

# Tax Facts 2009

The essential guide to Irish tax  
*(Updated June 2009)*



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# Tax Facts 2009

The essential guide to Irish tax  
*(Updated June 2009)*



## Introduction

This publication is a practical and easy-to-follow guide to the Irish tax system. It provides a summary of Irish tax rates as well as an outline of the main areas of Irish taxation.

This booklet is also available online at [www.pwc.com/ie](http://www.pwc.com/ie)

A list of PricewaterhouseCoopers contacts is provided at the front of this guide should you require more detailed advice or assistance tailored to your specific needs.

*Colm Kelly*

## Colm Kelly

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# Corporation tax

## Corporation tax rates

Rate	
12.5%	trading income (including dividends from an EU/tax treaty country paid out of trading profits)
25%	non-trading income and trading income from dealing in and developing land, including residential development land but excluding land fully developed
10%	income derived from manufacturing, manufacturing services and certain other service activities for operations established before 23 July 1998. Applies until 31 December 2010 after which the 12.5% rate applies

## Losses

A trading loss incurred in an accounting period may be offset against any of the following:

- trading income and foreign dividends taxable at the 12.5% rate arising in the same period
- trading income of the immediately preceding period
- trading income of subsequent periods.

To the extent not usable against trading income, a trading loss can be converted into a tax credit which may be used to reduce the corporation tax payable on passive income and chargeable gains.

## R&D credit

Incremental R&D expenditure qualifies for a tax credit of 25% (20% up to 31 December 2008), in addition to the normal deduction for R&D expenditure, providing an overall effective corporation tax deduction of 37.5%.

The credit is available for incremental expenditure incurred in any EU country, and not just in Ireland. However, there are restrictions on the deductibility of non-Irish expenditure where a tax deduction is available in another jurisdiction.

For the purpose of calculating incremental expenditure, 2003 has been fixed as the base year.

Other features of the R&D tax credit scheme:

- 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 expenditure is incurred.
- Excess R&D tax credits can be carried back to prior periods generating a cash refund of tax paid.
- R&D tax credit is available on buildings which qualify for the relief. The credit can be claimed in full in the year the qualifying expenditure is incurred.
- R&D tax credit claims must be made within 12 months of the end of the period in which the expenditure is incurred.

## Intellectual Property (IP) tax deduction

Capital allowances are available for capital expenditure incurred after 7 May 2009 on the acquisition of qualifying IP assets. Tax deductions are matched with the amortisation or depreciation charge of the IP included in the accounts. Alternatively, a company can elect to claim tax deductions over 15 years.

### Planning tip!

Ensure you avail of the cash refund available on excess R&D tax credits. Claims must be made within 12 months of the end of the period in which the expenditure is incurred.

The definition of IP assets includes the acquisition of, or the license to use:

- patents and registered designs
- trademarks and brand names
- know-how
- domain names, copyrights, service marks and publishing titles
- authorisation to sell medicines, a product of any design, formula
- process or invention (and any rights derived from research into same), and
- goodwill, to the extent that it directly relates to the assets outlined above.

Tax deductions are available for offset against income generated from exploiting IP assets or as a result of the sale of goods or services that derive the greater part of their value from the IP.

The maximum IP tax relief available (including deductions for funding costs associated with the acquisition of IP) in a given year is restricted to 80% of the relevant profits of the company. Any excess deductions may be carried forward and offset against IP profits in succeeding years, subject to the 80% restriction.

### Ireland as a holding company location

Irish tax legislation provides for an exemption from capital gains tax for Irish resident companies which make disposals from substantial shareholdings (at least 5%) in trading subsidiaries tax resident in an EU or tax treaty country (including Ireland). In group situations, holdings of other members of the group are taken into account in determining whether the minimum holding requirement is met.

Under foreign tax credit pooling rules, an excess tax credit arising in respect of a foreign dividend may be offset against the corporation tax arising on other foreign dividend income. Excess tax credits arising in an accounting period may be carried forward indefinitely for offset against corporation tax on foreign dividends in later periods. Any excess foreign tax credits arising in respect of a foreign branch may be offset against Irish tax arising on branch profits in other countries in the year concerned.

Irish tax legislation has no thin capitalisation or controlled foreign corporation (CFC) rules, and has only limited transfer pricing provisions.

### Closely held companies

A surcharge of 20% is payable on the total undistributed investment and rental income of a close company. Close “service” companies are also liable to a surcharge of 15% on one-half of their undistributed trading income.

### Start-up companies

New or start-up companies, which were incorporated on or after 14 October 2008 and which commence trading in 2009, subject to certain conditions, are exempt from corporation tax and chargeable gains on the disposal of assets used for the new trade. This relief applies for three years from the commencement of the trade.

#### Planning tip!

New tax relief is available for companies on the acquisition of qualifying IP assets, including acquisitions from related parties, at market value.

Corporation tax liability for the period	Availability of relief
< €40,000	Fully exempt
€40,000 - €60,000	Marginal relief
> €60,000	No relief

# Corporation tax

Relief does not apply to companies which carry on land dealing, petroleum and mineral activities nor closely held companies. Relief is restricted to new trades and it does not apply if the trade was previously carried on by another person in the State.

## Dividend withholding tax (DWT)

A withholding tax at the standard income tax rate applies to dividends and other profit distributions of an Irish tax resident company other than when made to its 51% Irish tax resident holding company. Exemption from withholding tax is available, on due claim, in the case of payments to certain shareholders, including:

- Irish tax resident companies (apart from 51% holding companies of the Irish dividend paying company)
- companies resident in EU Member States or tax treaty countries and which are not under the direct or indirect control of Irish residents
- non-resident companies ultimately controlled by residents of EU Member States or tax treaty countries
- companies whose shares are listed on a recognised stock exchange in an EU Member State or in a tax treaty country or any other exchange approved by the Minister for Finance. This relief also applies where the recipient is a 75% subsidiary of such a listed company or is wholly owned by two or more such companies
- designated brokers receiving dividends on behalf of holders of special portfolio investment accounts
- certain non-corporate residents of EU Member States or tax treaty countries
- charities, pension funds, certain retirement funds and certain sports bodies
- certain collective investment funds
- certain individuals entitled to receive tax-free income
- certain employee share ownership trusts.

In addition, DWT does not apply to distributions not subject to tax in the recipient's hands (ie dividends from patent companies to qualifying shareholders). Detailed conditions, which may include the making of appropriate declarations, must be met to avail of the above exemptions.

## Self assessment - payment and returns

Preliminary tax Current arrangements	Preliminary tax New arrangements <sup>†</sup>
<ul style="list-style-type: none"> <li>• Preliminary payment of 90% of the final tax liability is due one month before the end of the accounting period</li> <li>• The balance of tax is due nine months after the end of the accounting period</li> </ul>	<ul style="list-style-type: none"> <li>• <b>First instalment:</b> <ul style="list-style-type: none"> <li>- Payment is due six months from the start of the accounting period</li> <li>- 50% of previous year's final liability <u>or</u> 45% of the current year's final liability</li> </ul> </li> <li>• <b>Second instalment:</b> <ul style="list-style-type: none"> <li>- Brings total preliminary tax payment up to 90% of the final liability</li> <li>- Payment is due one month from the end of the accounting period</li> <li>- Balance of tax is due nine months after the end of the accounting period</li> </ul> </li> </ul>

<sup>†</sup> The new arrangements apply to "large companies" with accounting periods commencing on or after 14 October 2008. They do not apply to the following:

- "small companies"
- "large companies" with accounting periods commencing before 14 October 2008, and
- a company whose accounting period is 7 months or less.

Important considerations regarding tax payments and the filing of tax returns include:

- "Small companies", companies with a corporation tax liability in the previous year which did not exceed £200,000, may opt to pay preliminary tax based on the prior year's liability. The preliminary tax payment in such cases can be equal to the prior year's liability.
- New or start-up companies with a corporation tax liability of not more than €200,000 for their first accounting period are not required to pay preliminary tax in respect of that accounting period. Instead, the final corporation tax liability for the accounting period is due at the same time as the corporation tax return is due.
- A company's preliminary tax liability includes corporation tax, close company surcharge and any income tax liabilities for the accounting period.
- Tax payments must be made not later than the 21st day of the relevant month.
- In order to encourage electronic filing of corporation tax returns, the return filing and payment deadlines for corporation tax have been extended to the 23rd of the relevant month. These extensions apply from 1 January 2009.
- Special rules apply where a chargeable gain arises in the last month of the accounting period. Special rules also apply for a company which has adopted IFRS in relation to its financial assets and liabilities.
- Where applicable, a company must file a dividend withholding tax return, and remit the withholding tax deducted from dividends or other distributions, by the 14th day of the month following payment of the dividend/distribution.

### Planning tip!

Ensure you effectively manage the allocation of each year's group relief to significantly minimise and defer tax payments.

# Corporation tax

## Tax treaties

Companies that are resident in Ireland may avail of the benefits of Ireland's tax treaties. The tax treaties secure a reduction or, in some cases, a total elimination of withholding tax on dividends, royalties and interest. Ireland has concluded, or is in the process of concluding, tax treaties with the following countries:

- Australia
- Austria
- Belgium
- Bulgaria
- Canada
- China
- Chile
- Croatia
- Cyprus†
- Czech Republic
- Denmark
- Estonia
- Finland
- France†
- Germany†
- Greece
- Hungary
- Iceland
- India
- Israel
- Italy†
- Japan
- Korea (Republic of)†
- Latvia
- Lithuania
- Luxembourg
- Macedonia (effective from 1 January 2010)
- Malaysia
- Malta (effective from 1 January 2010)
- Mexico
- Netherlands
- New Zealand
- Norway
- Pakistan†
- Poland
- Portugal
- Romania
- Russia
- Slovak Republic
- Slovenia
- South Africa\*
- Spain
- Sweden
- Switzerland
- United Kingdom
- United States
- Zambia
- Vietnam

†These treaties are being re-negotiated

\* Protocol agreed

### Treaties are being negotiated with:

- Albania
- Argentina
- Armenia
- Azerbaijan
- Belarus
- Bosnia Herzegovina
- Egypt
- Georgia †
- Kuwait
- Moldova
- Morocco
- Serbia
- Singapore
- Thailand
- Tunisia
- Turkey †
- Ukraine

† Awaiting ratification

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