

Specified reliefs restrictions

High earners restriction

The restriction inserted by Finance Act 2006 on the use of certain tax shelters and reliefs collectively known as “specified reliefs” (SR) by “high earners” is to be amended further under Finance Act 2010.

The restriction was introduced in 2006 to impose a minimum effective tax rate for “high earners” by restricting the amount of SR’s that they can claim in any one tax year. Where reliefs are restricted they are not lost but are brought forward to the next tax year.

Finance Bill 2010 widens the definition of a “high earner” and increases the minimum effective tax rate applicable.

Who is a “high earner”?

The legislation determines a “high earner” as one who has income known as “adjusted income” (AI) **and** claims “specified reliefs” above prescribed minimum thresholds in a tax year.

The minimum threshold for tax years 2007 to 2009 inclusive was €250,000 for both AI and SR’s. For 2010, AI is reduced to €125,000 with SR’s falling to €80,000. These thresholds reduce further where income earned includes that from deposit interest, foreign life policies income and offshore funds.

What is a “specified relief”?

Schedule 25B TCA 1997 lists 54 different SR’s. Some common SR’s include most capital allowance incentive schemes, BES seed capital

and film investment schemes, tax exempt patent income and charitable donations.

What is “adjusted income”?

Broadly speaking, AI is total income before any tax relief is claimed. It is calculated by adding back the aggregate SR’s claimed in the tax year to the taxable income otherwise arising had there been no restriction of the reliefs. There is a further adjustment where deposit interest, offshore funds or foreign life policy income was earned.

Example

Joe Smith is single and has professional income of €365,000 and rental profits of €35,000 in 2009 and 2010. His annual SR’s are €110,000 of capital allowances and a BES investment of €150,000. Joe’s taxable income (TI) before any restriction of his SR’s is €140,000 in both years. His AI is €400,000 in each year.

Joe is a “high earner” in 2009 and 2010 as his AI and SR’s are both above the stated thresholds. The effect of the Finance Bill 2010 changes for Joe can be summarised as follows:

Tax year	Note	2009	2010
% SR’s used	1	96%	31%
Inc. tax liability	2	€53,856	€123,556
Effective tax rate		13%	31%

Note

- Percentage used ignores SR’s carried forward from 2009 to 2010 for the purposes of this calculation.
- Income tax is calculated before tax credits, PRSI, income levy and health contribution.

Tax compliance risks

To be fully tax compliant taxpayers categorised as “high earners” must file a Form RR1 with the Revenue Commissioners as part of their annual income tax submission.

Form RR1 will contain all relevant details of “adjusted income” and “restricted reliefs” arising in calculating their income tax liability for that particular tax year.

Tax planning

Given the enhanced restrictions brought about by Finance Bill 2010, tax advisors should identify those clients affected by the restriction, the tax compliance obligations arising therefrom and consider the possibilities to:

- split income levels and “specified reliefs” between spouses;
- bring forward income in 2010 into 2009; and
- structure one’s affairs to fall outside of the scope of this restriction.

For further details on this matter please feel free to contact us.

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