalidity pension for 12 months or more, illness benefit for 3 years or more, or who are released from prison after 12 months or more.

The employer is entitled to a double deduction for qualifying employees in respect of:

- Emoluments paid to those employees in the first 36 months of employment and
- PRSI contributions on those emoluments.

Residence

An individual is liable to Irish Income Tax on his worldwide income provided he/she is resident and domiciled for the tax year, subject to any specific relief under the relevant Double Taxation Agreement. To be resident an individual must be present in the state for:

- 183 days or more in that tax year, or
- 280 days in that tax year and the preceding tax year, subject to a minimum of 30 days in each year.

From 1 January 2009 presence in the State at any time during the day will count towards residency (prior to 1 January the residence test applied to presence in the State at midnight). For 2009 if counting 280 days for two consecutive years the test for 2008 will count the no of days in the State where the individual is present at midnight and the test for 2009 will apply to number of days present in the State.

Domicile can be a difficult concept but broadly means the country that an individual considers as his/her natural home.

An individual is "ordinarily resident" if he is resident for three consecutive tax years and remains ordinarily resident for three years after the tax year of departure. An ordinarily resident individual is chargeable to Irish income tax on Irish source income and also on foreign investment income exceeding €3,810 in the tax year. An Irish resident or ordinarily resident and domiciled individual will also be liable to Irish Capital Gains Tax on their worldwide gains. This leaves individuals ceasing to be Irish resident exposed to Irish tax on investment income and Capital Gains Tax for three years after the tax year of departure.

Despite the reference to three years in the paragraph above, an anti avoidance provision imposes Capital Gains Tax on individuals who dispose of shareholdings during a period of temporary non-residence, described as absences of less than 5 years.

Split Year Treatment

An individual who arrives in Ireland with the intention of becoming resident in the following tax year is liable to income tax on employment income only from the date of arrival to the following 31 December. Similarly, a resident individual who leaves Ireland other than for a temporary purpose is liable to income tax on employment income up to the date of departure only. This "split year treatment" applies to employment income only.

Relief from a liability to Irish Income Tax may also arise under provisions of Double Taxation Agreements between Ireland and other states.

Cross Border Workers

Irish resident individuals employed abroad in a jurisdiction with which Ireland has a double taxation agreement can exclude income on employment earned abroad from Irish tax. The employment abroad must be for a minimum period of 13 weeks and foreign tax must be paid on that income, and the duties must be performed wholly abroad. The individual must be present in Ireland for a minimum of one day a week during the period of qualifying employment. The relief does not apply to state or semi state employments.

From 2010 onwards an individual will be deemed present in the State if he/she is present at any time during the day, for 2009 (and prior years) the individual needed to be present at the end of the day in order to qualify for the relief.

Remittance Basis of Assessment

Individuals domiciled outside Ireland (prior to 2010 the remittance basis of taxation also applied to non-ordinarily resident Irish citizens, however this was withdrawn for the tax year 2010 onwards) are entitled to a "remittance basis" of assessment in Ireland on investment income i.e. they are only subject to tax on income brought into the country. The remittance basis does not apply to employment income except in the case of a special assignment relief program (see below)

For Non-domiciled Individuals

Income:

Fully Taxable:

- All Irish source income, including the Irish workdays of a foreign employment and capital gains are taxable in Ireland regardless of whether they are remitted or not.

Not Taxable:

- Foreign employment income (non Irish workdays) and investment income are taxed only where remitted.

Capital:

- Irish citizens who are not ordinarily resident but who are resident are taxed on foreign capital gains
- Non-Irish domiciled are taxable on foreign capital gains only to the extent that they are remitted to the country.

Special Assignment Relief Program SARP

This relief applies from 1 January 2009 to individuals who are assigned to work in Ireland from abroad for a period of at least 1 year (3 years in 2009). The relief will apply to reduce taxable earnings in excess of €100,000 by 50%.

The relief is only available to non domiciled individuals who take up residence in Ireland for the first time, and exercise their duties in Ireland for the first time, in addition they must:

- Have been employed by an associated company of the Irish entity to which they are assigned prior to arrival in Ireland and continue to be paid by the overseas employer
- Previously have been tax resident and exercised the greater part of their employment in the relevant overseas jurisdiction.
- Be an employee of an EU, EEA, or treaty country (prior to 2010 the relief only applied to non EEA countries which were also treaty countries.

The overseas employer must operate Irish PAYE (and PRSI where appropriate) on the employment income. The relief will operate by way of a repayment of taxes otherwise payable after the year end.

With effect from 1 January 2011 share awards will also be eligible for tax relief under the SARP. The benefits are limited to the amount of income subject to PAYE.

Seafarer Allowance

An allowance of €6,350 from employment income is available to seafarers provided they are on an international voyage(s) i.e. a voyage beginning or ending in a port outside the State for at least 161 days in a tax year. This allowance cannot be claimed in conjunction with the split year treatment. The allowance is also available to crews of vessels servicing drilling rigs in Irish waters.

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Tax Exemptions

The following are exempt from Income Tax provided specific conditions are satisfied:

- Artists resident in Ireland who produce original work that has cultural and artistic merit subject to a €40,000 limit
- Charities - investment and certain trade income
- Awards made by the Hepatitis C Tribunal
- Income arising on monies received from settlement of a civil action by a totally incapacitated individual. Income arising on monies received by permanently incapacitated individuals for damages following assessment by the Personal Injuries Board, from 2007 the return arising from the investment of these monies where the return is greater than 50% of the individual's total income and gains is also exempt.
- Income arising from compensation payments made under an employment law enacted, in accordance with a decision of one of the relevant bodies listed below or made in accordance under a mediation process;
  - The Rights Commissioner
  - The Director of Equality Investigations
  - The Employment Appeals Tribunal
  - The Labour Court
  - The Circuit Court
- Patent royalties paid to the inventor from inventions devised in Ireland prior to 24 November 2010.
- Sports organisations
- Income from woodlands
- Income received by Mna Tí in the Gaeltacht (Sceim na bhFoghlaimeoirí)
- Income received by foster parents from the Health Service Executive or from another body where the payment is in accordance with similar law from another EU Member State (including educational fees, certain medical expenses and other exceptional payments where complex special needs arise). In addition payments for foster children 18 or over until the age of 21 or until they complete their full time education who suffer from a disability are also exempted.
- Certain social welfare payments including payments to systematic short term workers i.e. people who do 3 days on and 2 days off work, or who work one week on and one week off.

The exemption for Income Tax for the categories of income described below was extended to Capital Gains Tax. However, it is a requirement that the aggregate of the person's income and gains must exceed 50% of their total income and gains in order to be exempted. The relevant categories of income and now gains are as follows:

- Income and Gains derived from the investment of certain compensation payments received by permanently incapacitated individuals or a trust established for the benefit of one or more individuals.
- Income and Gains derived from the investment of payments made to Hepatitis C and HIV victims
- Income and Gains from compensation payments made to thalidomide children and the income derived from the investment of such payments

Childminding relief

Childminding relief is available where an individual minds up to three children (excluding their own children) in their own home. No tax will be payable on the childminding earnings received, provided the amount is not more than €15,000 per annum. If the childminding income exceeds this, the total amount will be taxable as normal under self-assessment. The annual minimum PRSI contribution for self employed individuals of €253 per annum is payable.

Mortgage Interest Relief

Interest relief can be claimed in respect of loans for the purchase, repair or improvement of a taxpayer's main residence. Mortgage interest relief is allowed at source by the lending institution, the relief is granted by reducing monthly repayments, or by directly crediting the individuals account.

The relief available for 2010 and 2011 is outlined in the table below

Individual Status	First Time Buyers	All Others
Single	€10,000	€3,000
Married	€20,000	€6,000

First Time Buyers

The relief for first time buyers is 25% for the first 2 years of the mortgage, 22.5% in years 3-5 and 20% in years 6-7. This is set out in the table below.

		Max Relief -	
Year	Rate	Single	Married
Years 1-2	25% of interest paid*	€2,500	€5,000
Years 3-5	22.5% of interest paid	€2,250	€4,500
Years 6-7	20% of interest paid	€2,000	€4,000

*Relief is based on the lower of x% of interest paid, or the maximum relief as outlined above.

The seven year time limit for first time buyers applies for seven years starting with the year in which mortgage interest relief is first claimed i.e. to qualify for relief in the tax year 2011 the mortgage must be taken out no later than 1 January 2005.

Tax Tip: if you are a first time buyer buy your home early in the tax year to maximise your credits .

Non First Time Buyers

For non first time buyers the relief is set at 15% for 2010 and 2011 and 10% for 2012. For loans taken out up to 2011 a credit will be available up to a maximum of €900 per annum for a married couple and €450 per annum for a single person. For loans taken out in 2012 the relief will be reduced to €600 for a married couple and €300 for a single person.

		Max Relief -	
Year	Rate	Single	Married
2010	15% of interest paid	€450	€900
2011	15% of interest paid	€450	€900
2012	10% of interest paid	€300	€600

Qualifying loans taken out before 31 December 2011 will qualify for relief for 7 years. Transitional measures will apply for loans taken out between 1 January 2012 and 31 December 2012

Mortgage interest relief on loans taken out after 1 January 2013 has been abolished.

Rented Residential Property

Mortgage interest relief for rented residential properties is available at 75%. This measure applies to new and existing mortgages.

Energy Efficient Investment

Investment in SEAI approved works carried out to improve the energy efficiency of a residential property will qualify for tax relief. The investment must be in owner occupied properties and is for expenditure net of grants. The maximum spend qualifying for relief is €10,000 for a single person and €15,000 for a married couple, relief is calculated at 20% i.e. €2,000 single and €3,000 for a married couple (Co-habiting individuals treated as married for the purposes of this relief). The relief will be provided by way of repayment in the tax year following the year in which the expenditure was incurred. The relief is subject to Ministerial order.

Home Carer's Credit

A credit of €810 (€900 in 2010) is available for married couples jointly assessed, where only one spouse is working and the other cares for children (with an entitlement to social welfare child benefit), individuals over the age of 65, or incapacitated individuals in their home. Where the carer's income exceeds €6,700 no credit will be available, where the carer's credit exceeds €5,080 in a year, the tax credit is reduced by one half of the amount of the excess over €5,080 (subject to a maximum of €810).

The credit is not available to married couples that are taxed as single persons. Neither is the tax credit available to married couples with a combined income of €41,800 and who claimed the increased standard rate tax band for dual income couples.

Carer's allowance

An individual can claim an allowance where he/she has to employ a person to take care of an incapacitated family member. The carer may be employed on an individual basis, or through an employment agency. The maximum allowance is €50,000 per annum for each incapacitated individual. The allowance is available at the marginal rate of tax. The allowance will be granted in the first year that the individual becomes incapacitated.

Covenants

Covenants to permanently incapacitated adults are fully tax deductible. Covenants to a permanently incapacitated minor child are fully tax deductible if paid by a person other than a parent. Covenants to individuals aged 65 or over who are not incapacitated are deductible subject to a 5% limit of the covenantor's total income.

Medical Insurance

Tax relief on medical insurance premiums is granted at source and is given as a direct reduction in premiums. Relief is based on a standard rate (20%) deduction, and is granted on a current year basis.

There is an increased age related credit available for individuals over the age of 60 for new or renewed contracts entered into on or after 1 January 2011 as follows

Age of Insured	Age related Credit for 2011	Age related Credit for 2010
>=50 but <60	€-	€200
>= 60 but < 70	€625	€525
>=70 but <80	€1,275	€975
>80	€1,725	€1,250

Dental Insurance

Tax relief at the standard rate (20%) is available in respect of dental insurance premiums taken out for non-routine dental treatment.

Medical Expenses

Un-reimbursed medical expenses incurred on behalf of a taxpayer or another person may be set-off against their income tax liability.

Medical expenses include:

- Doctor/Hospital care and prescription medicines
- Payments to Revenue approved nursing homes for dependents
- Physiotherapy
- Non-routine dental and ophthalmic expenses
- Routine maternity care including Caesarean sections
- Qualifying medical expenses incurred on behalf of a dependent relative (which includes any individual over the age of 65 or permanently incapacitated individuals whether they are relatives or not).

Relief is granted by way of a tax credit at the standard rate of tax, except in the case of nursing home expenses which will be granted by way of an allowance at the taxpayers' marginal rate of tax. A form MED2 should be completed in respect of non-routine dental expenses (this can be obtained from the dentist).

There is an exclusion for certain "non essential" cosmetic surgery from qualifying for relief. Cosmetic surgery qualifies for relief where it is provided for a physical deformity arising as a result of a congenital abnormality, a personal injury, or a disfiguring disease.

Relief for hospital stays are restricted to expenses necessarily incurred in connection with the services of a medical practitioner, or to diagnostic procedures carried out on advice of a medical practitioner.

Relief for Nursing Home fees qualify for relief provided the nursing home concerned provides qualifying nursing care on site on a 24 hour per day basis. Private contributions towards the fair deal scheme for nursing homes qualify for relief.

Permanent Health Insurance

Premiums paid under approved permanent health insurance (PHI) schemes are tax deductible. The deduction cannot exceed 10% of the individual's total income. Relief is granted as a deduction against total income and is effectively relieved at the marginal rate of tax. Any benefits received are taxable and therefore subject to PAYE.

Trade Union Subscriptions

Tax relief for Trade Union subscriptions has been abolished with effect from 1 January 2011 (tax credit €70 was available in 2010.

Third Level College Fees

Tax relief is available at the standard rate for the cost of fees paid for approved courses in approved colleges. In addition to full time courses it includes fees paid for part time courses on behalf of students who do not have a third level qualification. The relief also applies to post graduate fees paid for third level education in private and public funded third level colleges in non-EU Member States. Tax relief for undergraduate fees is also allowable for accredited private third level colleges in EU Member States.

Tax relief is available for repeat years, on individuals taking more than one course and for individuals already holding a third level qualification. Courses such as medicine, dentistry, veterinary medicine and teacher training which were previously excluded from the relief are now included.

The current third level Student Services Charge of €1,500 is being replaced with a new Student Contribution Charge of €2,000.

The first €2,000 of fees for full time courses and €1,000 of fees for part time courses will be disallowed for 2011. The maximum relief available is €5,000 for the academic years 2009/2010 and 2010/2011. Where families have two or more children in third level education on a full time basis and where both are liable to the Student Contribution Charge, tax relief at 20% will be available on the aggregate paid above €2,000.

Training Course Fees

Relief is available for fees between €317 and €1,270 paid in respect of Information Technology and Foreign Language courses, which are approved by FAS. The course must at least 2 years duration and must not be a postgraduate course. Relief can be obtained for course paid by the taxpayer for himself or another person.

Service Charges

Credit is available for service charges paid up to a maximum limit of €400 per annum, i.e. value €80. The relief is given by way of credit at the standard rate of income tax, where Local Authority service charges are paid in full and on time, by the person liable for them, or by another person who resides on the premises to which the service charge relates. The relief is available in respect of charges paid for the preceding calendar year, on production of a receipt from the local authority. This relief will cease for service charges from 2011 onwards.

Rent-a-room scheme

Where a room in a persons' principle private residence is let as residential accommodation and the gross annual rental income is less than €10,000 per annum this rental income is exempt from tax. Where it exceeds €10,000 the rent is taxable in full.

Qualifying room rentals will not affect entitlements to claim mortgage interest relief. It will also not effect CGT relief on Principle Private Residence on the disposal of the dwelling, and will not lead to a stamp duty claw-back. The relief will not apply where the letting is between connected parties and rent relief is being claimed.

The relief will not be available where the person in receipt of the income is an employee of the person making the payment.

Tip: Consider keeping rental income below the €10,000 threshold.

Rent Relief for Private Accommodation

Rent paid in a tax year for private residential accommodation will qualify for tax relief in that year. The relief will be granted by way of a tax credit at the standard rate of income tax i.e. 20% subject to certain limits. The credit is worth a maximum of €640 (€800 in 2010) per annum to single/widowed persons and €1,280 (€1,600 in 2010) to married/widowed persons who are aged 55 or over. The credit is worth €320 (€400 in 2010) to a single person and €640 (€800 in 2010) to a married couple under the age of 55.
The maximum available is as follows:

	55 or Over	Others
	€	€
Single/Widowed	3,200	1,600
Married/Widowed	6,400	3,200

The credit does not cover rent paid to certain public authorities or rent in respect of a letting for a period of 50 years or more.

The relief is to be phased out over a seven year period for tenants who on the 7th December 2010 were paying qualifying rent under a qualifying tenancy. The relief is due to be withdrawn in full for the tax year 2018 onwards. New tenants are precluded from claiming the relief from 8 December 2010.

Donations / Gifts

Relief is available to individuals and companies in respect of donations to approved Charities/Educational Establishments (minimum €250). These include

- certain disadvantaged schools and donations to the state.
- charities, both domestic and third world
- first and second level schools and third level institutions both domestic and International
- donations to an approved sporting body used to fund expenditure on an approved project

There is a restriction on the amount of tax relief available to an individual; this caps the amount of the contribution at 10% of the individuals' total income for the year of assessment.

Gifts may comprise of public quoted shares and securities.

A tax credit may be available for a gift of a heritage item to an approved body. The relief is restricted to 80% of the market value of the heritage item. The relief includes property which has been approved by the Minister for the Environment, Heritage and Local government. The maximum credit available is capped at €6m in any one year with a minimum donation of €150,000 (or where there is a collection a single item of €50,000).

High Earners

Certain tax breaks available to high income earners are restricted with a tapering restriction applying to individuals with income in excess of €125,000 to ensure a minimum effective tax rate of 30% (previously €250,000 to ensure an effective minimum tax payment of 20%).

Taxable income is calculated by restricting qualifying deductions to 20% of the taxable amount.

If the individuals' income is less than €125,000 or if the reliefs claimed are less than €80,000 the restriction will not apply.

There is a full restriction on income in excess of €400,000 where there is a claim for specified relief in excess of €80,000 the amount that may be claimed is limited to the greater of €80,000 or 20% of the adjusted income.
A tapering relief applies to income between €125,000 and €400,000.

The following items specifically need to be considered:

- Calculation of double taxation relief and top slicing relief is applied before the relief to be claimed.
- Credits for any relief's or deductions are given before the application of the restriction (but after the carry forward of excess relief's from prior periods).
- The effect of the restriction is to disapply the age limit for income tax.

INCOME TAX ADMINISTRATION

Self Assessment - Pay and File

On the 31 October each year, a self-employed individual/company director will be required to:

1. Make his/her Income Tax Return for the previous calendar year;
2. Pay the Balance of Tax for the previous calendar year; and
3. Make a Preliminary Tax payment for the current calendar year.

The deadline for PAYE worker with untaxed non PAYE income has been amended to 30 September each year. (Any reference to 31 October needs to be read as 30 September in respect of PAYE workers)

Payment and Compliance

The self-assessment system applies to individuals with non-PAYE income and to all directors controlling 15% or more of the share capital of a company (even if their entire income is subject to PAYE).

From 2010, the PAYE credit for proprietary directors will be limited to that actually paid by the company.

The definition of a chargeable person for self assessment purposes includes PAYE taxpayers with non PAYE income where the non PAYE income is not taken into account under the PAYE system.

The system places an obligation on the individual to file a return, calculate the tax liability, and pay the tax due. Returns for income arising in the year ended 31 December 2011 must be filed on or before 31 October 2012 to avoid a surcharge. The surcharge amounts to 5% of the amount of tax payable for the period subject to a maximum surcharge of €12,695, where the return is filed within two months of the deadline. Otherwise if the return is filed more than 2 months after the deadline, a surcharge of 10% is imposed subject to a maximum of €63,485.

Preliminary tax due for the tax year 2011 must be paid by 31 October 2011 if interest charges of .0219% per day are to be avoided. The tax paid must represent 90% of the individual's actual liability for 2011 or 100% of the final liability for 2010 (excluding BES relief and relief for investment in films).

Individuals making a preliminary tax payment in 2011 based on 100% of their 2010 liability will be obliged to include in that payment the amount which would have been payable had the Universal Social Charge applied in 2010, see **pg 56** for details of the Universal Social Charge.

Alternatively, for the tax year 2011, a taxpayer can elect to make a preliminary tax payment equal to 105% of the ultimate liability for 2009 (the pre-preceding year), provided a liability arose in that year. This option is only available to taxpayers that pay by direct debit in equal monthly installments. The final installment is payable in December 2011. Where a taxpayer is paying by direct debit for the first time, payment can be made by way of a minimum of three equal installments, and during the following year by way of eight equal installments.

Any balance of tax due for 2011 must be paid by 31 October 2012 (2010 balance falling due by 31 October 2011).

Where the repayment is made due to a Revenue error in applying the legislation, interest will be repaid from the date the tax was paid to the date of repayment otherwise no repayment is due Refunds of overpayments of preliminary tax carry interest of 0.011% per day .

A penalty of €3,000 will apply form 1 January 2011 to any incorrect account, declaration, information, particulars, return or statement in connection with any claim for exemption, allowance, credit, deduction or relief or repayment.

***Tip:** The 2010 tax return is due to be filed by 31 October 2011, where your total income for 2011 is less than that in 2010, consider basing your preliminary tax payment on your 2011 estimated liability.*

Joint Assessment

Revenue may recover tax not paid within 28 days from the spouse who was not assessed. This is limited to the amount of unpaid tax referable to that spouse's income.

Pay and File Summary

The following is a summary of pay and file dates for the year 2011

➢ File tax return for 2011	31 October 2012
➢ Pay capital gains tax for 2011	
– 1 December 2010 - 31 December 2010	31 January 2011
– 1 January 2011 - 30 November 2011	15 December 2011
– 1 December 2011 - 31 December 2011	31 January 2012
➢ Pay balance of tax for 2010	31 October 2011
➢ Pay preliminary tax for 2012	31 October 2011

Information included in Return

Taxpayers are required to disclose information in relation to any relief's claimed in their annual tax return, the relief's to be detailed are highlighted on the return forms. This will apply to individuals, both self-employed and employees and also to companies.

Failure to provide the relevant information may result in a penalty of €950, as well as a surcharge of:

- 5% of the tax due subject to a maximum of €12,695. - within two months of specified date.
- 10% of the tax due subject to a maximum of €63,458 – where return filed more than two months after the specified date.

Late Filing of PAYE Returns

The penalty for late filing of the employer's end of year return (P.35) is an initial €1,000 with further monthly penalties of €1,000 up to a maximum of €4,000.

Where PAYE is paid later than 14 days after the end of the year of assessment, interest will be payable and calculated as follows:

- Where the balance due does not exceed 10% of the total liability, interest will be due as if the date for payment was the 14th day after the end of the tax year; or
- Where the balance exceeds 10% of the total liability, interest will be due on 31 of July (in the year of assessment).

Registration of Foreign Employers

PAYE must be operated by non-resident employers and intermediaries in certain circumstances. Where an employee works for a person other than his/her employer and a payment is made by the foreign employer in respect of that work, and then Irish PAYE must be operated on the payment. The obligation to register for PAYE covers foreign and domestic employment and mobile workers.

PAYE may also be required to be operated by foreign employers or Irish affiliated employers where an employee of a foreign company spends time (generally more than 60 days) working in the State. However there are certain concessions where the individual does not become tax resident and specified conditions are satisfied.

INTEREST RELIEF FOR INDIVIDUALS

Relief on Profits and Rental Income

Relief is available for interest on money borrowed for business purposes without restriction where the money is used: -

- for the purposes of a trade or profession carried on by the individual
- for the purchase of, or expenditure on, a rented property (restricted to 75% in some cases)
- to invest in or lend to a trading partnership in which the individual is an active partner
- to acquire an interest in or lend to a company which is a trading or a holding company. This relief will be unrestricted where:
  - (a) the company is unquoted (if quoted, the investment should be made when the company was unquoted)
  - (b) the individual has a material interest (minimum 5% of equity) and
  - (c) the individual is a full-time or part-time director or employee.

Directors and employees (full-time and part-time) of a private trading or rental company, whether or not they have a material interest in the company (more than 5%) are entitled to unrestricted interest relief. Certain anti-avoidance measures deny relief for non-business interest.

Anti avoidance provisions provide for a restriction of interest relief where funds are invested in certain companies which use the funds to acquire industrial or commercial property from another company, in such cases the interest is restricted to the individual's return from the company only.

Tip: There is no restriction on the amount invested and relief is given at the marginal rate of tax where employees/directors have a material interest in the company i.e. greater than 5%. An individual should therefore minimize borrowings for investments where little or no interest relief is available e.g. an investment in quoted shares.

Interest relief (post 7 December 2005) no longer applies where loans are taken out to acquire an interest in a company whose income arises wholly or mainly from rents or from income from property.

No interest relief will be available for loans taken out on or after 7 December 2010 to invest in certain trading companies. For loans described above which were taken out prior to 7 December 2010, interest on such loans will be deductible on a reduced basis as follows: • 75% in 2011 • 50% in 2012 • 25% in 2013
• No relief will be available for 2014 onwards.
The relief is subject to the high earners restriction as outlined in page 12.

Rented Residential Property

With effect from 7 April 2009 there is a restriction on the tax relief available for interest paid on borrowings used to purchase or improve rented residential property. Relief will be restricted to 75% of the amount of interest paid; this will apply to both new and existing borrowings. Commercial properties will not be impacted by the change.
An individual is required to register any properties let with the residential tenancies board in order to qualify for interest relief on rented residential properties.

Order of Relief for Case V Losses and Capital Allowances

Historically excess Case V Capital Allowances could be set sideways against other income prior to rental losses forward being utilized. This meant that the combined losses forward and capital allowances sheltered a greater amount of taxable income. With the passing of the Finance Act 2010, all Capital allowances must be fully utilised against rental income before losses forward can be used.

Limited Partnerships

There are restrictions on non-active partners in respect of the set-off of losses, interest and capital allowances against non-partnership income. Relief will be available to non-active partners for set-off against income arising to the partnership only and will be limited to each partner's capital contribution to the partnership. The restrictions apply to interest paid, capital allowances in respect of expenditure and losses arising in a trade. The restriction is €31,750, which is the maximum that may be offset against other sources of income outside the partnership. There is an exception for certain hotels in North-Western counties and certain tax incentive areas, see designated areas relief ***page 42.***

INVESTMENT INCOME

Standard Rate DIRT Accounts

With effect from 1 January 2011 there is a 2% increase in the rate of tax applying to interest on deposits and profits/gains from investments and life assurance policies and investment funds.

Income tax at 27% (25% in 2010) is deducted at source by banks, building societies, Post Office Savings Banks, Credit Unions, Agricultural Credit Corporation and Industrial Credit Corporation from interest paid or credited on deposit accounts in the beneficial ownership of individuals resident in the State.

The tax deducted satisfies the individual's full liability to income tax but this income must be disclosed in the individual's return. However, the health levy is payable on interest income.

30% DIRT Accounts

For interest paid or credited on certain deposit accounts where interest is credited at maturity e.g. tracker bonds, tax at 30%(28% in 2010) is deducted at source.

DIRT will not apply to the following individuals:

- individuals or their spouses aged 65 or over who are not liable to income tax
- incapacitated individuals
- charities
- companies that do not have a corporation tax liability

Incapacitated Individuals and over 65s

DIRT will not be deducted at source from individuals who are incapacitated or who are over 65 (self or spouse), where an appropriate declaration is made to the deposit taker.

Investment Undertakings

The income from certain life assurance products and collective funds is not taxed as it arises and grows tax free within that fund (Gross Roll-Up). The increase in value of the investment is subject to income tax on encashment at 20% plus a further exit tax of 10% (previously 8%).

Anti-avoidance measures provide for exit tax to apply, from 7 April 2009 this rate has been increased to 30% (28% in 2010) if the policy is not encashed within eight years of its inception. This is to prevent the avoidance of tax by continuously rolling over a policy. A repayment will be available if the policy is disposed of, this is to ensure that the total tax paid does not exceed the tax that would have been payable had the deemed disposal rules not applied (an election not to have the excess tax repaid may be made where the investment by Irish investors in the fund <15% of the value of the fund, in effect tax refunds may be claimed from the Revenue instead of the fund). Similar provisions apply to foreign policies, however there are relieving provisions where Irish investors account < 10% of the fund's overall investment whereby it is not necessary for the fund to calculate the deemed disposal amount.

Tip: As the income is taxed on exit or after eight years you have the benefit of reinvesting the gross value of the funds thereby earning income on amounts that would otherwise be subject to tax.

Credit Unions

These offer two special forms of share accounts, as follows:

Special Share Account

Shares in a special share account are liable to 30% (28% in 2010) DIRT on dividends.

Special Term Share Account

A special term share account for a term of either three or five years is available whereby the first €480 per annum of dividends in the case of the three year fund and €635 per annum in the case of the 5 year fund is exempt from DIRT and Income Tax. Any dividends received in excess of these amounts are liable to DIRT at 30% (28% in 2010). Equivalent tax exemptions will apply in relation to interest on deposits held in special three and five year term accounts with other deposit taking financial institutions.

Regular Share Accounts

Tax at the marginal rate will continue to apply to interest on regular share accounts.

Post SSIA Maturity Schemes

Special savings incentive accounts expired on 30 April 2007, however a post SSIA scheme incentivises contributions to pension schemes. It is targeted at those earning under €50,000 a year. The scheme allows monies from SSIA accounts to be transferred to a pension without triggering exit tax of 30% (28% in 2010), and also provides for an additional bonus contribution of €1 for every €3 contributed to a pension scheme subject to a maximum of €2,500. The contribution must have been made within 3 months of the SSIA maturing.

The investment in a pension product can be by way of: -

- An AVC (additional voluntary contribution to an occupational pension scheme),
- A contribution to an standard PRSA or
- A premium in respect of an RAC (a retirement annuity contract).

Tip: The provisions may apply to a stay at home spouse with income of less than €50,000.

Anti avoidance legislation provides for a claw back of tax credits where a person availing of the credits withdraw any funds from the pension product within one year. This claw back is by way of a deduction from the payment from the pension administrator. The claw back is calculated by reference to the withdrawal and is proportionate to the amount of the total pension subscription.

Non-Residents

Non-resident individuals who complete a declaration of non-residence may receive interest without deduction of DIRT.

European Savings Directive

Deposit takers are required to capture information relating to foreign residents who earn deposit interest in Ireland, this information is returned to Foreign Revenue authorities annually.

Reporting of Deposit Interest

Revenue powers exist to allow Revenue to make regulations obliging Financial Institutions including credit unions to return details of all interest and other like payments made to customers. On making appropriate regulations the Financial Institution are obliged to get details of the person's tax reference number and provide this together with the customer's name and address to Revenue.

SPECIAL INVESTMENT SCHEMES

Employment and Investment Incentive Scheme replaces the Business Expansion Scheme (BES).

A new Employment and Investment Incentive Scheme has been announced to replace the current Business Expansion Scheme. The scheme significantly broadens the scope of the scheme an qualifying trade limitations have been removed and the scheme is available to the majority of small and medium sized trading companies with certain limited exceptions.

The lifetime limit that a company can raise has been increased from €2m to €10m with the annual amount being increased from €1.5m to €2.5m.

An individual may invest up to €150,000 per annum in this scheme. The maximum limit applies separately to both spouses, provided that they both have sufficient income in their own right. Where full relief cannot be availed of in a tax year, the excess can be carried forward to subsequent years.

The period for which shares need to be held has been reduced from 5 years to three years. A claw-back of relief will arise if shares are disposed of within 3 years.

Tax relief for subscriptions for eligible shares has been reduced from 41% to 30%, with a further 11% relief granted if at the end of the holding period the company has increased its numbers of employees since the investment was made, or the company has increased its expenditure on research and development.

The current BES Scheme will continue to remain in place until a Commencement Order gives effect to the new relief.

The scheme is due to expire on the 31st of December 2013.

Seed Capital Relief

This relief was introduced to encourage individuals who cease employment to start up their own businesses using a company structure. The relief is given by way of a deduction against total income for the six years preceding the cessation of employment. The maximum available is €100,000 per annum.

This relief is given by way of a refund of PAYE paid by the individual over the six years preceeding the year of investment. There is a minimum shareholding requirement of 15% for one year in order to qualify for the relief (previously two years). The Finance Act 2011 has also extended the trades that qualify for investment in.

The scheme is due to end on 31 December 2013.

The limit on the amount of money a company may raise from seed capital relief is €2,000,000 subject to a limit of €1,500,000 in any twelve month period.

Tip: The investment may be made in two stages

Film Scheme – Companies and Individuals

This relief is given by way of deduction against total income and is confined to a maximum of 100% of €50,000 for any tax year. Any unrelieved amount can be carried forward to the next tax year. For companies, the maximum amount deductible is 80% of €3,810,000 to enable the production of a single film.

The cap on the maximum amount of funding per film is €50,000,000 (previously €35,000,000).

The scheme will end on 31 December 2015. (subject to Ministerial order.)

Tip: Film schemes may be structured to favour small investors where a financial institution provides both the funding for the €50,000 contribution required by the individual and the balance of the loan amount, this reduces the return on the investment but can make the investment more affordable.

RETIREMENT & PENSIONS

Company Pension Schemes (Employees and Directors)

Annual contributions paid by an employee to a Revenue approved company pension scheme are tax-deductible. The relevant contribution must be made from the employee's total remuneration for the year from the employment For 2011 onwards the relief available by reference to the allowable contribution limits laid out below is subject to a salary cap of €115,000 (€150,000 for 2010).

Up to 1 January 2011 full relief was given for pension contributions from income tax at the individuals marginal rate of tax up to 41%, PRSI at 4% and health levies at 2%. In addition any employee contribution did not attract employers PRSI, therefore a total saving of 47% could be made by an employee making a pension contribution, together with a 10.75% saving for the employer. With effect from 1 January 2011 the relief available and the amount an individual can contribute has been restricted. The relief available is now limited to the individuals marginal rate of income tax (max 41%). Relief from employers PRSI is limited to half of the contribution made by the employee i.e. an effective relief of 5.375%.

Contributions by an employer are generally not limited, they qualify in full for corporation tax relief if the company is making the contribution, or are fully deductible by a sole-trader or partnership.

From the employer's point of view, they must fund at least 1/6 of the cost of the pension benefits and cannot fund for tax approved benefits in excess of Revenue limits. Annual employer contributions are allowable for tax purposes in the accounts year in which they are paid. Special contributions in excess of set limits may need to be spread forward over a period of up to five years.

Level of Allowable Contributions

Allowance for contributions for employees of company schemes and Retirement Annuities is subject to certain limits depending on age:

Age	Limit	Actual Contribution Limit
Less than 30 years	15%	€17,250
Between 30 and 39	20%	€23,000
Between 40 and 49	25%	€28,750
Between 50 and 54*	30%	€34,500
Between 55 and 59	35%	€40,250
Over 60	40%	€46,000

(*The 30% rate also applies to specific individuals under 50 years old who are involved in occupations with a relatively short life span e.g. golfers, athletes).

Tip: *It may be worthwhile for an individual to make an additional voluntary contribution (AVC) if his or her individual contributions through the company are below the allowable limits. Contributions by employees should be encouraged as the deductions from salary reduce employers PRSI , this has been reduced to half of the amount of the personal pension contribution made by employees (saving 5.37%). Occupational pension schemes may permit greater overall pension funding than personal pension plans Contributions paid between 1 January 2011 and the tax return filing date may, if an election is made, may be treated as paid in 2010 but this is subject to the €115,000 limit. Income tax relief for pension contributions is set to fall to 34% in 2012, 27% in 2013 and 20% by 2014 so contributions ought to be maximized for 2011. There is no restriction on employer tax relief so employer contributions should be maximized.*

Refund of Contributions

Any refund of pension contributions during the lifetime of an employee including interest on those contributions, which have been made to an approved scheme will be subject to tax at 20%.

Retirement Annuities

An individual who has relevant earnings from a trade, profession or non-pensionable office or employment is entitled to a deduction in respect of any premiums paid under

a retirement annuity contract. The tax-deductible amount is limited to a percentage of Net Relevant Earnings (NRE). NRE includes income from trade, professions and non-pensionable employment less certain deductions e.g. qualifying interest on loans. Individuals can claim tax relief on contributions on their NRE subject to an earnings cap of €115,000. The cap does not apply to employer's contributions. The earnings of husband and wife are treated separately for the purpose of determining net relative earnings. The relief is available for each spouse with non-pensionable earnings. Personal contributions may be made through payroll and relief from PRSI and Levies may also be available. The limit applies to the amount of relief available and not to the amount that may be contributed to/invested in a pension fund.

Directors Contributions

More generous benefits can be availed of where a business is carried on through a company and the company pays the pension contributions. If the director controls more than 5% of the voting rights of the company, the director can avail of the wider benefits on retirement, which are not available to self-employed contributors. A company can provide for the director's pension via a Self-Administered Pension Scheme with the director being a Trustee of the scheme and can influence its' investment policy.

Entitlements on Retirement

Annual pension: 2/3rds the final remuneration, provided a minimum of 10 years service at retirement.

Tax free Lump Sum: 1½ times final remuneration where twenty years service has been completed at normal retirement age. This interacts with the pension to reduce the maximum amount of pension available. The tax free lump sum is subject to a cap of €200,000 (previously set at €1,354,521) The €200,000 is an overall lifetime limit. In addition , any tax-free lump sums taken on or after 7 December 2005 will be aggregated in determining the tax treatment of lump sums paid on or after 1 January 2011. Any excess pension lump sum over €200,000 will be taxed as follows:

Next	*€375,000*	*20%*
Balance	*@*	*48% (41% income tax + 7% USC)*

Approved Retirement Funds/Approved Minimum Retirement Funds

An ARF basically offers an alternative to buying an annuity on retirement, it can give more flexibility in how pension fund monies are invested, and it can form part of the individuals estate on death. Income and gains can be rolled up within the fund. However each year an ARF is deemed to distribute 5% of the ARF asset values at 31 December (prior to 31 December 2010 this deemed distribution amount was 3%). Prior to 1 January 2011, only personal pension plans, AVC contributions, and occupational pension schemes set up by a company for Directors who owned more than 5% of a Company could be transferred to an ARF. With effect from 6 February 2011 it is possible for members of defined contribution schemes to avail of this option. The features of an ARF are as follows:

- A maximum of 25% of the fund (subject to a limit of €200,000 taking into account the provisions of any pension adjustment orders) may be taken tax free, alternatively;
- An individual may decide to put his accumulated pension fund into an Approved Retirement Fund' (ARF) or purchase a life annuity.
- At least €120,000 (previously €63,500) must be put into an 'Approved Minimum Retirement Fund' (AMRF) and must remain there until the individual reaches 75 years unless the individual has a guaranteed annual income of €18,000 (previously €12,700 per year). Both of these amounts are variable as they are dependent on the rate of State Contributory pension payable at the time the ARF is exercised.
- For individuals who retired before 6 February 2011 they have the option of exercising the ARF option within one month of the 6 February 2011 if they do this the previous €12,700 and €63,500 limit applies for a three year period, after which time they must fund to the higher limits.
- The individual may decide to take the balance of the fund as a taxable lump sum (excluding the aforementioned €120,000) or invest it in an 'Approved Retirement Fund' (ARF).

- An individual may choose to continue making contributions or to let the fund accumulate until he reaches 75 years. He cannot, however, take a lump sum and let the pension fund remain.
- Income and gains arising on an AMF/AMRF are exempt from tax so long as they are held within the fund, subject to the 5% deemed distribution rule outlined above. Any payments out will be taxable under PAYE as if it were a normal pension payments.
- Funds may be transferred from one insurer to another.
- Benefits may be accessed from age 60 but must be accessed before age 75 (it is not necessary to retire to access benefits).
- An ARF can form part of an individuals estate, in which case;
  - Payments to a child over the age of 21 at the date of death are charged to Income Tax at the standard rate. Full distribution is exempt from Inheritance Tax if taken under Will or Intestacy.
  - Payments to a child under the age of 21 at the date of death are exempt from Income Tax and Capital Gains Tax, but liable to Capital Acquisitions Tax.
  - Transfer to a spouse's ARF on death is exempt.

Income Tax Charge on Pension Funds

Standard Fund Threshold (SFT)

The maximum allowable pension fund on retirement for tax purposes has been set at €2.3million with effect from 7 December 2010 (previously €5,418,085) or, an amount between €2.3m and €5.4m may apply if the sum of the capital value of pension benefits which the individual has become entitled to since 7 December 2005, and the capital value of the uncrystallised pension rights of an individual on 7 December 2010 (i.e. the total pension fund that the individual had built up to that point) was greater than €2.3m) For the higher fund figure to apply, written notification must have been made to the Revenue by 6 June 2011. The relevant maximum will apply to the aggregate value of all pension provisions held by an individual.

In certain cases individuals had accumulated pension funds at 7 December 2005 (when the measure was originally introduced) greater than the STF, these individuals could apply to Revenue for confirmation of a higher amount known as the pension fund threshold. This amount remains in place.

Where a fund exceeds the relevant limit, the excess will be liable to a once-off income tax charge of 41% when the individual becomes entitled to draw down (irrespective of whether or not the fund is drawn down at that point in time); this is referred to as a benefit crystallisation event. In addition, where an individual with a personal retirement savings account decides when taking pension benefits to leave funds in a PRSA rather than opting to transfer them to an Approved Retirement Fund this will also trigger a "Benefit Crystallisation Event".

When the net after tax excess amount is drawn down from the pension scheme it is taxed further in the hands of the pension scheme member which can increase the effective tax rate to 62% of the gross value of the fund i.e. 41% tax on the benefit crystallization event plus 41% on the net distributable to the individual plus a 7% universal social charge.

For defined benefit scheme the tax operates in practice by applying a factor of 20 times the annual pension entitlement plus the lump sum, a defined contribution scheme may rely on an actuarial valuation; for example:

Example 1

On retirement an individual is entitled to a lump sum of €200k plus an annual pension of €100k. This fund is valued at €2.2m (€100k x 20 + €100k). Tax on benefit crystallisation event is nil as the fund is valued at < €2.3m.

Example 2

On retirement an individual is entitled to a lump sum of €750k plus an annual pension of €300k. This fund is valued at €6.75m (€300k x 20 + €750k). Tax on benefit crystallisation event €4.45m x 41% = €1.825m (as the fund value exceeds €2.3m by €4.45m).

The net after tax value of the fund i.e. €4.925m will be subject to tax at the individuals marginal rate plus a USC of 7% i.e. €2.36m. Total €4.185m on a fund of €6.75m giving an effective rate of 62%.
As the annual pension amount will also be subject to income tax so in effect a double charge to tax arises.

Tip: *It does not make sense to continue funding a pension where the fund will have an excess that is subject to a 41% tax charge. Where the value of a pension fund is likely to exceed the SFT, consideration ought to be given to alternative investments*

Approved Retirement Funds (ARFs)

In order to discourage ARFs being treated as a savings vehicle, an annual 5% (previously 3%) imputed distribution (with a deduction for actual distributions) will apply to the value of assets in an ARF at 31 December each year and will be taxable at the individual's marginal income tax rate. The charge applies to ARFs created on or after 6 April 2000. This provision does not apply to AMRF's or ARF's held by individuals under 60.

Relief on Retirement for Sports Persons

An additional relief applies for certain sports persons on retirement. It operates as a deduction of 40% against gross receipts from actual participation in the sport, (excluding income from sponsorship & advertising) for any 10 tax years of assessment for which he was tax resident in, and paid tax in Ireland In respect of that sporting activity since 6 April 1990. Relief is by way of repayment only and cannot be used to create or augment a loss. Repayments will not carry interest. It only applies to "sports" earnings and will be clawed back if the sports activity recommences.

PRSA

Employers are required to provide employees with access to a Personal Retirement Savings Account where they do not provide an occupational pension scheme. This involves an employer providing the facility to have pension contributions deducted from an employees' salary and transferred to the PRSA provider. Employees may elect to pay PRSA contributions in lieu of AVCs. The retirement benefits are the same as those for RACs with the same overall contributions applying (these include contributions by the employer where applicable).

Tip: *There is no requirement for an employer to contribute to the PRSA; however any contribution will be deductible from income tax/corporation tax. Employers' contributions will not be subject to employers or employees PRSI.*

Tip: *It is not necessary for an individual to retire in order to access benefits from RACs and PRSAs. Benefits are generally accessed from age 60 and must be accessed before age 75. Employees with PRSAs may retire as early as 50*

Self Administered Pension Funds

A company may provide for a director's pension via a self-administered pension scheme with the director as trustee of the scheme. The director can influence the investment policy, for example the scheme could make an investment solely in property.

Tip: *Self-administered pensions are a means by which a pension investment may be managed personally as opposed to through an insurance company and can offer greater flexibility in the type of asset that are invested in e.g. property.*

Lump Sum Payments

Retirement – Termination Lump Sum Payments

Individuals leaving employment may receive tax free payments. There are three methods of calculating the tax-free amounts:

1) €10,160 plus €765 for each complete year of service with the employer.
2) The amount calculated at 1) above may be increased by an additional €**10,000**, provided no claim for relief for increased exemption has been made in the previous 10 years. or
3) Average salary for previous three years multiplied by the number of year's services and divided by fifteen. This is known as Standard Capital Superannuation Benefit (S.C.S.B)

The tax-free amounts under (2) and (3) above are reduced by tax-free amounts received/receivable from the employer's pension fund.
From 1 January 2011 onwards, the exemption available in respect of termination payments is restricted to a lifetime limit of €200,000.

There are some exemptions from this limit as follows:

- Retraining payments of up to 5,000 (see below)
- Payments made on account of death
- Injury or disability of an employee

There are other exempt payments which can be made on ceasing employment, including statutory redundancy payments payable in accordance with the Redundancy Payments Acts 1967-2003, injury or disability payments for persons who may have to terminate employment early due to their medical condition, and also lump sums paid under approved pension schemes. Certain lump sum payments paid to employees in respect of pay restructuring schemes are also tax exempt (see below).

Employers are entitled to a 60% rebate of statutory redundancy payments.

Top Slicing Relief

In addition to the above, Top Slicing Relief may apply. This seeks to tax the lump sum at the average rate of tax over the preceding 3 years if it is more beneficial than the rate applying in year of termination.

Where the PAYE deducted on the termination payment exceeds this amount, a refund should be claimed from the tax office after the end of the year in which the employment terminates.

Lump-Sum Payment to Employees on Company Restructuring

An exemption in respect of a lump-sum payment not exceeding €7,620 plus €255 for each full year of service applies to employees who undergo a pay restructuring where the emoluments of the employees are reduced by at least 10%. For pay reductions higher than 15% the maximum amount is increased.

The relief applies where:

- the restructuring scheme is necessary to ensure the current or future viability of the company and
- at least 50% of the total numbers of employees are involved in the restructuring scheme or more than 75% of a class of employees provided the number of participating employees in that class comprises 25% of the total number of employees in the company.

Retraining Exemption

An exemption is available where retraining (in the form of a course as opposed to cash) is provided to employees as part of a redundancy package. An exemption of up to €5,000 for each eligible employee is available where an employee has more than two years continuous service. The course must be designed to improve skills in obtaining employment or setting up a business, and it must be completed within six months of the employee being made redundant. The exemption does not apply to the spouse or dependents of the employer.

Reporting Requirements

There is a requirement to report to the Revenue Commissioners any payment made on death, or on account of injury or disability.

EMPLOYEE SHARE SCHEMES

Tip: Rewarding employees with equity in the company will give staff a focus on increasing the value of the company. While the Approved Share Option Scheme has been abolished, the Approved Profit Sharing Scheme and the Save As You Earn plans have been retained. These allow significant tax savings compared to unapproved plans, as employees pay tax on their gain at 25% on disposal rather than income tax at 41% .

The Finance Act 2011 fundamentally changed the basis of taxation of all Share Schemes. The following share schemes have been brought within the charge to PRSI and the Universal Social Charge, as well as subjecting the Shares to Employers PRSI.

- Share Awards
- Unapproved Share Options
- Revenue Approved Profit Sharing Schemes
- Approved Save as you Earn Schemes
- Approved Share Option Plans
- With effect from 1 January 2011 employers will be obliged to operate PAYE, PRSI and the USC in respect of share awards received by employees.

Approved Share Option Schemes

Approved Share Option Schemes have been abolished since 24 November 2010, which means that no approved options can be granted after that date.

Share options granted prior to 24 November 2010 but exercised on or after 1 January 2011 will be subject to Income tax, PRSI and the USC, and employers will be liable to a charge to employer PRSI at 10.75% on option gains at the time of exercise.

Prior to this Revenue Approved Share Option Schemes afforded favorable tax treatment for certain share option schemes. Approved schemes had the effect of eliminating income tax at either grant or exercise of an option and provides instead for capital gains tax on disposal. The gain will be the excess of the net sales proceeds over the price paid for the shares. The favorable tax treatment was not available where the option shares are sold within three years from the date of grant.

Unapproved Share Option Schemes

Where an employee is granted unapproved share options by reason of an employment, a charge to income tax and USC will arise on the actual exercise of the option, irrespective of whether the employee retains or sells the shares. The charge to income tax will be the excess of the market value of the share on exercise over the option price and this share option gain will be taxable at the employee's marginal rate of tax.

The charge to income tax also applies where the recipient of the option was not resident in Ireland when the option was granted.

The tax and USC must be paid by the employee within 30 days of the date of exercise of the option; a Form RTSO1 must be filed at the time the payment is made. The operation of PRSI by the employer on unapproved share options is unclear at this point.

Share Purchase Schemes

Employees/directors were entitled to a deduction for part of the cost of acquiring new ordinary shares in their employing company. The lifetime limit on the amount deductible of €6,350 has been abolished with effect from 7 December 2010.

Approved Profit Sharing Schemes and SAYE share options continue to be exempt from income tax. However, on appropriation of shares to the APSS or on the exercise of the approved SAYE options, USC at a rate of up to 7% applies, employee PRSI of 4% and employer PRSI of 10.75% will also apply to the market value of the shares on this date.

Profit Sharing Schemes

A full-time employee or director, or a part-time employee, can be given up to €12,700 (€38,100 in the case of an Employee Ownership Trust where the shares are held for a period of at least ten years) worth of shares, tax free, each year under a Revenue approved profit sharing scheme (APSS). The scheme must be available to all employees on similar terms. To avoid an income tax penalty, the shares must be held in trust for a

total of 3 years. If the shares are sold within 3 years, income tax is charged on 100% of the value of the shares. A disposal of the shares may give rise to a Capital Gains Tax liability on the difference between the sales proceeds and the market value of the shares on the day that they are awarded. The scheme must have prior approval from the Revenue Commissioners and the cost of administering the scheme is tax deductible for the company.

Revenue will not approve a profit sharing scheme unless they are satisfied that there are no arrangements in place that provide for loans to be made to employees eligible to participate in the scheme. In addition shares appropriated to employees on or after 4 February 2010 cannot be shares in certain service companies.

Tip: *An employee profit sharing allocation may be a substitute for salary if certain conditions are met.*

Save As You Earn Scheme (SAYE)

Companies may set up a Save as You Earn share option scheme (SAYE) which must be Revenue approved. A company may grant options under an SAYE scheme at a discount of up to 25% of the market value of the shares at the beginning of the saving period. Employees must make a commitment to monthly savings of between €12 and €500 from after tax income for a period of 3 years at the end of which the employee can use the savings to purchase shares. Any interest paid on the savings at maturity will be exempt from DIRT. The cost of setting up the SAYE scheme may be claimed by the company as a deduction against trading profits. No charge to income tax arises where the shares are purchased at the discounted price. The shares are liable to capital gains tax when disposed of, the base cost for Capital Gains Tax purposes being the amount the employee paid for the shares.

Tip: *As there is no obligation on the employee to use their savings to purchase the shares at the end of the designated savings period, an employee with an option to avail of this scheme ought to do so as they cannot suffer from a fall in the value of their shareholding during the life of the scheme.*

Restricted Shares

Where shares are restricted there has been a long established practice to allow an abatement of income tax to reflect the period of the restriction. Where shares are held in a trust for employees which must be established in the State or in another EEA State by trustees resident in the State or in an EEA State, and where there is a genuine commercial restriction on the disposal of the shares, and where there is a valid written contract in place imposing the restriction on the sale.

The abatement amounts that apply to the income chargeable to tax are outlined below by reference to the period of restriction:

Years of Restriction	Abatement
1	10%
2	20%
3	30%
4	40%
5	50%
6+	60%

Where shares are forfeited the employee will be entitled to a rebate of tax paid. Where the values of the shares are abated the base cost for capital gains tax is also reduced. The charge to PRSI and USC is calculated by reference to the abated amount and not the full value of the shares.

Returns:

For share option schemes, approved SAYE schemes and approved profit sharing schemes a return of information outlining details of beneficiaries must be provided to Revenue by 31 March after the end of the relevant tax year i.e. 31 March 2011 for 2010. Where a company or trustee fails to make the return relief may be withdrawn. In addition penalties will apply where an employer fails to make the required returns, and of course where a negligent or a false return is made.

BENEFIT IN KIND

All Benefits in Kind are subject to PAYE and PRSI (including the health contribution) and taxed as notional pay. Benefits are taxable when the benefit is provided or when the payment is made. Where the benefit provided to the employee does not exceed €250 in value there is no BIK, the amount is not cumulative over a number of benefits and only one such benefit may be provided annually.

Consequently there is an obligation to report and pay any tax due from the employee. In certain exceptional circumstances the employer may pay the tax on behalf of the employee, these situations are as follows:

1. Where the employee has insufficient income, in such cases the payment on behalf of the employee will be treated as a simultaneous deduction from the employee's liability to income tax.
2. Employers may make arrangements with the Revenue Commissioners to account directly to the Revenue Commissioners rather than through the normal PAYE system for the tax payable in respect of benefits provided to employees which are minor and irregular. Where the employer so accounts for the tax, the benefits will not form part of the total income of the employees and they will not be entitled to credit for or repayment of the tax accounted for.

Company Cars

Old cars: The assessable annual cash benefit for the use of a company car is calculated at 30% of the original market value of the car. This percentage is reduced for high business mileage as follows:

Business Mileage: For 2009 and subsequent periods tapering business mileage will apply to old cars as follows

Exceeding	Not Exceeding	%
0	24,000 Km	30
24,001 Km	32,000 Km	24
32,001 Km	40,000 Km	18
40,001 Km	48,000 Km	12
48,001 Km +		6

New cars: For 2009 and subsequent periods emission allowances will be the basis for assessing benefit in kind on company cars.

Vehicle Emission Category	CO2 Emissions (CO2 g/KM)	OMV %
A	0G/Km-120g/Km	30%
B	>120G/Km-140g/Km	30%
C	>140G/Km-155g/Km	30%
D	>155G/Km-170g/Km	35%
E	>170G/Km-190g/Km	35%
F	>190G/Km-225g/Km	40%
G	>225G/Km	40%

Tapering relief is available for high levels of business travel

Lower km	Upper Km	A,B.C OMV%	D,E OMV%	F,G OMV%
0	24,000	30	35	40
24,001	32,000	24	28	32
32,001	40,000	18	21	24
40,001	48,000	12	14	16
48,001	+	6	7	8

Employee Contributions: A reduction is available where an employee makes a general contribution to the running costs of the car; however a deduction is no longer available where an employee meets the specific cost of motor tax, insurance or running costs.

Foreign Travel: Where an employee is required to work abroad the notional pay is reduced by reference to the number of days spent working abroad. This is conditional on the employee's working a minimum of 30 days abroad and the car not being available for use by family members during the period of absence.

Further Reduction: A 20% relief from BIK on cars applies to employees who work at least 20 hours per week, and whose annual business mileage exceeds 8,000 Kilometres. The employees must spend 70% or more of their time away from their place of work or business, and work a minimum of 20 hours per week on average. Revenue will require each employee to submit a logbook, which must be retained for up to six years.

Tip: *It is more beneficial to use the tapering relief outlined above when business miles exceed 32,001.*

Tip: *Structure any employee contributions to maximise a reduction in BIK*

Tip: *It will be more beneficial for employees to make a general lump sum contribution to the cost of the car, instead of say meeting the cost of insurance, tax etc. as BIK is reduced euro for euro on any general contribution made by the employee for the use of the car.*

Pooled cars do not attract BIK provided the car is available for the use of more than one employee and provided the car is not kept overnight at the employees home.

Company Vans

Where an employee has the private use of a van, the benefits, the cash equivalent of the private use of an employer's van set at 5% of the original market value of the van, which is the VAT inclusive cost of the van.

There is an exemption from Benefit in Kind on the private use of a company van where all of the following conditions are satisfied:

- The van is essentially used for the purposes of the employee's work
- The employer requires the van to be brought home
- The employee spends most of his/her working time away from the office

Preferential Loans

- The specified rate for home loans is 5%
- The specified rate for all other loans is 12.5%

Tip: *Preferential Rates will still apply to Homeloans even when they no longer qualify for Mortgage Interest Relief*

The preferential sum is calculated by reference to the balance of the loan as reduced by actual repayme*nts as opposed to payments due under a loan agreement.*

Accommodation

The benefit in kind is the amount, which could reasonably be expected to be obtained on a yearly letting. Where the living accommodation is owned by the employer, the amount referred to is as a rule of thumb calculated as 8% of the current market value of the accommodation.

Travel Passes

The provision by an employer of monthly or annual bus, train or LUAS passes to directors and employees is exempt from income tax. It is also possible to structure the reduction of an employee's salary to cater for the provision of this benefit.

This exemption also includes passes for travel on commuter ferries which operate within the State.

***Tip:** Tax savings arising from the provision of travel passes may also reduce the cost of providing car parking spaces where employees can be encouraged to use public transport. The employee tax and PRSI saving on a €700 annual pass is c. €300 and employers PRSI saving of c. €75.*

The provision of a travel pass is an acceptable form of salary sacrifice.

Childcare Facilities

Effective 1 January 2011, free or subsidized childcare facilities provided for employees by their employer will be subject to income tax, the Universal Social Charge and employee's PRSI, as well as employers PRSI. Prior to 1 January 2011 there was an exemption from BIK available where the employer provides childcare facilities. The exemption applied where:

- The premises was made available solely by the employer; or
- Where made available by the employer jointly with third parties and the employer is responsible for financing and managing the childcare service; or
- Where the service was made available by other persons and the employer was wholly or partly responsible for financing and managing the childcare service.

Where the employer was not involved in the management of the childcare service, the BIK exemption is restricted to the amount expended by the employer on capital expenditure on the construction or refurbishment of the premises.

Other Exemptions

- Where private use is incidental to business use, the following will not be subject to benefit in kind:
  - Mobile Phones
  - Computers and related equipment including high speed internet connections
- Professional subscriptions where membership is relevant to the business of the employer. This exemption has been abolished with effect from 1 January 2011.
- Certain costs and expenses in respect the provision of personal security assets and services to an employee will not be subject to benefit in kind where there is a credible and serious threat to a person's physical security resulting from their employment.
- Provision of a new bicycle and/or related safety equipment up to a maximum of €1,000, where the bicycle is used to travel between home and the normal place of work. The exemption can only be claimed once in every five years. If certain conditions are met it is possible to provide the benefit by reducing salary.

Anti Avoidance

Anti avoidance measures exist to restrict the exclusion of PAYE on shares given to an employee in an employers company or a company controlled by an employer only. As well as applying to existing employees the measures also apply to previous employees who retain their benefits.

MOTOR EXPENSES

A self-employed person can set off the motor expenses in respect of the use of a private car for business purposes.

Expenses Allowance and Motor Mileage for Employees

Mileage

No tax liability is incurred where there is reimbursement by the employer of vouched expenses incurred for the purposes of the trade.

If a round sum expense allowance is given to an employee, it is regarded as income and taxed accordingly under PAYE. Subsequently, a claim for refund of income tax can be made based on allowable business expenditure incurred.

An employee may claim a mileage allowance, where they use their own private cars for business purposes and pay all expenses including petrol/diesel, insurance and other overheads. Provided the reimbursement is in accordance with Revenue guidelines at rates not in excess of Civil Service Mileage Rates, no prior agreement with the Inspector of Taxes is required.

CIVIL SERVICE MILEAGE RATES

From 5 March 2009 (Rate per Km)

Official Mileage in a calendar year	Engine capacity up to 1,200cc (cent)	Engine capacity 1,200cc to 1,500cc (cent)	Engine capacity 1,501 cc and over (cent)
Up to 6,437 Km	39.12	46.25	59.07
6,438 Km and over	21.22	23.62	28.46

Travel between home and work is not regarded as being for business purposes.

SUBSISTENCE ALLOWANCES

Subsistence allowance can be paid to staff who works away from base in carrying out their duties of employment.

CIVIL SERVICE SUBSISTENCE RATES

From 5 March 2009

Over Night Allowance			Day Allowance		
Class of Allowance	Normal Rate €	Reduced Rate €	Detention €	10 hours or more €	5 to 10 Hours €
A	108.99	100.48	54.48	33.61	13.71
B	107.69	92.11	53.87	33.61	13.71

Class	Salary
A	€69,659
B	€37,536

Normal Rate: Up to 14 nights
Reduced Rate : Next 14 nights
Detention Rate: Absence over 28 nights.

Special rules apply to absences over 56 nights.

The day and night allowance cannot be paid in respect of the same period.

There are detailed rules and conditions governing the payment of subsistence allowances. Advice should be taken before proceeding with any payments.

CORPORATION TAX

Companies resident in Ireland are liable to corporation tax on profits wherever arising.

Rates:

The standard rates of corporation tax may be summarised as follows:

	Trading Income	Non-Trading Income
2011	12.5%	25%

Residential Development Land

The 25% rate applies to trading income from dealing in and developing land other than fully developed land. A 20% rate applied to trading income from dealing in residential land up to 2008, from 2009 these profits are subject to tax at the individuals' marginal rate or the 25% tax rate for Companies. In addition a windfall tax of up to 80% may apply to certain disposals of development land.

Trading losses and charges subject to the lower rate of tax may be offset against income other than that which is taxed at the lower rate on a "value and credit basis". Manufacturing losses and charges can be used in a similar fashion.

The effect of this is basically to give a credit against corporation tax payable for the value of losses or charges.

10% Corporation Tax - Manufacturing Relief

A 10% rate of corporation tax applied to manufacturing activities carried on in Ireland up until 31 December 2010 where the manufacturing trade was carried on prior to July 1998 or where the manufacturing trade was approved for grant assistance by the I.D.A. on/before 23 July 1998.

The term manufacture is not defined although the legislation provides that certain activities are excluded e.g. preservation, pastuerisation, cutting, mixing etc.

Corporate Group Relief

Losses may be surrendered within a group or consortium subject to certain restrictions, which apply to losses in general. This applies to both Ireland and EU/EEA resident participants and to non EU residents in certain circumstances.

Close Companies

A surcharge of 20% is payable on the undistributed investment and rental income of a close company. Professional service companies are liable to a surcharge of 15% on one-half of its undistributed trading income and a surcharge of 20% on the undistributed rental and investment income.

The close company surcharge does not apply in situations where a company is the recipient of a dividend from a foreign subsidiary, and the company would be exempt from capital gains tax on the disposal of the shares in that subsidiary provided it is located in an EU or tax treaty country.

Where a close company settles money to a trust on or after 1 January 2011, it will be treated as a distribution from the close company to the trustee of the trust, and will be subject to tax as a dividend in the hands of the trustee. In addition any sum received out of the settlement to the member of the close company or by the relative of such an individual will be chargeable to Income tax.

A close company that pays a dividend to another close company may jointly elect for the dividend "not" to be treated as a distribution. In effect this provides relief where a trading company pays a dividend to an investment/holding company as the income will not be treated as investment income in the holding company which will eliminate the close company surcharge.

Tip: Care needs to be exercised when making a payment from one Investment Company to another as this simply transfers the close company problem from one company to another.

Corporate Donations to Charities and other Approved Bodies

Companies are allowed deduct, as a trading expense, donations made to charities and other approved bodies. The minimum amount of donation in any year is €250. The following are some of the bodies in which payments to will qualify for corporation tax relief:

- A body approved for education in the arts;
- A body approved as an eligible charity;
- An institute of higher education, or a body established for the sole purpose of raising funds for such an institution;
- Certain secondary level institutions;
- The Equine Foundation;
- An approved sports body for an approved project;

R & D Credit

Incremental research and development expenditure qualifies for a tax credit of 25% (20% up to 31 December 2008), this is in addition to a tax deduction at 12.5 %, giving an effective write off for R&D expenditure of 37.5%. Claims must be made within 12 months of the end of the period in which the expenditure is incurred.

A repayment of excess R&D tax credits is available over a three year period. The repayment is limited to the higher of the total corporation tax payable by the company in the previous ten years or the payroll tax liabilities of the company for the period in which the R&D is incurred.

R&D expenditure may be carried back to the prior period to generate a cash refund.

The credit will be available for incremental expenditure incurred in any EU country, where the expenditure is not tax deductible in any other EU country.

The reference year for determining the incremental expenditure for all years up to 2014 is 2003, for years after 2014 the reference year it is ten years before the end of the year of the claim i.e. for 2014 the base year is 2004. To establish the incremental spend by reference to the base year, trades may be separated where they are carried on in separate geographic locations where they are located more than 20kms apart. This allows a company to cease carrying out R&D activities, or dispose of an R&D facility in a particular location without impacting on the total R&D spend from other R&D centres.

Expenditure on R&D carried out by a third level college on behalf of the company or group also qualifies if it does not exceed 5% of the company or group's own R&D spend. Subcontracted costs, to a maximum of 10% of total qualifying expenditure, are also eligible for the tax credit.

A tax credit is also available for construction or refurbishment work carried out on a building used for qualifying research and development activities. The credit is equivalent to 25% of the qualifying cost of construction or refurbishment and may be claimed in full in the year in which the expenditure is incurred.

New Company Start ups

An exemption from corporation Tax for the first three years of trading applies to certain new startup companies.

Where a company is incorporated after 14 October 2008 and commences to trade in 2009, 2010 or 2011 it will be exempt from Corporation Tax and capital gains tax on the disposal of assets used for the purposes of the new trade. The exemption is subject to a liability threshold, and no relief will be available where profits exceed €60,000.

Corporation tax Liability for the period	Availability of Relief
< €40,000	Full exemption
€40,000 to €60,000	Marginal relief
> €60,000	Fully taxable

The relief is restricted to new trades and does not apply where the trade was previously carried on by another person, or where the trade, or part of the trade was carried on by an associated company.

From 1 January 2011, in order to encourage job creation,the relief is limited to the amount of employer PRSI that is paid, or that amount that would have been payable if relief under the Employer Job PRSI Incentive scheme did not apply. There is a cap applied to the amount of employer PRSI per person which is capped at €5,000 per person, with an overall limit of €40,000.

The relief does not apply to companies carrying on professional services, nor does it apply to companies which carry on a trade of:

- Land Dealing,
- Aquaculture or Agriculture
- Road Freight Operations
- Undertakings in Difficulty
- Petroleum & Mineral Activities.
- Coal
- Export Related Activities

In addition, in order to comply with EU requirements it should be noted that Revenue may disclose details of relief granted under the scheme.

Payment and Compliance

Large Companies:

(A company with a corporation tax liability of €200,000 or more in the preceding year)

For accounting periods commencing on or after 14 October 2008

6 months before the end of the accounting period (day 21 of the 6th month)

- 50% of the previous year's final liability
- 45% of the current year's final liability

One month before the end of the Accounting period (day 21 of the 11the month)

- 90% of the final liability (after taking into account the payment five months earlier)

Filing Date (21st day of the 9th month following the accounting period end)

- Balance of any tax due

A company's preliminary tax liability includes the corporation tax, close company surcharge and income tax liabilities for the accounting period, it also includes tax on chargeable gains, except for those arising from disposals of development land. To ensure interest charges will be avoided, the preliminary tax payment (the aggregate of the first and second instalment) must represent at least 90% of the final tax liability for the accounting period.

Special arrangements exist to take account of chargeable gains arising in the last month of an accounting period and for accounting periods of one month's duration.

Small Companies

A small company i.e. where last years Corporation tax liability was less than €200,000, may base its first instalment on 100% of the previous year's liability.

New Companies

Where a company is a new company with a corporation tax liability of less than €200,000, for the first accounting period it will not be required to pay preliminary tax for that period. A new company may pay tax for the first year when filing its tax return.

Group Companies

Where companies are large companies and members of the same Group, where one company has satisfied it's preliminary tax obligations and paid in excess of 90% of the final corporation tax liability, and another company has not paid sufficient preliminary tax, then the excess paid by one company may be transferred to the other company to limit any exposure to interest.

Filing

The corporation tax return must be filed within eight months and 21 days of the Accounting period end, otherwise a surcharge will arise. (see below)

Information Included in Return

A company is required to disclose information in relation to certain incentives/relief's on their annual tax return, the relief's to be detailed will be highlighted on the return forms.

Failure to provide the relevant information may result in a penalty of €950, as well as a surcharge of 5% of the tax due subject to a maximum of €12,695.

Exemption for Disposal of Shareholdings

An exemption for Irish based companies from Capital Gains Tax is available on the disposal of shares in a subsidiary company. To qualify for the exemption, a 5% holding of ordinary shares must be held within a two year period of disposing of the shares. The shares must be held for a period of at least twelve months and must be held in a company located in an EU or treaty country.

The company being disposed of must be a trading company, or the holding company of a trading group (i.e. the holding company together with all other companies in which it has a 5% interest must consist wholly or mainly of trading activities).

This relief no longer applies to companies dealing with exploration or exploration rights.

Payment Dates for Capital Gains Tax

Payment of capital gains tax relating to a disposal of development land are treated in the same way as a disposal for an individual, see **page 44**

For disposals of assets other than development land, the payment and filing dates are as outlined above.

Special rules apply where a gain is made in the last month of the accounting period, this allows for top up payments to be made without an exposure to interest.

Penalties

Date of Filing	Surcharge	Restriction
Return filed within two months of expiry of deadline	5% of tax payable maximum €12,695	25% of loss or relief maximum €31,740
Return filed 2 months or more after expiry of deadline	10% of tax payable maximum €63,485	50% of loss or relief maximum €158,715

Payment and filing deadlines may be extended to the 23rd of the month where the return is filed electronically via ROS the Revenue online system.

Mandatory Reporting

With effect from 17 January certain transactions which have the main benefit of obtaining a tax advantage will be required to be reported to Revenue. The first disclosure due date is 15 April 2011.

TAXATION OF DIVIDENDS

Dividend Withholding Tax (DWT)

A withholding tax, at the standard rate of income tax i.e. 20% applies to dividend payments and other profit distributions, including cash and scrip dividends, made by an Irish resident company.

DWT does not apply where the distribution is made to a 51% Irish tax resident holding company.

Exemption from withholding tax is available where certain declarations are made in the case of payments to certain shareholders, including:

- An Irish tax resident company,
- Charities, pension funds, certain retirement funds and certain sporting bodies,
- Companies resident in EU member states or tax treaty countries, not under the control of Irish residents,
- Listed companies and their 75% subsidiaries,
- Non-resident companies ultimately controlled by residents of EU Member States or tax treaty countries,
- Certain individuals entitled to receive tax free income,
- Certain employee share ownership trusts,
- Approved Retirement Funds (ARF) and Approved Minimum Retirement Funds (AMRF),
- PRSAs and certain Exempt Unit Trusts,
- Brokers in receipt of dividends for special portfolio investment accounts,
- Collective investment funds.

DWT does not apply to distributions not subject to tax in the recipient's hands (i.e. dividends from patent companies to qualifying shareholders).

Detailed conditions including the making of appropriate declarations, where necessary, must be met to avail of the above exemptions.

Irish individual shareholders will be taxable on the gross dividend at marginal rates, but will be entitled to a tax credit for the tax withheld by the company. The tax withheld by the company will be payable to Revenue by the 14th day of the month following the month in which a distribution is made, regardless of whether DWT applies to the distributions.

Withholding tax on intra-EU dividends, royalty payments and interest payments between associated companies is eliminated where a company owns 25% of another company or a third company owns 25% of each company.

Encashment Tax

Foreign dividends cashed by Irish Financial Institutions is subject to encashment tax @ 20%. This does not apply to non-resident individuals or charities. It also does not apply to cheques cashed in a retail branch of a bank.

Scrip Dividends (Shares in lieu of dividends)

When a scrip dividend is given to a shareholder, the amount of the dividend to be converted to shares will be reduced by the standard rate of income tax i.e. 20% and the company shall pay to Revenue an amount equal to the tax withheld. The recipient is assessed for tax on the value received and that withheld i.e. the gross dividend and is given a credit for the amount withheld.

CAPITAL ALLOWANCES

Capital Allowances are granted for tax purposes in lieu of depreciation.

Annual Allowance - Plant and Machinery

An annual allowance known as a Wear & Tear allowance is granted for plant and machinery used in the trade in an accounting period. The write off period for annual wear and tear allowances is eight years for expenditure incurred after 4 December 2002, i.e. 12.5 % per annum on a straight line basis.

Balancing allowances or charges may arise where assets which have qualified for capital allowances are disposed of. Where the proceeds of the sale are greater than the tax written down value, a balancing charge arises or where the proceeds of disposal are less than the tax written down value of the asset then a balancing allowance arises.

Balancing charges will not arise where the proceeds on the disposal of an individual asset are less than €2,000.This will not apply to disposals between connected persons

Energy Efficient Equipment

Accelerated allowances of 100% in year one will be available for the purchase (as opposed to leased, let or hired) by companies only of certain new energy efficient equipment approved by the Minister for communications, Energy and Natural resources.

The list of approved expenditure has certain classes of minimum spend as follows:

Motors and drivers	€1,000
Lighting	€3,000
Building energy management systems	€5,000
Information and Communication Technology	€1,000
Heating and electricity provision	€1,000
Process and heating, ventilation and air conditioning systems	€1,000
Electric and alternative fuel vehicles	€1,000
*Refrigeration and cooling systems**	€1,000
*Process and heating, ventilation and air-con systems**	€1,000
*Electric and alternative fuel vehicles**	€1,000

**The last three listed categories of expenditure are subject to a Ministerial Order, and will commence once this has been granted.*

The 2011 Finance Act extends this regime until the 31st December 2014.

Intellectual Property Incentives

Tax relief on capital expenditure incurred in the acquisition of intellectual property is available in certain circumstances.

Lessors

Lessors of plant and machinery are also entitled to the allowance if the burden of Wear & Tear on the asset is borne by them.

Motor Vehicles

The annual allowance for motor vehicles (other than taxi and short term hire vehicles- see below) is 12.5% on a straight line basis subject to a maximum qualifying cost of €24,000 for motor vehicles (both new and second hand) purchased on or after 1 January 2007 (€23,000 for 2006).

Post 1 July 2008 the availability of capital allowances will depend on the level of carbon emissions of cars. The capital allowance or lease deduction and proportionate balancing allowance or charge depends on the categories of emissions as follows:

Carbon dioxide Emisssion Level	Category/ Classification	Capital Allowance value threshold	Leasing Restriction Limit
Up to 155g/Km	A/B/C	€24,000*	€24,000*
156g-190g/Km	D/E	Lower of 50% €24,000 or cost	Lower of 50% of of €24,000 or cost
>190g/Km	F/G	No allowances	No allowances

**The €24,000 limit applies irrespective of cost of the vehicle*

Electric Cars

There is an enhanced scheme of capital allowances for expenditure incurred on a car which is electric or runs on alternative fuels. An accelerated allowance of 100% is given by reference to the lower of the cost of the car and €24,000. (This provision is subject to a ministerial order.)

Taxis

A taxi or short-term hire car is given an unrestricted write off of the purchase price at 40% per annum on a reducing balance basis. Taxi licence owners may write off the cost of their licence as a capital allowance against trading income. The taxi licence is treated as plant and machinery and the rates applicable above apply.

Sea Fishing Boats

A Special regime of allowances applies to expenditure on polyvalent and beam trawl fishing boats where the expenditure is certified by BIM. The allowances are available at the rate of 50% in year 1 and 20% of the balance for 5 years.

If a balancing allowance arises as a result of a compensation for the decommissioning of white fishing vessels, the balancing charge will be spread equally over five years commencing in the year in which the compensation is paid.

Industrial Buildings

The annual allowance for Industrial Buildings is 4% (available on a straight-line basis) on the net cost of the building. It is available to whoever holds the "relevant interest" in relation to the construction expenditure. Both owner-occupiers and lessors of Industrial Buildings are entitled to claim this allowance. Accelerated allowances are available in certain circumstances.

For an investor, any capital allowances unutilised against rental income of passive investors may be offset against non-rental income; this is subject to a maximum of €31,750.

There are anti-avoidance provisions which restrict capital allowances available to a subsequent purchaser of an industrial building on the disposal of industrial buildings from a company to an individual.

Anti-avoidance provisions also disallow interest relief on money lent to, or invested in, a company to acquire a premises from another company where tax relief has not been fully utilised. The provision restricts the interest relief to the individuals return from the company.

A new scheme introduced in 2009 to allow accelerated capital allowances of up to 150% for the removal costs of certain industrial facilities and the qualifying cost of building relocated facilities, including land costs to avoid hindrance to the regeneration of urban dockland is due to come in to operation by way of commencement order following EU clearance.

Expenditure qualifying for Capital Allowances

- Enhancement and relocation capital expenditure deduction including net expenditure on replacement land: 150%
- Replacement plant and Machinery : 100%
- Replacement installations: 100%

The relief covers expenditure to 2014 only.

Time Limits

The Finance Act 2009 extended the deadline by which a developer must sell a building which qualifies for capital allowances for the purchaser to be entitled to base their capital allowances claim on the purchase price (rather than the developer's original construction cost) from 12 months to two years

Transitional Provisions for Property Incentive Schemes

The Finance Act 2011 introduces legislation which enables a number of restrictions to apply to all property capital allowance schemes. However, these measures will not be implemented before the publication of an economic impact study of the proposed changes, therefore the expectation is that the changes will not be introduced before the end of 2011. The proposed measures are as follows:

The reliefs available will be restricted to income earned from the property itself and will not be available to shelter other rental profits. This restriction would also apply to a loss forward generated by claiming reliefs from an earlier period. Once claimed, Section 23 relief can no longer be transferred to a new purchaser of the property. The property will still be subject to the claw back of the relief on sale so there would in effect be a full loss of relief. At the end of the tax life of each property normally 7 years or 10 years, any unused allowances would not be available for future years. For capital allowance schemes which are for a period of more than 10 years and which have not ended by the implementation date will be shortened to 7 years from which the allowances were first

claimed, with an additional 20% restriction being placed on allowances. For capital allowances offset against trading income for individuals and partnerships there is a restriction on the amount that can be claimed to €31,750 p.a., this will also be abolished by the above provisions ,

While the reliefs referred to below are no longer available, in a lot of instances people will continue to claim relief for historic spends.

The transitional rules that applied to certain tax incentive schemes until 2008 are summarised below.

Type of Property	Allowance/Relief	Transitional Relief	Conditions
Hotels	• 15% per annum years (1-6) • 10% (yr 7) if conditions are met • Otherwise 4% p.a. where registered with Failte Ireland	• Full relief to 31/12/06 • 75% relief 1/1/07-31/12/07 • 50% relief 1/1/08-31/7/08 • Post 31/7/08 no relief	Certification and registration required 15% work completed by 31/12/06. Contracts in place @ 31/7/06 in certain circumstances
Holiday Cottages	• 10% p.a. for 10 years if conditions are met • Otherwise 4% p.a. where registered with Failte Ireland	• Full relief to 31/12/06 • 75% relief 1/1/07-31/12/07 • 50% relief 1/1/08-31/7/08 • Post 31/7/08 no relief	Planning requirements must be met by 31/12/04 15% work completed by 31/12/06. Contracts in place @ 31/7/06 in certain circumstances
Student Accommodation	• 100% year 1 deduction against rental income in year first let (s23 type relief)	• Full relief to 31/12/06 • 75% relief 1/1/07-31/12/07 • 50% relief 1/1/08-31/7/08 • Post 31/7/08 no relief	Planning requirements must be met by 31/12/04 15% work completed by 31/12/06.
Third Level education	• 15% per annum years (1-6) • 10% (yr 7)	• Full relief to 31/12/2006 • 75% relief 1/1/07-31/12/07 • 50% relief 1/1/08-31/7/08 • Post 31/7/ 2009 no relief	15% of work must be complete by 31/12/06. Only expenditure from date of commencement order can qualify.
Nursing Home residential Units	• 15% per annum years (1-6) • 10% (yr 7)	• Full relief to 24/3/07 • 75% relief 25/5/07-25/3/07 • 50% relief 26/3/07-31/7/08 • Post 31/7/08 see further extension conditions outlined below.	
Sports Injury Clinics	• 15% per annum years (1-6) • 10% (yr 7)	• Full relief to 31/12/06 • 75% relief 1/1/07-31/12/07 • 50% relief 1/1/08-31/7/08 • Post 31/7/08 no relief	Certification required Minimum hold period of 15 years first use after 1/2/07 otherwise 10 years.
*Urban renewal 1999 Rural Renewal 1999 Town Renewal 2000	• 50% year 1 allowance • 4% p.a. thereafter • s23 type relief for residential properties	Non-Residential schemes: • Full relief to 31/12/06 • 75% relief 1/1/07-31/12/07 • 50% relief 1/1/08-31/7/08 • Post 31/7/08 no relief Residential schemes: • Full relief to 24/3/07 • 75% in 9 months to 31/12/07 • 50% in 7 months to 31/7/08 • Post 31/7/08 no relief	For full relief to apply to 31/12/06 a planning application must have been received by 31/12/04 15% of work must be complete by 31/12/06. Contracts in place @ 31/7/06 in certain circumstances Some industry/large project and developer restrictions Double rent allowance does not apply

Type of Property	Allowance/Relief	Transitional Relief	Conditions
Living over the Shop	• s23 type relief for residential properties • Owner occupier relief available for non-residential property	Non-Residential schemes: • Full relief to 31/12/06 • 75% relief 1/1/07-31/12/07 • 50% relief 1/1/08-31/7/08 • Post 31/7/08 no relief Residential schemes: • Full relief to 24/3/07 • 75% in 9 months to 31/12/07 • 50% in 7 months to 31/7/08 • Post 31/7/08 no relief	The scheme is to be reintroduced in a more focused way For full relief to apply to 31/12/06 a planning application must have been received by 31/12/04 Exclusions for property developers
Multi-Storey Car Parks	• 100% capital allowances on leases post 31/7/98	• Full relief to 31/12/06 • 75% relief 1/1/07-31/12/07 • 50% relief 1/1/08-31/7/08 • Post 31/7/08 no relief	For full relief to apply to 31/12/06 outside (Dublin and Cork) a planning application must have been received by 31/12/04. 15% of work must be complete by 31/12/06. No double rent allowance post 30/9/99
Park and Ride	Owner occupiers: • 100% capital allowances Others: • 50% year 1 • 4% p.a. thereafter	Non-Residential schemes: • Full relief to 31/12/06 • 75% relief 1/1/07-31/12/07 • 50% relief 1/1/08-31/7/08 • Post 31/7/08 no relief Residential schemes: • Full relief to 24/3/07 • 75% in 9 months to 31/12/07 • 50% in 7 months to 31/7/08 • Post 31/7/08 no relief	For full relief to apply to 31/12/06 outside a planning application must have been received by 31/12/04. 15% of work must be complete by 31/12/06. Only expenditure from the date of a commencement order qualifies Exclusions for property developers
Rental Refurbishment Scheme	15% per annum years 1-6 10% year 7	Residential schemes: • Full relief to 24/3/07 • 75% in 9 months to 31/12/07 • 50% in 7 months to 31/7/08 • Post 31/7/08 no relief	Compliance with Residential Tenancies Act 2004 required.

* Urban Renewal/Rural Renewal/Town Renewal:

- Double rent relief is specifically denied.
- Certain non-residential allowances are denied to property developers.
- For certain large projects and certain industries allowances do not apply.
- For rural renewal schemes, certain commercial and industrial allowances are denied for properties used in trades where 250 people or more are employed.
- For urban renewal schemes, allowances for office development and multi-storey car parks may be denied at the discretion of the Minister.

Tax Life of a Building

The retention period for certain facilities listed below has been extended from ten years to fifteen years, i.e. tax relief availed of will now be clawed back if a property is disposed of within fifteen years where the property was first used after 1 February 2007. This will also impact on the tax life for a subsequent purchaser who will now be entitled to write the expenditure off over a fifteen-year period. This provision impacts the following properties:

- Qualifying Hospitals
- Nursing Homes
- Childcare Facilities
- Convalescent Homes
- Qualifying Residential Units
- Qualifying Mental Health Facilities

Deemed Balancing Event:

Where any of the facilities listed above cease to be used as described and are put to some other use a balancing event will be deemed to have arisen, unless the properties are reinstated to their intended use within a period of six months. This provision also applies to the new qualifying mental health centres.

Hotels

The maximum Capital Allowances available for offset against non-rental income by passive individual investors is €31,750 except in the case of hotels, where no offset against non-rental income applies. Hotels located in counties Cavan, Donegal, Leitrim, Mayo, Monaghan, Roscommon and Sligo are not subject to any capital allowance restriction.

Capital allowances are not available in respect of capital expenditure incurred on or after 20 March 2001 on the construction or refurbishment of hotels where any part of that expenditure is met by way of grant assistance.

Hotels must be officially registered with the register of hotels, the registers must be kept under the Tourist Traffic Act, if the registration is not in place then there will be no entitlement to capital allowances. Allowances once approved, operate from the date of first use as a hotel.

Camping and Caravan sites

For expenditure incurred after 1 January 2008 on buildings and structures (including toilets, showers, laundry rooms, canteens etc.) comprised in, and in use as part of, premises which are included in the register of caravan sites, allowances of 4% per annum will be available i.e. the tax life is 25 years.

This measure effectively applies the same relief to camping facilities as it does to hotels, holiday camps, guest houses and holiday hostels which are registered with Failte Ireland.

Multi-Storey Car parks

Defined as a building of three or more storeys for use as a car park to the general public for which a fee is payable. The annual allowance, which may be claimed, is 4% on a straight-line basis. Accelerated allowances are also available in certain designated areas for owner-occupiers. Allowances no longer apply to car parks in the Cork and Dublin areas.

Nursing and Convalescent Homes

Capital expenditure incurred on the construction, extension or refurbishment of a private nursing home or convalescent home qualifies for capital allowances as follows:

Years 1-6	15%
Year 7	10%

These capital allowances are subject to the overall annual limit of €31,750, which an individual passive investor can claim against non-rental income.

The building must remain a nursing/convalescent home for 15 years: if it does not, the allowances will be lost.

Residential units may be comprised in a larger building consisting of one or more storey's provided certain fire safety standards are complied with. In addition the number of qualifying residential units associated with a registered nursing home is reduced from 20 to 10

The deadline for incurring qualifying expenditure on nursing home residential units is extended from 31 July 2008 to 30 April 2010 where the expenditure is incurred under a contract entered into on or after 1 May 2007, however a restriction applies, this restriction is 75% in the case of a company and 50% in the case of an individual. Certification will be required from the Health Services Executive in order to qualify for relief with an annual confirmation that the requirements of the HSE have been met. If the 2010 extension applies the tax life of the building is extended to twenty years.

Units may be leased to a person certified as requiring accommodation or his/her spouse, however the lessor and the lessee cannot be connected.

Palliative Care Units

A scheme of Capital allowances is available for expenditure on facilities with a minimum of 8 (previously 20) in-patient palliative care beds which have been approved by the Health Service Executive. The allowances will be available at a rate of 15% per annum for the first 6 years and 10% in year 7 (net of any grant or other financial assistance) with a claw back where the facility ceases to be used for the purposes of palliative care within 15 years of its first use.

Childcare Facilities

Capital expenditure incurred on the construction or conversion of a building used for childcare qualifies for capital allowances as follows:

Years 1-6	15%
Year 7	10%

Accelerated capital allowances of 100% are available to owners and investors. For investors, the allowance that may be offset against other income is limited to €31,750. There is also an exclusion for property developers.

A minimum 15 year holding period applies where the childcare facility is first used on or after 1 February 2007, otherwise a 10 year minimum holding period applies.

This scheme will terminate on 30 September 2010, or to 31 March 2011 or 2012 in respect of certain pipeline projects.

The 30 March 2011 deadline applies where the work does not require planning permission and not less than 30% of the total construction conversion or refurbishment costs have been incurred on or before 30 September 2010.

The 30 March 2012 deadline applies where planning permission is required, and the application was received and acknowledged by 30 September 2010, and the application is not invalid.

See Restrictions for property developers below

Student Accommodation

100% relief is available on the provision of student accommodation. The relief operates to allow the offset of the capital expenditure against all Irish rental income of the owner. The accommodation must meet certain conditions and conform to guidelines drafted by the Department of Education. The accommodation must be immediately accessible to the college.

College buildings
Construction expenditure on college buildings may also qualify for an annual (deemed) industrial building allowance of 15% in each of the first six years and 10% in year 7.

Private Hospitals/Psychiatric Hospitals & Sports Injury Clinics
An allowance, similar to hotel capital allowances is available for certain hospital buildings and private sports injury clinics. The allowances are granted at a rate of 15% per annum for 6 years and 10% in year 7.

Relief may not be claimed by corporate investors, trusts, property developers, individuals involved in the operation or management of the facility.

Where an individual investor falls into any of the categories of investors listed above then relief will be denied to that person only, and not any other investor simply by way of being part of a group of investors.

Designated Areas
Tax Designated Areas
Tax incentive schemes have developed over the years to encourage development in derelict areas in Dublin and a number of other urban centres. In addition, allowances are/were available for Seaside Resort Areas, Islands and Rural & Town Renewal areas. The special incentives are available in respect of certain properties in what are termed designated areas and certain designated streets in Dublin and in specified areas outside Dublin. There are a number of different designated schemes. The original scheme was introduced in 1986. A new scheme was introduced in 1994, with a further revised scheme in 1998.

Urban Renewal Scheme
The areas were selected based on submissions by local authorities. Double rent relief is not available under this scheme.

Residential Reliefs The type of reliefs are:

"Section 23" (S23) - Cost of construction, refurbishment or conversion of rented residential accommodation can be offset against all rental income.

Owner/Occupier Relief - Allowance of 50% of cost of construction (100% on refurbishment) will be deducted from the individual's total income by an annual deduction of 5% (10% for refurbishment) for 10 years.

Industrial and Commercial Allowances

Industrial Buildings	Owner Occupiers	Lessors
Free Depreciation	50%	Nil
Initial Allowance	50%	50%
Annual Allowance	4%	4%
Maximum Allowance	100%	100%
Commercial Buildings/Multi Storey Car Parks		
Free Depreciation	50%	Nil
Max 1st Year Allowance	50%	50%
Annual Allowance	4%	4%
Maximum Allowance	100%	100%

Capital allowances are denied to property developers and in respect of properties used in certain specified industries and large projects. Allowances may also be denied in respect of office developments and multi-storey car parks at the discretion of the Minister.

Seaside Resort Areas
Capital allowances were available in respect of capital expenditure incurred on the construction or refurbishment of tourism buildings in the period from 1 July 1995 to 31 December 1999 subject to certain conditions.

Tip: While the original scheme has lapsed, relief may still be available on the purchase of one of the units where the tax life has not yet expired. The relief will be the original amount allowed over the remaining tax life of the building.

Rural Renewal Relief

This scheme introduced tax incentives in counties Leitrim, Longford and parts of Cavan, Roscommon and Sligo.

The reliefs are similar to those for industrial and commercial buildings under the Urban Renewal Scheme. Double rent relief is not available.

Residential reliefs are available in the form of Section 23 relief on the cost of construction, refurbishment or conversion of rented residential accommodation.

Owner-occupier relief on the construction or refurbishment of private residential accommodation is also available.

Capital allowances will be denied to property developers and in respect of properties used in certain specified industries, including industries employing more than 250 people.

Town Renewal Scheme

An Urban Renewal Relief for 101 towns across Ireland was introduced in 2000. It provides for the usual reliefs – Industrial Building Allowance, Commercial Buildings, Capital Allowances, Section 23 Relief and Owner-Occupier Allowances. The reliefs are similar to those for industrial and commercial buildings under the Urban Renewal Scheme 1998 (see pg 41).

Residential reliefs are available in the form of Section 23 relief on the cost of construction, refurbishment or conversion of rented residential accommodation.
Capital allowances will be denied to property developers and in respect of offices and properties used in certain specified industries and in large projects.

Living Over The Shop (LOTS)

Tax incentives are available for the use of space over commercial property for residential purposes. The incentives apply in Dublin, Cork, Galway, Limerick and Waterford. S.23 relief and owner-occupier residential reliefs will be available. In some circumstances, accelerated capital allowances will be available for associated commercial development. The qualifying period runs from 6 April 2001 to 31 December 2004.

The Finance Act 2004 extended to 31 July 2006 the deadline date for this scheme where full planning permission has been applied for before 31 December 2004.
Certain exclusions apply to property developers.

Park & Ride

Owner occupiers qualify for 100% accelerated allowances on park and ride and related commercial premises in the period ended 31 December 2004. Passive investors are entitled to claim 50% allowances in year one and 4% p.a. thereafter. Residential property reliefs' associated with the park and ride facilities are also available, these take the form of S23 type relief.

Certain exclusions apply to property developers.

Refurbishment of Certain Rented Accommodation

A tax deduction is granted for refurbishment of certain residential properties. The premises must, both before and after the refurbishment, contain one or more residential units to qualify for this relief. Such refurbishment is available for offset at 15%

p.a. for years 1 – 6 and 10% in year 7. The deduction is available against all rental income. This refurbishment relief is available in respect of all qualifying premises, irrespective of where they are located.

Tip: This relief used in conjunction with interest relief can be very valuable

Mid Shannon Corridor Tourism Infrastructure Investment Scheme

This is a scheme introduced for a three year period in 2007, now extented until 2013, to encourage the development of tourist facilities in the mid-Shannon area. The scheme is aimed at encouraging the development of new tourism facilities or developing existing infrastructure in the qualifying areas. These areas are:

- Clare (80%)
- Galway
- Tipperary (80%)
- Offaly
- Westmeath
- Roscommon

As Clare and Tipperary are not part of the Border Midlands West region (BMW) they only qualify for 80% relief, other areas are entitled to 100% relief.

The allowances are spread over 7 years 15% p.a. in years 1-6 and 10% in year 7. The allowances are for the construction or refurbishment of holiday camps and associated tourism infrastructure facilities in qualifying areas along the Shannon. Accommodation facilities provided as part of a project may qualify for relief provided the expenditure represents less than 50% of the overall cost.

There will be a 15 year holding period in order to avoid a clawback of the relief.

The maximum Capital Allowances available for offset against non-rental income by passive individual investors is €31,750.

Certain minimum spends and restrictions apply. There are also certain exclusions from the scheme.

Projects wishing to avail of this relief must get advance approval. The deadline for the new applications is 31 May 2010. The Scheme has been extended to 31 May 2013.

Property Tax Tips:

- *Maximise your claim for property relief in 2011 prior to the pending restrictions outlined above.*
- *In addition to any incentives available, relief is also available for interest on monies borrowed to purchase property (this is restricted to 75% Of the interest paid).*
- *The general restriction of €31,750 allowed against non-rental income (that applies to passive investments) is available for both husbands and wives, where there is sufficient taxable income spouses ought to invest in a property jointly.*
- *As the €31,750 limit does not apply to rental income, convert as much as possible to rental income.*
- *Where possible e.g. in the case of crèches and nursing homes consider becoming an active partner in the property investment as the €31,750 limit does not apply.*
- *Consider structuring a partnership with a company where low tax rates may be availed of for income generated, and part of the capital growth in the property may be retained personally.*
- *Always be careful when purchasing a tax incentivised property as the relief's available are generally built into the price.*
- *Be aware of the high earners €125,000 cap that applies to individuals.*

Property Developers

Property developers or persons connected with property developers are excluded from claiming capital allowances where either the property developer or the connected person holds a relevant interest in the property and either party incurred expenditure on the construction of certain properties.

Specific exclusions apply to:

- Qualifying hospitals
- Qualifying mental health facilities
- Certain childcare facilities
- Buildings within a qualifying Mid Shannon area in use as a holiday camp/other tourist facility.

Care should be exercised where advising developers in claiming capital allowances.

CAPITAL GAINS TAX

Individuals resident or ordinarily resident in Ireland are liable to capital gains tax on disposals.

Individuals resident or ordinarily resident but not domiciled in Ireland are liable on gains arising on the disposal of assets situated in Ireland and on all foreign gains to the extent that those gains are remitted to Ireland.

Individuals neither resident nor ordinarily resident are liable on gains made on the disposal of certain specified assets, viz:

- Land and buildings in Ireland.
- Minerals in Ireland including related rights, and exploration or exploitation rights in a designated area of the continental shelf.
- Unquoted shares deriving their value, or the greater part of their value, from such assets as mentioned above.
- Assets of a business carried on in Ireland through a branch or agency.

An anti avoidance section imposes CGT on individuals who dispose of shareholdings after 4 December 2002 during a period of temporary non-residence, a temporary period of non-residence is described as absences of less than 5 years.

Rates

The standard rate of Capital Gains Tax arising on disposals is 25%

Inflation Relief

In arriving at the chargeable gain on the disposal of an asset held for over twelve months, the allowable cost is to be adjusted for inflation based on the Consumer Price Index (Indexation).

Indexation relief will only be available in respect of ownership of assets up to 31 December 2002. Expenditure incurred in 2003 and subsequent years of assessment will not qualify for indexation relief.

Year expenditure incurred	Factor for disposal for year ended 5 April/31December:										
	93/94	94/95	95/96	96/97	97/98	98/99	99/00	00/01	2001	2002	2003
1974/75	5.656	5.754	5.899	6.017	6.112	6.215	6.313	6.582	6.930	7.180	7.528
1975/76	4.568	4.647	4.764	4.860	4.936	5.020	5.099	5.316	5.597	5.799	6.080
1976/77	3.935	4.003	4.104	4.187	4.253	4.325	4.393	4.580	4.822	4.996	5.238
1977/78	3.373	3.432	3.518	3.589	3.646	3.707	3.766	3.926	4.133	4.283	4.490
1978/79	3.117	3.171	3.250	3.316	3.368	3.425	3.479	3.627	3.819	3.956	4.148
1979/80	2.812	2.861	2.933	2.992	3.039	3.090	3.139	3.272	3.445	3.570	3.742
1980/81	2.434	2.477	2.539	2.590	2.631	2.675	2.718	2.833	2.983	3.091	3.240
1981/82	2.012	2.047	2.099	2.141	2.174	2.211	2.246	2.342	2.465	2.554	2.678
1982/83	1.693	1.722	1.765	1.801	1.829	1.860	1.890	1.970	2.074	2.149	2.253
1983/84	1.505	1.531	1.570	1.601	1.627	1.654	1.680	1.752	1.844	1.911	2.003
1984/85	1.366	1.390	1.425	1.454	1.477	1.502	1.525	1.590	1.674	1.735	1.819
1985/86	1.287	1.309	1.342	1.369	1.390	1.414	1.436	1.497	1.577	1.633	1.713
1986/87	1.230	1.252	1.283	1.309	1.330	1.352	1.373	1.432	1.507	1.562	1.637
1987/88	1.190	1.210	1.241	1.266	1.285	1.307	1.328	1.384	1.457	1.510	1.583
1988/89	1.167	1.187	1.217	1.242	1.261	1.282	1.303	1.358	1.430	1.481	1.553
1989/90	1.130	1.149	1.178	1.202	1.221	1.241	1.261	1.314	1.384	1.434	1.503
1990/91	1.084	1.102	1.130	1.153	1.171	1.191	1.210	1.261	1.328	1.376	1.442
1991/92	1.056	1.075	1.102	1.124	1.142	1.161	1.179	1.229	1.294	1.341	1.406

Year expenditure incurred	Factor for disposal for year ended 5 April/31December:										
	93/94	94/95	95/96	96/97	97/98	98/99	99/00	00/01	2001	2002	2003
1992/93	1.019	1.037	1.063	1.084	1.101	1.120	1.138	1.186	1.249	1.294	1.356
1993/94	-	1.018	1.043	1.064	1.081	1.099	1.117	1.164	1.226	1.270	1.331
1994/95	-	-	1.026	1.046	1.063	1.081	1.098	1.144	1.205	1.248	1.309
1995/96	-	-	-	1.021	1.037	1.054	1.071	1.116	1.175	1.218	1.277
1996/97	-	-	-	-	1.016	1.033	1.050	1.094	1.152	1.194	1.251
1997/98	-	-	-	-	-	1.017	1.033	1.077	1.134	1.175	1.232
1998/99	-	-	-	-	-	-	1.016	1.059	1.115	1.156	1.212
1999/00	-	-	-	-	-	-	-	1.043	1.098	1.138	1.193
2000/01	-	-	-	-	-	-	-	-	1.053	1.091	1.144
2001										1.037	1.087
2002											1.049
2003											1.000

Retirement Relief

Retirement Relief is available for an individual aged 55 years or more on disposal of business assets owned and used for 10 or more years ending on the disposal date, it also applies to shares in a family trading company which have been held for at least 10 years. Periods of ownership of a deceased spouse may also be included in the calculation. This relief is limited to proceeds of €750,000 for disposals post 1 January 2007 (previously €500,000) where the disposal is not to a child of the individual. A disposal of a business to a child including a foster child supported by the donor for five years prior to the child turning eighteen years of age is not liable to capital gains tax regardless of the consideration provided the child retains the asset for 6 years. For the purposes of this exemption a child includes a nephew or niece who has worked in the business substantially on a full time basis for the period of five years ending with the disposal. Also, the definition of child may in certain circumstances include a grandchild.

Assets that are held outside a family company and used by that company also qualify for retirement relief provided that certain conditions are met.

Relief will only apply where the disposal of qualifying assets is for bona fide commercial reasons and not as part of a tax avoidance scheme.

Special relief also applies to compensation payments for the de commissioning of fishing vessels.

Tips:

- *An individual is not in fact required to retire in order to avail of this relief.*
- *A husband and wife each have a €750,000 individual limit, therefore a split of the business on commencement to trade ought to be considered*
- *A company buyback of shares may be used in conjunction with retirement relief to ensure that no tax exposure arises if the amount received for the shares is €750,000 or less. In the case of a buyout of a retiring couple who both qualify for retirement relief, the amount may be increased to €1,500,000 where all conditions have been met.*
- *A company buyback of shares is a useful way of using company funds as opposed to personal funds to buy out a dissenting or retiring shareholder. It also avoids taking new shareholders in to the company to fund a buyout. In addition the remaining shareholders maintain the same proportional percentage shares.*

Exemptions and Relief

The following are a number of exemptions available to individuals:

- Annual gains of up to €1,270 for each individual. For married couples the exemption is €1,270 each, which is non-transferable.

- Sale of tangible moveable property not exceeding €2,540 e.g. antiques
- Sale of tangible moveable property, which is a wasting asset and does not qualify for a capital allowances claim
- Sale of principal private residence (except where sale proceeds reflect development value).
- Sale of dwelling house occupied rent-free by a dependent relative.
- Gains or profits on sales of Government Securities or Savings Certificates.
- Transfer of assets between spouses living together.
- Gains on the sale of Irish Government securities, where the security has been held for at least two years.
- Disposals of individual works of art which are valued at not less than €31,740 when loaned to an approved gallery or museum for public display for a minimum period of ten years from 2/2/06 (for loans made prior to 2/2/06 the loan period is six years).
- Transfer of a site from a parent to a child including a foster child supported by the donor for five years prior to the child turning eighteen years of age, provided it is for the construction of the child's principle private residence. The maximum marketable value of the site is €500,000. The relief is limited to one site per child, this is limited to 1 acre exclusive of the area where the house is to be built). The threshold applies where both parents make a simultaneous disposal of a site to a child.
- Gains arising from personal injury compensation payments to permanently incapacitated individuals, where the exempt income and gains are greater than 50% of an individual's total income and gains.
- Disposal of certain shares (see corporation tax section).

Payment and Compliance

Capital Gains tax is a self-assessment tax. In summary, the following is the due payment and compliance dates:

Payment Dates for Capital Gains Tax

The payment dates for Capital Gains Tax have also been revised, the payment date previously 31 October following the year of assessment in which the gain arose has been revised to bring forward the payment date and provide for two payment dates as follows;

Period of Disposal	Date of Payment
1 January 2011 - 30 November 2011	15 December 2011
1 December 2011 - 31 December 2011	31 January 2012

Anti Avoidance

New anti avoidance measures have been introduced to prevent transactions between connected parties where artificial losses are created to offset against actual capital gains from avoiding capital gains tax. These measures will apply to all disposals made on or after 20 November 2008.

Clearance Certificate

Where the proceeds of a sale of certain assets such as land and buildings are more than €500,000 a tax clearance certificate is required. In the absence of the certificate, the purchaser is obliged to deduct tax at 15% of the sale proceeds and pay the tax withheld to the Revenue within 30 days of making the deduction. This provision applies irrespective of the method of payment.

A credit will be available for the tax withheld against the purchasers CGT where the consideration for the disposal is in non-monetary format.

An agent may apply for a tax clearance certificate on behalf of a client.

CAPITAL ACQUISITIONS TAX

Capital Acquisitions Tax (CAT) is a tax on gifts and inheritances.
The following is a summary of the method of assessment to CAT:

Taxable Inheritance

A taxable inheritance arises in any of the following situations:
- The disponer is resident or ordinarily resident in Ireland at the date of the disposition
- The successor is Irish resident or ordinarily resident at the date of the inheritance
- The property is located in Ireland at the date of the inheritance

Taxable Gift

A taxable gift arises in any of the following situations:
- The disponer is resident or ordinarily resident in Ireland at the date of the disposition (not applicable to gifts under a Discretionary Trust)
- Where a gift is taken under a Discretionary Trust, the disponer is resident or ordinarily resident in Ireland at the date of the disposition or the date of death (if the gift is taken after the death of the disponer)
- The beneficiary is resident or ordinarily resident in Ireland at the date of the gift.
- Provided the settlor or beneficiary is not Irish domiciled, he is not deemed to be resident until after 1 December 2004 and then only if he has been resident in Ireland for 5 consecutive years of assessment immediately before the year of assessment in which the gift is received and is also resident at the date of the gift.

Gifts/inheritances taken on or after 5 December 1991 are aggregated with later gifts/inheritances in order to arrive at the current tax payable.

Only gifts/inheritances within the same group are to be aggregated.

Thresholds for CAT

The following maximum tax-free thresholds apply for gifts and inheritances on or after 1 January.

	2008	01/01/09-07/04/09	08/04/09-31/12/09	2010	08/12/10-31/12/11
	€	€	€	€	€
Group 1	521,208	542,544	434,000	414,799	332,084
Group 2	52,121	54,254	43,400	41,481	33,208
Group 3	26,060	27,127	21,700	20,740	16,604

Group 1 - This threshold applies where the donee or successor is a child, minor child of a deceased child of the disponer, a foster child of the disponer subject to certain conditions, or a spouse of a deceased child. It also applies to inheritances taken by a parent from a deceased child, subject to certain conditions. Certain inheritances taken by a parent from a child may be totally exempt.

Group 2 - This threshold applies where a donee or successor is a lineal ancestor, lineal descendant (other than a child or minor child of a deceased child), a brother, sister, or a child of a brother or sister of the disponer.

Group 3 - This applies where the donee or successor is not related as outlined in either of the previous classes.

Rates

A rate of 25% applies to all gifts/inheritances. This rate applies to the amount of gift or inheritance in excess of the tax-free threshold.

	Inheritances	Gifts
Threshold amount	0%	0%
Excess over threshold amount	25%	25%

Main Exemptions and Reliefs

- Inheritances and gifts between husband and wife are exempt.
- Transfers of property by virtue of an order under the Family Law Acts 1995 or 1996.
- The first €3,000 of gifts from each disponer taken in a calendar year.
- Gifts or legacies applied for public or charitable purposes.
- Normal and reasonable payments received in the disponer's lifetime by family members for support, maintenance or education or by a dependent relative for support or maintenance.
- Life assurance policies (Section 60 policies) designed for the payment of CAT and used for this purpose within one year of the death of the Insured person. Any excess proceeds may be taxable.
- Dwelling houses, which are the only or main residence of the beneficiary (subject to certain conditions).
- Business Propert Relief (see below).
- Agricultural relief (see farmers taxation page 57)

Private Residence Relief

The gift / inheritance of a private dwelling house is exempt from CAT provided:

- The beneficiary has continuously lived in the house as his only or main residence for 3 years prior to the date of the gift / inheritance.
- At the date of the gift / inheritance, the beneficiary is not beneficially entitled to any other dwelling house or to any interest in another dwelling house.
- If the beneficiary is under 55, he must either continue to live in the house for 6 years after the date of the gift / inheritance or in the event of sale, invest the proceeds of sale in another dwelling which will be his only or main residence, to avoid a clawback.

The relief is restricted in the case of gifts, relief will not be available where the property was the disponer's only or main residence during the three year period prior to the gift, there is an exception in the case where the disponer resides there due to old age or infirmity and relies on the services of the beneficiary.

There is also a restriction to properties owned by the disponer for the three year period prior to making the gift, this avoids situations whereby a parent buys property owned and occupied by a child and then gifts it back to the child.

Business Property Relief

The value of business assets is reduced for a gift/inheritance of relevant business property by 90% subject to a number of qualifications. The relevant business property must have been owned by the disponer, or his/her spouse for at least five years prior to the transfer in the case of a gift or two years in the case of an inheritance. The asset must remain in the business for at least six years to avoid a claw-back of the CAT relief.

Business relief also applies to a gift or inheritance of shares in a holding company that holds shares in one or more companies controlled by the beneficiary, and his/her relatives, nominees or trustees.

A clawback of the relief will apply where the full proceeds from the disposal or compulsory acquisition are not fully expended within one year in the case of a disposal or within six years in the case of a compulsory acquisition made after 25 March 2002.

Where there is a disposal of land which qualified for agricultural relief or business asset relief in the period commencing six years after the date of the gift or inheritance and ending ten years after that date, there will be a clawback of the relief by reference to the development value of the land at the date of the gift or inheritance.

Tip: *Agricultural property may qualify for Business Relief where it fails to qualify for Agricultural Relief.*

It is not necessary for the business to be carried out in the State or for the property to be situate in the State for the relief to apply.

Payment and Compliance

There is a new Pay and File system (outlined below) which requires returns to be filed via ROS where reliefs and exemptions (other than a small gift exemption) are being claimed by the beneficiary.

Valuation Date	Return Filing and Payment Deadline
1 January – 31 August	30 September in the same Year (previously October)
1 September – 31 December	30 September in the same Year (previously October)

Interest Payments/Repayments

Interest on outstanding tax will be computed from 1 November each year.

There is a four year time limit for claiming repayments of overpaid tax, including the overpayment of probate tax, the four year period runs from the date of payment of the tax where the tax has been paid on time or from the valuation date where the tax has been paid late. Surcharge for Late Returns

- Filed within 2 months of due date — 5% (maximum €12,695)
- Filed after 2 months of due date — 10% (maximum €63,485)

Surcharge for Understatement

A surcharge applies to discourage understatement of asset values in self-assessment returns. The surcharge is:

(a) 10% if the declared market value was between 50% and 66% of the true value,
(b) 20% if the declared market value was between 40% and 49% of the true value,
(c) 30% if the declared market value was less than 39% of the true value.

Joint Account Limits

The amount that can be held in a joint account, which can be released to the survivor of a deceased person without prior Revenue approval, is €50,000

Record Retention

Records must be maintained for a period of 6 years commencing on the valuation date of the gift or inheritance.

DISCRETIONARY TRUST TAX

A discretionary trust set up on or after 11 April 1994 becomes subject to a once-off 6% levy based on the value of the assets in the trust on the latest of the following events:

- The date property is placed in settlement,
- The date of death of the settlor, or
- The date on which the principal beneficiaries of the trust all attain the age of 21.

The 6% charge is reduced to 3% where the trust is created under a will and where all of the assets of a discretionary trust are appointed within 5 years of the assets being transferred to the discretionary trust.

Following the trust becoming subject to the 6% levy, a 1% levy is payable each year (except the year in which the 6% levy is paid) on the market value of the assets in the trust.

STAMP DUTY

Stamp Duty is a duty levied on documents or instruments, executed in Ireland, relating to conveyances and certain other transactions.

The rate of stamp duty levied depends on the head of charge under which an instrument is classified.

Trade in Scheme

No stamp duty will be payable by a person who accepts a property in exchange or in part exchange for a new house or apartment under a "trade in scheme". Under this arrangement stamp duty will only become payable when that person subsequently sells the house that was swapped. This relief will not apply to commercial property.

Non residential property

Rates from 15 October 2008 onwards				Pre 15 October 2008 Rates			
€0	-	€10,000	Exempt				
€10,001	-	€20,000	1%	€80,001	-	€100,000	6%
€20,001	-	€30,000	2%	€100,001	-	€120,000	7%
€30,001	-	€40,000	3%	€120,001	-	€150,000	8%
€40,001	-	€70,000	4%	Over €150,000			9%
€70,001	-	€80,000	5%				
Over €80,000			6%				

Residential Property

Residential Property - Rate Structure

With effect from 8 December 2010 the rate of stamp duty that applies to residential property is as follows:

Property Value	Rate
Up to €1,000,000	1%
Over €1,000,000	2%

Rate that applied prior to this date are as follows:

- A 7% rate applies up to €1,000,000 and it is charged on the excess of the consideration over €125,000.
- A 9% rate applies where the consideration exceeds €1,000,000 and it is charged on the excess of the consideration over €1,000,000.

Consideration (or Aggregate Consideration) exceeds €127,000*	Rate of Duty
First €125,000	Nil
Next €875,000	7%
Excess over €1,000,000	9%

* Where the consideration (or aggregate consideration) didn't exceed €127,000, were exempt from stamp duty.

Abolished Reliefs:

Previous reliefs as outlined below have been abolished with certain transitional provisions for people who had entered into contracts before 8 December 2010.

From 8 December all property is subject to stamp duty, there is no distinction between first time, and non first time buyers or between new and second hand properties. Previously first-time purchasers of new houses/apartments in excess of 125 sq. metres, and first-time purchasers of second-hand houses/apartments, as owner-occupiers, were eligible for a stamp duty exemption.

The small property exemption has been removed. The 50% relief for transfers between related persons has been abolished. Relief on site transfers to a child have also been abolished. Previously the transfer of a site from a parent to a child (or a foster child who has been cared for by the donor for a period of at least 5 years prior to reaching the age of 18), for use in the construction of their principle private residence is exempt from stamp duty, where the market value of the property does not exceed €500,000 (€254,000 pre 5/12/2007), and the total area not exceeding 1 acre (excluding the proposed property area).

Exemptions & Reliefs

- Transfers between husbands and wives are exempt (including certain transfers on divorce).
- Certain transfers on divorce are exempt.
- Wills are exempt.
- Transfers of Irish government stocks are exempt.
- Transfers between associated companies are exempt, subject to certain conditions.
- Covenants to children and charities.
- Transfers on certain takeovers reconstructions and mergers.
- Transfers of assets from a liquidator to a shareholder on liquidation.
- Transfers of foreign land and shares
- Certain financial services instruments
- For transfers of agricultural land see Farming page 57.
- The sale, or transfer of trademarks and intellectual property.
- The sale or transfer of an EU single farm payment entitlement.

Clawback of First-Time Buyers Relief

The clawback period for first-time buyers relief and owner –occupier relief has been reduced from five years to two years where the property is let, this applies to for instruments executed post 5 December 2007.

Anti-Avoidance

Where a person makes a gift or a loan to a first time buyer, they may not reside in the property or the property may not be transferred to the donor/person making the loan except where the donor/lender is the parent of the first time buyer.

Other Rates

1%	Transfer of Stocks and shares (first €1,000 is exempt)
0%-6%	Premiums on leases
1%-12%	Average annual rent (depending on the lease term)

VEHICLE REGISTRATION TAX

The rates of Vehicle Registration Tax applicable are set out below. These rates apply to all new cars. Concessions may be allowed to non-residents on the importation of a vehicle at the time of change of residence.

Up to 1400cc	22.5%
1401cc - 1900cc	25%
Over 1900cc	30%

VRT is based on CO_2 emissions (prior to 1 July 2008 it was based on engine size), the aim being to reduce the level of CO_2 emissions. The table below sets out seven new VRT bands for cars for the relevant VRT rates:

CO_2 Emissions (CO_2g/km)	Percentage payable of the value of the vehicle
0g/km up to and including 120g/km	14% or €280 whichever is greater
>120g/km up to and including 140g/km	16% or €320 whichever is greater
>140g/km up to and including 155g/km	20% or €400 whichever is greater
>155g/km up to and including 170g/km	24% or €480 whichever is greater
>170g/km up to and including 190g/km	28% or €560 whichever is greater
>190g/km up to and including 225g/km	32% or €640 whichever is greater
>225g/km	36% or €720 whichever is greater

Where evidence of the CO_2 emission rating is not available, the top rate of 35% will apply. Where a vehicle is not registered by the due date for registration the VRT liability may be increased by .1% per day for each day that the VRT is unpaid, this would equate to an additional VRT liability of 36.5% if the VRT was left unpaid for a year.

The VRT is applied to the open market value of the car.
With effect from 1 May 2011 VRT payable in respect of a car with a registration category C which includes large commercial vehicles will increase from €50 to €200.

The registration of an electric car or motorcycle is exempt from VRT with effect from 1 January 2008 to 31 December 2012. There are special reliefs available for cars imported temporarily by non residents (however these vehicles must be placed on a temporary register where they are in the State for 42 days or more) or imported where an individual transfers their residence to Ireland.

Hybrid and Flexible Fuel Vehicles

VRT relief of up to €2,500 for series-production hybrid and flexible fuel vehicles is to be extended until 31 December 2012. Additional VRT reliefs capped at a maximum of €5,000 from 1 May 2011 will apply to electric vehicles purchased up to 31 December 2012.

Scrappage Scheme

There will be a repayment of VRT on the registration of certain new vehicles with a level of CO_2 emissions not exceeding 140g/km, where a qualifying 10 year old vehicle is scrapped under certain conditions. The scrappage scheme has been extended to 30 June 2011, however the maximum VRT relief available under the scheme has been reduced from €1,500 to €1,250.

VALUE ADDED TAX

Value Added Tax (VAT) is a tax on consumer expenditure and is charged when a taxable person supplies goods or services in Ireland in the course or furtherance of its taxable business. It is also chargeable on the purchase of specified services from supplier's abroad, on imported goods and on intra-community acquisitions of goods.

Registration

Registration is compulsory if turnover exceeds the following limits.

- Persons supplying services — €37,500 per annum
- Persons supplying goods — €75,000 per annum
- Intra community acquisitions & fourth schedule services — €41,000 in a 12 month period

Foreign Traders

Foreign traders supplying taxable services in Ireland or selling goods from stocks held in Ireland are obliged to register for Irish VAT. Such traders do not have the benefit of the above registration thresholds unless they have a fixed place of business in Ireland. Where a non- resident person provides entertainment/cultural activities in the State, the reverse charge mechanism applies to the recipient.

Premises Providers

A premises provider who allows non-established vendors to operate from his/her premises must notify Revenue if he/she allows such a vendor operate from their premises for less than 28 days (previously less than 7 days).

Rates

Certain goods and services are exempt from V.A.T. e.g. all pre-school education facilities, promotion of and admission to live theatrical performances.

The rates of VAT and the main categories to which they apply are:

	Rate %
Goods and services not subject to one of the other rates i.e. standard rate.	21
Exported goods, fertilisers, books, food and oral medicine, children's clothing and children's footwear.	0
Livestock, live greyhounds and hire of horses	4.8
Unregistered farmers	5.2
Real property, building services, newspapers, hotel and holiday accommodation, short term car and boat hire, tour guide services and certain agricultural services and sports facilities.	13.5

Heating fuel, electricity, restaurant services, cinema and cabaret admission, hot take away foods, waste disposal services, admission to exhibitions, the services of veterinary surgeons, cakes and non-chocolate biscuits.	13.5
Hairdressing and other similar services, repair and maintenance of movable goods, photographic services, laundry and dry cleaning and driving instruction.	13.5
The supply of most banking services, insurance services, education and training, medical services, passenger transport, funeral undertaking, lotteries and services of trade unions.	exempt

Section 13A

Taxable persons may be authorised to import and make intra-community acquisitions of goods and to purchase goods and services in the state without having to incur the VAT normally chargeable if at least 75% of their annual turnover is comprised of exports and/or zero rated intra-community supplies.

A penalty of €4,000 applies for every VAT period in which the taxpayer fails to notify Revenue that they no longer satisfy the conditions requires for VAT 13A authorization.

Foreign Visitors

Non-EU visitors who purchase goods in Ireland and export them in their personal baggage can claim a VAT refund when they leave the EU.

Holiday Homes

An individual who elects to become taxable in respect of the letting out of a holiday home will be subject to a partial claw back of the VAT reclaimed on the purchase of the property if he cancels the registration within 10 years of the date of election.

Travel Agents Margin Scheme

This scheme applies to Tour Operators and travel agents, with effect from 1 January 2010 the profit margin realised on the sale of travel packages will be subject to VAT at 21%. VAT will also apply to the profits realised on hotel reservation companies.

Payment and Compliance

Taxable persons are obliged to register for VAT and submit bi-monthly returns by the 19th of the month following the two month period in respect of supplies and purchases made in the two-month period. Unpaid tax attracts simple interest at the rate of .0274% per day.

Certain authorised persons may submit VAT returns on an annual or quarterly basis rather than on the bi-monthly basis, and pay their VAT liability by direct debit, if permitted.

Penalties

Certain interest penalties arise where insufficient VAT is remitted on the direct debit system. Where the balance of tax remaining to be paid by the authorised person at the end of the accounting period exceeds 20% of the actual liability for that period, simple interest is chargeable from a date six months prior to the date on which the authorised person is requires to furnish the annual return. Where returns and payments are submitted electronically via ROS (the Revenue online service) the due date will be extended to the 23rd of the month.

A new fixed penalty of €4,000 applies in respect of;

- Failure to submit a VIES return in respect of services
- Failure to provide specified documentation on a lease surrender or assignment of certain leases created before July 2008.
- Failure to provide documentation in relation to property transfers as part of a business sale.
- Failure to maintain the VAT history of properties held.

Cash Receipts

Some taxable persons may elect to account for their VAT liability on the basis of cash received in a taxable period rather than on the basis of sales. This is generally available where the primary supply of goods and services is to persons who are not registered for VAT or where the individuals' turnover is less than €1,000,000. The cash receipts basis will not be available where a discount is given to a customer after the supplier issues a VAT invoice where no credit note has been issued in respect of the discount, in effect this makes the supplier liable to VAT on the discount.

A VAT return may be submitted by another person authorised to do so by the taxable person. Such a return is treated as if the taxable person supplied it for the purposes of the VAT Acts.

Margin Scheme for Second-Hand Car Dealers / Agricultural Machinery

With effect from 1 January 2010, dealers in second hand vehicles and agricultural machinery may opt to apply VAT to their profit margins on sales. The dealer is not entitled to claim residual VAT in the purchase price and simply accounts or VAT at 21% on the profit margin.

VAT on Property Rules

Substantial amendments to how VAT applies to property transactions was introduced, on 1 July 2008. The changes are designed to simplify the rules that apply to VAT on property however they are complex particularly because transitional rules will apply to VAT on property transactions and care should be exercised and specialist advice sought when dealing with such transactions, the new rules will apply to both residential and commercial property supplied in the course of business. The VAT charge on sales of residential property remains unchanged. The key changes being introduced for commercial property transactions are listed below:

- Cessation of VAT charge on the capitalised value of long leases.
- No distinction between short leases and long leases.
- An exemption from tax for all leases with an option to tax.
- The supply of new properties within the first five years is liable to VAT.
- The supply of old properties is exempt from VAT with a joint option to tax.
- A capital goods scheme will apply to properties for up to 20 years to readjust VAT recovery in line with the level of recovery entitlement of the business.

Anti Avoidance

A site which is transferred as part of the value of a new house or apartment is subject to VAT.

Reverse Charge Mechanism in the Construction Sector

A reverse charge mechanism for VAT on supplies made by a subcontractor to a principal contractor in the construction sector.

A reverse charge means that instead of the subcontractor charging VAT on his supply to a principal and accounting to Revenue for the VAT, the principal contractor will account to Revenue for the VAT. Both the subcontractor and the principal will continue to claim input credits.

Partial VAT Rebate on Certain Company Cars

A business engaged in fully Vatable services may claim an input credit of 20% (a reduced amount applying for partially Vatable activities) of VAT incurred on the purchase or hire of company cars that are used at least 60% for business purposes. The input credit will only apply to cars within the scope of Bands A, B or C for VRT purposes and which are registered after 1 January 2009. If the car is disposed of or ceases to meet the 60% business test within 2 years, some or all of the VAT reclaimed will be clawed back by Revenue.

RELEVANT CONTRACTS TAX

Three rates of tax apply to payments made to sub-contractors namely 0%, 20% and 35%. The relevant rate depends on the compliance record of the sub-contractor with Revenue. Principal contractors are obliged to file electronic returns for payments made to sub-contractors. This provision is subject to a Ministerial Order and replaces the current C2 system.

PAY RELATED SOCIAL INSURANCE

Pay Related Social Insurance (PRSI) is payable by employers, employees and Self-employed persons.

Employers and employees pay PRSI on the employee's salary after deduction of any contributions to an approved pension scheme.

Employers and employees PRSI is charged on all earnings from employments, including benefits in kind. The only allowable deductions are contributions paid to an approved employee superannuation scheme and certain permanent health insurance policies.

PRSI and levies have been fundamentally reformed with effect from 1 January 2011
There is a new Universal Social Charge which replaces all previous levies

Contributions by Employees

PRSI	4%	All Income
Univerasl Social Charge	2%	€10,036
	4%	€10,037 to €16,016
	7%	Income >€16,016

- No Universal Social Charge applies to employees with a total Income of less than €4,004.
- A reduced rate of USC of 4% applies to income over €16,016 to anyone in receipt of a medical card, or for individuals over 70 years of age with income of less than €100,000.
- Employees earning €352 or less per week are exempt from PRSI. In any week where an employee is subject to full rate PRSI the first €127 of weekly earnings is disregarded.

Bankers Bonuses

A special USC rate of 45% applies to certain bankers bonuses paid to employees of Financial Institutionsthat have received financial support from the State.

Employer Contributions

PRSI	10.75%	All income
	8.5%	If Income €365 per week or less

- Employee pension contributions do not qualify for PRSI or USC relief.
- Employers PRSI relief on pension contributions made by an employee is reduced to 50% from 1 January 2011
- Employee and employer PRSI and the Universal social charge apply to all free share awards after 1 January 2011.

Self Employed Individuals

PRSI	4%	All Income
Univerasl Social Charge	2%	€10,036
	4%	€10,037 to €16,016
	7%	€16,016 >€100,000
	10%	>€100,000

There is a minimum annual PRSI contribution of €253

- Individuals with a total Income of less than €4,004 no Universal Social Charge applies.
- A reduced rate of USC of 4% applies to income over €16,016 to anyone in receipt of a medical card, or for individuals over 70 years of age during the tax year.
- The 10% rate is reduced to 7% for individuals who reach the age of 70 during the tax year with income of less than €100,000.

Universal Social Change USC

Certain limited deductions are allowed against the USC, these include;

- Trade Losses and capital allowances
- Business and rental expenses
- Legally enforceable maintenance payments
- Deposit interest income is exempt from the USC

Exemptions from the USC

- The tax free element of a termination payment will be exempt from the USC, see pg22.
- Statutory Redundancy
- Salary and pension payments made under a PAYE exclusion order to individuals resident in a treaty country.
- Social welfare payments
- Deposit interest
- Payments made by a spouse under a legally enforceable maintenance agreement, there is no exemption for any element of the payment relating to children

Domicile Levy

- For 2010 and subsequent tax years a €200,000 domicile levy applies to individuals who are domiciled in, and who are citizens of Ireland.
- Their worldwide income must exceeds €1m, and their liability to Irish tax must be less than €200,000.
- The market value of Irish property owned by the individual on 31 December in the tax year exceeds €5m.
- Where an individual is married there is a potential for the levy to apply to both spouses.

Income Levy

Income Levy was abolished with effect from 1 January 2011

Parking Levy

A parking levy will be charged on employees using car parking facilities provided by their employer in the following areas:

- Dublin
- Cork
- Galway
- Limerick
- Waterford

The levy applies to designated car parking facilities and to those provided on a first come first served basis. In order for the levy not to apply an employee must disclaim their entitlement to use the car parking facility, however occasional use of the car parking facility is permitted i.e. less than 10 days a year.

The levy is €200 per annum, or €100 where parking spaces are shared and the ratio of employees using the spaces to the number of spaces is 2:1 or greater. The levy is to be deducted from net salary by employers.

The levy will be reduced for job sharers, part time employees, people on maternity leave and shift workers. The levy does not apply to disabled drivers.

The levy is to come into effect by way of Ministerial order, however this has not yet been issued at time of going to print.

Leasing of farm land

A lessor of agricultural land, who is aged 40 years or more or who is permanently incapacitated, is exempt from income tax in respect of certain leasing income. For any qualifying lease entered into on or after 1 January 2006, the limits are:

- €20,000 for a lease of 10 years or more
- €15,000 for a lease of between 7 and 10 years
- €12,000 for a lease of between 5 and 7 years

The lease income of the husband and wife are treated separately for the purpose of the relief, whether they are jointly assessed or not.

Sugar Beet Diversification

Provision is being made to allow farmers in receipt of the Diversification Aid element of the Sugar Beet Compensation Package to spread these payments over six years for the purpose of calculating taxable income. An election must be made by 31 October in the year of assessment following the year that the payments are made to the individual.

Capital Acquisitions Tax

Agricultural relief

A gift/inheritance of agricultural property including land, buildings and the new EU single farm payment entitlements, and other agricultural property including agricultural land, pasture and woodlands situated in a member state of the EU. (i.e. livestock and machinery) may be reduced by 90% of its market value for gift/inheritance tax when received by a qualifying farmer provided, the individual is Irish domiciled and 80% of the market value of his property after taking the gift/inheritance consists of agricultural property. Borrowing on an off-farm principal private residence may be taken into account in the calculation for the 80% test.

Where there is a disposal of land which qualified for agricultural relief or business asset relief in the period commencing six years after the date of the gift or inheritance and ending ten years after that date, there will be a clawback of the relief by reference to the development value of the land at the date of the gift or inheritance. Any interest arising as a result of this clawback will be calculated by reference to the date the land is sold (as opposed to the date of valuation date).

Claims for agricultural relief are submitted on form I.T.41.

Gifts or inheritances of agricultural property qualify for business relief (where the relevant criteria are met) in circumstances where it fails to qualify for agricultural relief. This relief reduces the market value of the gift/inheritance by 90%. Business relief will be clawed back if the assets are disposed of within 6 years, without being replaced with "other agricultural property" within a period of one or six years in the case of a sale or compulsory acquisition.

An anti avoidance measure applies with effect from 4 February 2010 for transfers between spouses. It ensures that where the proceeds from the sale or compulsory acquisition are used to acquire agricultural property which has been transferred by the done or successor to his or her spouse, that property will not qualify as "other agricultural property" for the purpose of the reinvestment provision.

Tip: Prior to the receipt of a gift of farm assets ensure that 80% of your personal assets after receipt of the gift are agricultural assets.

Capital Gains Tax

Retirement relief

Where a person is over 55 years and has held and used business assets for at least 10 years ending on the disposal date (this can include assets held personally but used in the trade where shares are being disposed of) no capital gains tax arises if the disposal is to a child of the disponer (from 2007 relief is also available for a disposal to a grandchild). From 1/1/2005, the EU single farm payment entitlement also qualifies as an asset for the purposes of retirement relief provided the farmer qualifies for relief on the land being disposed of. Periods of ownership of a deceased spouse may also be included. Child includes a niece/nephew who has worked substantially on a full time basis for 5 years ending with the disposal. Relief is also available where the disposal is to an unconnected person provided the proceeds do not exceed €750,000. Marginal relief applies if the proceeds exceed this amount; this applies to restrict the relief to one half of the sale proceeds in excess of €750,000.

In addition, land which has been let for up to five years prior to a Compulsory Purchase Order being made, will qualify for retirement relief if it was used for farming for ten years prior to letting.

Tip: A farmer who participates in the EU "Early retirement from farming scheme" by leasing the land qualifies for the relief. Whilst called retirement relief an individual does not need to retire in order to qualify for the relief.

Dissolution of farming Partnerships

A new relief from Capital Gains Tax is available for five years until 31 December 2013 in the dissolution of a farming partnership where an asset was owned and used by a farming partnership for ten years prior to the dissolution of the partnership. Where one of the partners acquired a share of the partnership by way of an inheritance, the period of ownership and the use of the asset will run from the date the donor entered into the partnership. Where the partnership assets disposal takes place the asset will be treated as being acquired at the same time and for the same consideration as it was originally acquired by the partner who disposed of the asset.

The relief does not apply to trading stock.

VAT

A flat rate of 5.2% applies to supplies of agricultural goods or services for unregistered farmers. The VAT rate for registered farmers and other businesses on the supply of livestock, live greyhounds and the hire of horses is 4.8%.

If a farmer engages in the supply of any other service and his turnover exceeds €35,000 in a calendar year, all activities including farming become subject to VAT at normal rates.

Tip: A flat rate farmer may reclaim VAT on expenditure incurred on the construction or improvement of farm buildings, farm structures, fencing, and drainage and land reclamation.

- *A VAT registered farmer can reclaim VAT on farm vehicles such as vans and pick-up trucks but not on passenger vehicles.*
- *VAT on diesel is reclaimable.*

Stock Relief

An individual is entitled to enhanced stock relief of 100% (this is an enhanced rate from the standard rate of 25%) for a period of four years if he or she becomes a "qualifying farmer", within the meaning of the section, during the period 1 January 2007 to 31 December 2012. (The 25% stock relief as well as the 100% stock relief has been extended for two years until 31 December 2012).

There is a specific list of qualifications that entitle an individual to be treated as a "qualifying farmer".

Compulsory Disposal of Livestock

A special relief applies for farmers (both individuals and companies) resident in the state, in respect of profits resulting from the disposal of livestock due to any underlying disease eradication scheme. There are two separate reliefs:

- A farmer may elect not to have the profits taxed in the year in which it arises and have it taxed in equal instalments in each of the four succeeding accounting periods.
- He may further elect, if it suits him, to have the profits treated as arising in equal instalments in the year in which it actually arises and the following three years.
- Where the receipts from the compulsory purchase of livestock are reinvested in livestock, the farmer may elect to claim stock relief at 100%.
- This relief is extended to all animals and poultry.

Milk Quotas

Persons carrying on the trade of farming will be granted capital allowances for expenditure incurred in purchasing a milk quota. The capital allowances can be claimed by a farmer who leases a milk quota from a connected person (e.g. relative) and later purchases that quota. The period of write off is 7 years i.e. 15% p.a. in years 1-6 and 10% in year 7. Capital allowances also apply to the Milk Quota Trading System.

Stamp Duty

On a transfer to a related person, duty payable is restricted to half of the duty which would otherwise be payable.

The stamp duty relief for young trained farmers has been extended to 31 December 2012.

There will be a clawback of Stamp Duty relief, where within 5 years of receiving a stamp duty relief the proceeds of a disposal of the property are not reinvested within one year in other land. The clawback is equal to the percentage of the proceeds not reinvested.

Tip: Where an individual does not qualify for relief as a young trained farmer, on a transfer to a related person duty payable is restricted to half of the duty that otherwise would be payable.

Farm Consolidation Relief

Where there is an exchange of farm land between two farmers for the purposes of consolidating each farmer's holding, stamp duty will not be charged on an exchange of land where the lands exchanged are of equal value. Where lands exchanged are not of equal value, stamp duty will be charged on the amount of the difference n the values of the land concerned. Where consideration is paid for the difference, it must be paid in cash.

There are a number of conditions that must be satisfied as follows:

1. Teagasc must issue a valid consolidation certificate on the market value of the land at the date of exchange, this must be submitted to the Revenue Commissioners.
2. The farmers must be full time farmers i.e. not less than 50% of the persons normal working hours must be spent farming.
3. They must make a declaration to Revenue stating their intention to retain the land and use the land for farming for a period of five years from the date of transfer.

There is a clawback of the relief if the land is disposed of within 5 years of the exchange.

Only one farmer is required to meet the tests outlined above.

The relief has been extended to 30 June 2011.

EU Single Farm Payment Entitlement

There is an exemption from Stamp Duty on the sale or transfer of an EU single farm payment entitlement.

MARITAL BREAKDOWN

Legally Enforceable Maintenance Agreements

Separated spouses are taxed as single persons with maintenance payments made being deductible in the hands of the payer and chargeable in the hands of the recipient. The deduction and charge also apply to the Universal Social Charge. Both may elect for joint assessment for income tax purposes if the following applies:-

- Both parties reside in Ireland in year of assessment
- Neither spouse has remarried, if divorced

Consequences of election

- Both parties assessed as a married couple
- No deduction for maintenance payments by paying spouse
- Recipient is not taxed
- Recipient does not pay PRSI or levies on maintenance payments

Social Welfare Benefits may be affected by election.

Where payment is made for the benefit of a child for whom the payer was entitled to child allowance, the payment is to be made without deductions of tax and the payment does not reduce the total income of the payer for income tax or USC purposes.

Where an individual is making maintenance payments to their separated or divorced spouse and is not jointly assessed with that spouse, those maintenance payments are deductible for the purposes of calculating the Universal Social Charge, see pg 56.

Transfer of Assets - Divorced Persons

Disposal of assets under a Court Order pursuant to a decree of divorce will not give rise to a gain or a loss. The spouse is deemed to take the asset at the same time and at the same cost to the disponer unless the asset is part of trading stock.

Transfer of Assets - Separated Spouses

Disposal of assets pursuant to a Grant of Judicial Separation under The Family Law Act 1995 or to a Deed of Separation which takes place after 1 August 1996 will not give rise to a gain or a loss. The spouse acquiring the asset is deemed to take the asset at the same time and at the same cost to the disponer.

Capital Acquisitions Tax

A transfer between spouses as part of a separation agreement, court order or divorce settlement is exempt from CAT. This exemption applies to foreign divorces recognised as valid in Ireland. Subsequent to a decree of divorce, ex-spouses have a Group 3 threshold in relation to each other i.e. stranger threshold €16,604.

Glossary.

"Ireland" and "Irish" refer, except where otherwise stated, to the Republic of Ireland.

DISCLAIMER

The objective of this booklet is to provide a useful guide to Irish tax regulations. It provides a summary of the rules applying in the 2011 tax year, within the main categories of current taxation law. Accordingly, it cannot be regarded as a definitive outline and no liability can be accepted in respect of decisions taken in reliance on the information herein contained.