

Tax update

Issue 5 - November/December 2016

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- dwelling house exemption from Capital Acquisitions Tax (CAT) significantly curtailed in the Finance Bill;
- VAT and the place of supply of services connected with immovable property from 1 January 2017;
- changes to qualifying disclosure regime;
- PAYE end-of-year filing requirements for 2017 and subsequent years; and
- Knowledge Development Box (KDB) Bill 2016.

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Dwelling house exemption from Capital Acquisitions Tax (CAT) - significantly curtailed in the Finance Bill

This established CAT exemption allows an individual to receive a gift or inheritance of a dwelling house, in which that person has lived for three years before the date of the gift or inheritance, free of CAT.

However, the proposed legislation will abolish the current exemption in respect of all forms of gifts and inheritances.

The crux of the proposed change is that there is no scope for relief in the case of gifts (other than in limited circumstances), and in the case of inheritances, the donor must reside in the property at the date of death (again subject to limited exceptions).

The revised conditions include that the:

- dwelling house must be occupied by the donor as his/her only or main residence at the date of his/her death;
- dwelling house must be occupied by the successor as his/her only or main residence for the three years prior to the inheritance;
- dwelling house must be the only dwelling house to which the successor is beneficially entitled to, or in which the successor has a beneficial interest at the date of the inheritance; and
- successor continues to occupy the property as his/her only or main residence for a period of six years

commencing on the date of the gift or inheritance.

The expected effective date of the new provisions is likely to be the Finance Bill enactment date, circa 18 December 2016.

VAT and the place of supply of services connected with immovable property from 1 January 2017

European Union (EU) VAT regulations relating to the place of supply of services connected with immovable property will come into force on 1 January 2017.

The explanatory notes to the regulations confirm that services connected with immovable property will include only those services that have a sufficiently direct connection with that property. Services will be regarded as having a sufficiently direct connection with immovable property in the following cases, where they are:

- derived from an immovable property and that property makes up a constituent element of the service and is central to, and essential for, the services supplied; and
- provided to, or directed towards, an immovable property, having as their object the legal or physical alteration of that property.

By way of non-exhaustive list of examples, services which are regarded as having a sufficiently direct connection with immovable property include:

- drawing up of plans for a building or



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parts of a building designated for a particular plot of land regardless of whether or not the building is erected;

- provision of on-site supervision or security services;
- work on land, including agricultural services such as tilling and fertilising;
- surveying and assessment of the risk and integrity of immovable property; and
- valuation of immovable property, including when needed for insurance purposes.

The regulations are not legally binding. However, they are a welcome development which, going forward, should lead to greater consistency and uniformity in relation to determining the place of supply of such services for VAT purposes across the EU.

Changes to qualifying disclosure regime

Finance Bill 2016 has introduced new provisions which greatly affect the qualifying disclosure regime. This regime allows taxpayers to mitigate interest or penalties that Revenue might impose for failure to deliver correct returns by disclosing to Revenue any previously unreported income or gains. In addition to mitigating the ultimate liability of a taxpayer, the making of a qualifying disclosure means that the identity of the taxpayer will not be made public. Under the new provisions introduced in the Finance Bill 2016, benefits such as reduced penalties and non-publication will not be available if any part of the disclosure relates to “offshore matters” (i.e. any income, gains, accounts or assets, accruing, arising, situated or located outside of the State).

In this regard, the new provisions encompass a broad range of offshore activities, such that any failure in reporting tax liabilities arising outside the State may lead to unavoidable publication, on the list of tax defaulters and unmitigated tax geared penalties. As these **new provisions take effect from 1 May 2017**, there is a limited opportunity for taxpayers who wish to form disclosures relating to offshore matters to benefit from the qualifying disclosure regime.

PAYE end-of-year filing requirements for 2017 and subsequent years

On 8 November 2016, Revenue published eBrief 93/16 which provides that additional information will be required for inclusion in the PAYE end-of-year returns (Form P35) for 2017 and subsequent years.

The additional information consists of two monetary value fields as follows:

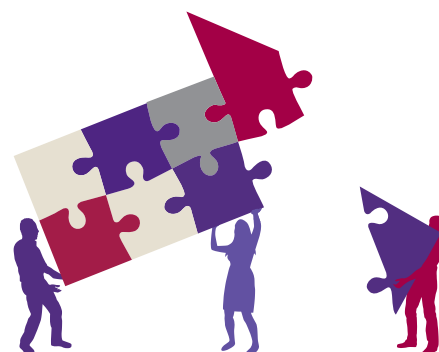
- company share-based remuneration, this is a share-based remuneration consisting of shares in the employer company or a company that controls the employer company that is included in ‘taxable pay (this employment)’ on the Form P35.
- taxable benefits, this is the amount of non-cash benefits (e.g. private use of a company car, preferential loans etc), other than company share-based remuneration (but including shares in companies that are not the employer company or a company that controls the employer company), that is included in ‘taxable pay (this employment)’ on the Form P35.

The above information should be captured in payrolls from 1 January 2017.

Knowledge Development Box (KDB) Bill 2016

The purpose of the KDB Bill 2016 is to provide a legislative framework for a new scheme aimed at SMEs, to allow them to avail of the KDB which was initially outlined in Finance Act 2015. The new scheme is aimed at SMEs involved in R&D activities in Ireland. This allows them to avail of the reduced corporate tax rate of 6.25% via the KDB and requires a certificate that the invention is novel, non-obvious and useful. The Bill outlines the procedures for applying for KDB certificates, who can apply, the procedure when an application fails to meet the requirements and when two or more inventions are the subject of a single application.

The above Bill also allows long term patents to continue to qualify for KDB after 1 January 2017.



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