

Ireland - Employment Tax and Workforce Issues

Finance Bill is Published

Human Resource Services contacts

Mark Carter
Partner

Tel: +353 (0)1 792 6548
mark.p.carter@ie.pwc.com

Gearóid Deegan
Partner

Tel: +353 (0)1 792 6468
gearoid.deegan@ie.pwc.com

Mary O'Hara
Partner

Tel: +353 (0)1 792 6215
mary.ohara@ie.pwc.com

Please also feel free to liaise with your usual PwC contact on these issues.



On May 7, 2009 the Irish Minister for Finance published the Finance Bill to give effect to the measures announced in the Supplementary Budget in April. The Bill is published in the context of the continuing economic downturn and falling Exchequer revenues. Key features of the Finance Bill of interest to employers and employees are discussed in this alert.

Tax Rate Changes

In the short term the income tax rates remain unchanged, with a 20% standard rate and a 41% higher rate. The previously announced changes to a higher 25% rate of tax applying to deposit interest retention tax, capital gains tax and capital acquisitions tax (CAT) have been confirmed. The CAT thresholds have all been reduced by 20% and these changes are effective as and from 8 April.

Income Levy Changes

The previously announced doubling of the income levy and reduction in the thresholds have been confirmed. These changes are effective from 1 May 2009. Employers will need to ensure that appropriate adjustments have been made to payroll, as the levy operates differently

to other taxes and social security charges. The new monthly thresholds and rates are outlined below:

- 2% on income up to €6,253
- 4% on income over €6,253 and up to €14,582
- 6% on income over €14,582

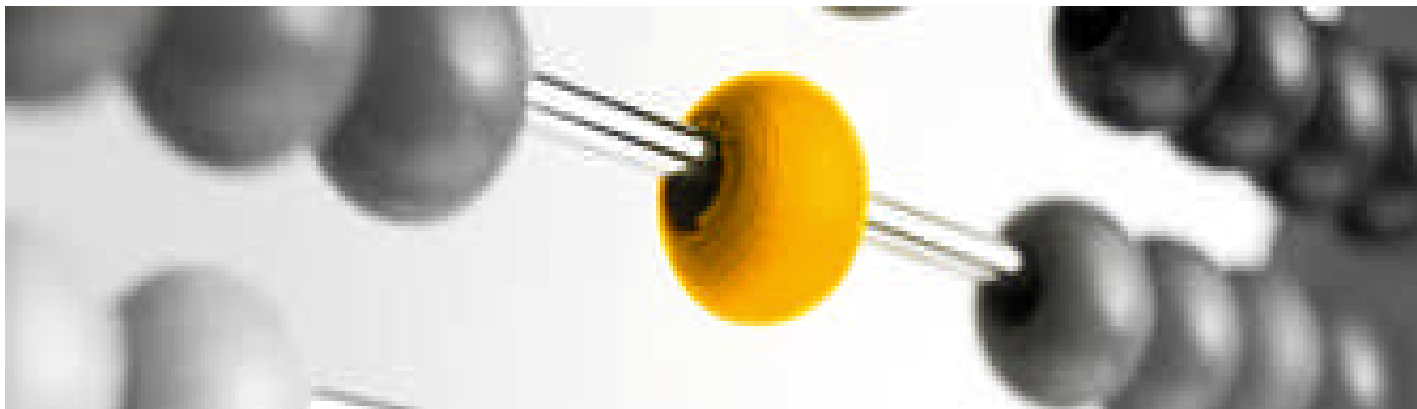
There had been some uncertainty as regards how the levy would apply to individuals who received bonus payments prior to 1 May, or to employees who are in receipt of other sources of income. The Bill makes it clear that an employer's obligation is to apply the levy only by reference to the income threshold for the relevant pay period. Employers are not therefore required to collect any perceived arrears in relation to the income levy.

Equally it is clear that the levy applies to an individual's aggregate income for the year and by reference to the 'annualised' rates which have been separately published. In this regard the Bill provides a mechanism for Revenue to raise assessments to collect any balancing amounts which may be due after the tax year end. Technically the annualised rates may be applied in these scenarios, though it remains to be seen how Revenue will apply this provision in practice.

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There had also been some controversy in relation to the perceived retrospective nature of the income levy, particularly in the context of individuals who had been made redundant and received a severance payment earlier in the year. The Bill contains provisions which will in effect ring fence any such termination payments made before 1 May 2009. The effect of the provision is that the levy will only be charged on such amounts by reference to the lower levy rates which applied at the time of payment.

Health Levy Changes

The previously announced doubling of the health levy and reduction in the higher rate threshold have been confirmed. These changes are also effective from 1 May and the new 4% rate will apply to monthly income up to €6,253. The higher rate levy of 5% will apply to income over this limit.

Separately a number of late changes have been introduced to the Social Welfare and Pensions Bill in order to deal with the aggregation of income for the purposes of calculating the health levy. These technical changes ensure that all taxable income can be aggregated in order to calculate the health levy based on 'annualised' rates which, by definition, incorporate an element of retrospection.

Pay Related Social Insurance (PRSI)

There have been no further changes announced in relation to PRSI. While the annual ceiling for employee contributions was increased to €75,036, the contribution rate remains unchanged at 4% for employees (excluding the levies) and 10.75% for employers. This increased PRSI cost for employees is effective from 1 May.

Pension Contributions

Speculation had mounted that some further restriction in reliefs might be introduced in relation to personal pension contributions. However, the current earnings limit of €150,000 has been retained. The relief will continue to be granted at the individual's marginal tax rate. In addition the allowable age based contributions, ranging from 15% of

remuneration for the under 30s to 40% for those over 60 years of age, will continue to apply.

A higher earnings limit of €275,239 applied for 2008; employees who did not utilise their full age related contributions last year, have until 31 October 2009 to make additional contributions and to claim appropriate tax relief to reduce their 2008 tax liability.

Interest Relief

Up until last December mortgage interest relief on an individual's private residence attracted tax relief at a rate of 20% at source, subject to certain limitations. Since January 2009 tapering rates (25% to 15%) have applied, depending on whether the borrower is a first time buyer or not and how long the qualifying loan has been held. Since 1 May mortgage interest relief has effectively been abolished for those individuals who have already had tax relief on a qualifying loan for more than seven years.

The level of tax relief which investors can claim on the interest for mortgages and loans used in the purchase, improvement or repair of residential rental properties has been reduced to 75% of the interest accrued on or after 7 April 2009.

Salary Sacrifice Arrangements

There has been no further tightening of the rules introduced last year in relation to salary sacrifice arrangements. However, as many organisations continue to reduce or restructure employment costs, caution is required in relation to the impact which the salary sacrifice provisions can have on Flexible Benefit Plans, remuneration restructuring and bonus arrangements.

Tax Residency Rules

Despite speculation to the contrary no further changes have been proposed in relation to Ireland's tax residence rules. Under current rules an individual is regarded as tax resident in Ireland if present in the State for 183 days or more in that year, or 280 days or more in that year and the preceding year combined.

Presence in the State is no longer determined by reference to the 'midnight' test. Since 1 January individuals are regarded as present in the State for a day if present at any time during that day.

There are no de minimis limits and limited provisions to address individuals 'in transit'. Accordingly, there is an increased need for employers and assignees to put procedures in place to track any days of presence in Ireland. It should still be possible to spend up to 139 days per annum in Ireland without triggering tax residence, provided the aggregate limit of 280 days over two years is not breached.

Share Incentive Arrangements

Employee share incentives continue to offer employers a cost effective way of remunerating employees. Under current rules employee share awards do not attract any Irish PRSI costs, either for the employee or the employer, and there are no withholding tax requirements.

There is also a range of Revenue approved plans which offer favourable tax treatment for broad based employee share plans. Benefits under such plans are not liable to income tax and, under current rules, they would not be liable to the new increased income levy. As such they have the potential to offer employees a very tax effective incentive and at a reduced cost to employers as compared to cash payments. Share schemes can also be structured to deliver performance based reward and can offer cash strapped employers an alternative mechanism to deliver benefits to employees who are instrumental in delivering sustainable business results in the future.

Employee Travel/Subsistence Payments

Revenue have recently announced a 25% reduction in the rate of travel and subsistence allowances that can be paid to employees tax free. Employers will need to revise payroll records accordingly. In the case of international assignments it is still possible, with careful planning, to reimburse assignees for travel and subsistence payments in a tax efficient manner.