BY
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Finance Bill 2014

Finance Bill 2014 was published on 23 October 2014; the Bill includes many tax measures not previously announced and also confirms the announcements made by the Minister of Finance in his Budget speech. In this article Mark Doyle examines, at a high level, the main[1] tax changes that will impact taxpayers.

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Trading losses

The Bill introduces a restriction on income tax relief for trading losses; to avail of full loss relief the taxpayer will have to spend on average 10 hours a week working in a loss making trade. Where the taxpayer does not qualify the loss offset is restricted to the lower of the loss actually incurred, and €31,750. Certain trades are excluded from this treatment e.g. farming.

Vodafone "C" shares

The Bill provides that dividends in respect of Vodafone "C" shares will be treated as capital receipts for tax purposes (i.e. subject to CGT) where the payment does not exceed €1,000. However, a shareholder can elect to have the dividend treated as income.

Special Assignee Relief Programme ("SARP")

A number of proposed changes to the SARP to make it more attractive for key individuals to relocate to Ireland are included. The main changes are:

- An extension of SARP for individuals arriving in Ireland up to the end of 2017.
- Removal of the €500,000 earnings ceiling from 2015 onwards.

For employees arriving in Ireland from 1 January 2015 the following changes apply:

- The requirement to be exclusively tax resident in Ireland has been removed.
- The period of time for the employee to be working for their employer prior to their relocation to Ireland has been reduced to 6 months (previously 12 months).
- Where employees are required to carry out duties outside of Ireland the relief will still apply.

Foreign Earnings Deduction

The Bill extends the relief to 31 December 2017 and introduces a number of enhancements:

- A reduction in the minimum number of qualifying days from 60 to 40 (in a 12 month period).
- The requirement to spend 4 consecutive days in a qualifying country has been reduced to 3 days (certain travel time can also be included).

Employment and Investment Incentive ("EII")

The Bill proposes a number of changes to EII relief as follows:

- To increase the current finance raising threshold over a 12 month period from €2.5m to €5m and the amount of finance that can be raised over the lifetime of a company from €10m to €15m.

1 Readers should note that there are a large number of Finance Bill measures not examined in this article due to space constraints

▶ Continued on Page 28

▶ Continued from Page 27

- To increase the minimum shareholding period to avoid a clawback of relief for investors from 3 years to 4 years.
- To extend the relief to companies involved in the management and operation of nursing homes, and internationally traded financial services (subject to certification from Enterprise Ireland)
- To provide that a claim for EII relief will not be allowed unless the company in which the investment is made qualifies for a tax clearance certificate at the time the claim is made.

Leasing of farm land

The current income tax exemption for leasing farm land is improved by increasing the exemption thresholds by 50% and introducing a new threshold for lease periods of 15 years or more. The Bill also removes the requirement for the lessor of the land to be over 40 years of age.

Certain leases of farm land have also been exempted from stamp duty.

Retirement relief for farmers

Heretofore, where farm land has been leased by an individual, in order for that land to qualify for retirement relief the individual must have held and farmed the land for at least 10 years immediately prior to the letting and the land cannot have been let for a period in excess of 15 years. To assist in the handover of land to younger farmers, retirement relief is extended by the bill to include farm land which has been let for up to 25 years prior to disposal.

In addition, the Bill provides for retirement relief on a disposal of land currently let on conacre provided the land is disposed of on or before 31 December 2016.

Close relative relief

Close relative relief is a relief from stamp duty which reduces the rate of stamp duty to 1% on the transfer of non-residential property between certain relatives; this relief will expire on 31 December 2014.
The Bill provides for the retention of close relative relief until 1 January 2018 for transfers of farm land where the transferor is under 66 years of age and the transferee spends at least 50% of their normal working time farming land (which must include the transferred land) on a commercial basis for a period of at least 5 years after the transfer.

Abolition of windfall tax

As flagged by the Minister of Finance in advance, the bill has not extended beyond 31 December 2014 the CGT exemption for gains on land or buildings purchased and held for a period of 7 years.

The Bill abolishes the windfall tax provisions introduced in 2009 that applied an 80% tax rate to certain land related profits. The 80% tax rate will be abolished for disposals on or after 1 January 2015.

Rent-a-room relief

Proposed amendments to this relief will mean that from 2015 homeowners who rent a room(s) in their private residence will be able to receive total income up to €12,000 per annum (was €10,000) free from income tax.

Home Renovation Incentive (“HRI”)

The Bill extends the HRI to include rental properties owned by individual landlords, where the property is occupied under a PRTB registered tenancy, or which is intended for occupancy under a PRTB registered tenancy, and is occupied within 6 months of completion of the renovation work. The extended relief is available for renovation work carried out from 15 October 2014 until 31 December 2015, although some transitional provisions apply.

Farmers flat-rate VAT addition

The Bill provides for the increase in the flat-rate farmer addition from 5% to 5.2% with effect from 1 January 2015.

VAT on green fees

The Bill introduces measures to allow for the VAT exemption for green fees for member owned golf clubs. This change will take effect from 1 March 2015 (although Revenue have already accepted the exemption in practice).

Research and Development tax credit
The Bill provides for the removal of the 2003 base year restriction for R&D expenditure. This amendment will allow companies to claim the R&D tax credit on their entire qualifying spend.

Support and maintenance payments
Currently payments made for the support, maintenance or education of a child of a disponer are exempt from gift tax regardless of the age of the child. The Bill introduces an age limit for this relief; the exemption will only apply to children under the age of 18, or those between the ages of 18 and 25 who are in full-time education.

Agricultural relief

For gifts or inheritances taken on or after 1 January 2015, an individual will only qualify for agricultural relief where they meet the existing farmers test (i.e. the 80% asset test) and either:

i. They spend at least 50% of their normal working time farming agricultural property on a commercial basis with a view to the realisation of profits from that agricultural property for a period of at least 6 years, or
ii. Lease the whole or substantially the whole of the agricultural property for a period of at least 6 years to an individual who would qualify under (i) above.

Where an individual initially qualifies as a ‘farmer’ under the new provisions but ceases to qualify within the following 6 years, any agricultural relief claimed will be subject to a claw back.

Conclusion

The Bill contains a significant number of complex tax changes that will impact on practitioners and their clients on a daily basis. To keep abreast of proposed tax changes, practitioners should carefully review the Bill and subsequent amendments as the bill passes through the Dáil in the coming weeks. Like last year, we can expect the bill to pass into law by the end of the year.

Information contained in this article is correct at 23rd October, 2014.