BYRNE WALLACE

YOUR LEGAL BUSINESS PARTNERS

Budget 2011 Summary

December 2010

Dublin

2 Grand Canal Square, Dublin 2, Ireland
Tel +353 1 691 5000 Fax +353 1 691 5010
Email info@byrnewallace.com Dx 18 Dublin
www.byrnewallace.com

New York

Ireland House, 17th Floor, 345 Park Avenue,
New York, NY 10154, USA
Tel +1 212 906 1999 Fax +1 212 906 1997
Email ny@byrnewallace.com

Executive Summary

As expected, this Budget was delivered mainly in line with the National Recovery Plan 2011-2014 announced in November and contains very few surprises. The Budget is focused on broadening the tax base and attempting to address certain structural deficiencies with our tax system, while trying to support economic activity. In reducing the deficit in line with the National Recovery Plan it hopefully will send out a signal to our trading partners that some level of stability has returned and Ireland is open for business.

"In this world there are only two tragedies. One is not getting what one wants, and the other is getting it." Oscar Wilde

The Budget had to try to strike a balance between supporting business and economic activity and achieving the reduction of the deficit without stifling growth.

We are optimistic that with some level of certainty we can now return to business and individuals can get on with working their way out of the current crisis.

We hope you find our summary useful and we would be very happy to answer any of your queries or discuss any of the topics raised in further detail.

We look forward to hearing from you.

The ByrneWallace Tax Team

Some of the key features:

- No changes to headline income tax rates
- Income Levy and Health Levy have been replaced by a single Universal Social Charge
- Significant changes to PRSI including the removal of the ceiling for employee PRSI and an increase in the PRSI rate for the self employed and certain public servants
- The value of Income Tax bands and tax credits have been reduced by 10%
- The tax reliefs available on private pensions have been reduced
- Abolition of a number of income tax reliefs including the Patent Royalty Exemption and the relief related to the Approved Share Option Scheme, effective from the 24th November 2010
- Reform of the RCT System: replacement of the current RCT rate with a two rate withholding system
- Excise duty increased by 4 cent per litre on petrol and 2 cent on auto-diesel
- The 12.5% Corporation Tax rate remains unchanged
- The 3 year Corporation Tax exemption for start ups has been extended
- Reform of Stamp Duty on residential property transactions with a new rate of 1% for all transactions valued up to €1 million, with 2% applicable to transactions over €1 million
- A reduction in the air travel tax to €3
- Introduction of a 1% betting duty on all bets taken from Ireland by bookmakers
- Extension of the accelerated Capital Allowance Scheme for Energy Efficient Equipment for a further three years
- Introduction of an Employment and Investment Incentive scheme, with a focus on generating employment, which will replace the current BES scheme, subject to EU approval.

Tax on Individuals

Universal Social Charge

As previously signalled in Budget 2010 and the National Recovery Plan 2011-2014, the Minister announced that the Health Levy and Income Levy are to be abolished and replaced with a new Universal Social Charge. The Charge will have the following rates and thresholds:

- 0% < €4,004
- 2% €0 to €10,036
- 4% €10,037 to €16,016
- 7% > €16,016

In addition, numerous exemptions and reliefs which previously applied to the Health Levy and Income Levy are to be abolished. These are as follows:

- exemption from the Health Levy and Income Levy on Approved Profit Sharing Schemes
- exemption from the Health Levy and Income Levy on Approved Save-As-You-Earn Schemes
- exemption from the Health Levy on Unapproved Share Options
- exemption from the Health Levy on Share Awards

From 1 January 2011, the full Universal Social Charge shall apply to each of the above.

PRSI Changes

While it is not to be combined with the Universal Social Charge, some changes to PRSI have also been announced. These are:

- abolition of €75,036 ceiling for all taxpayers
- rate increased from 3% to 4% for self-employed (Class S)
- rate increased from 3% to 4% for certain public servants on incomes in excess of €75,036
- introduction of 4% charge for certain Ministers

These changes are likely to be significant for high-earners, the self-employed and some civil servants, while most employees (those earning less than €75,036) should be unaffected.

As with the Universal Social Charge, some exemptions and reliefs which previously applied to PRSI are also to be abolished. These are as follows:

- exemption from PRSI on Approved Profit Sharing Schemes
- exemption from PRSI on Approved Save-As-You-Earn Schemes
- exemption from PRSI on Unapproved Share Options

Tax on Individuals
Continued

Pensions

Significant changes to tax regime surrounding pensions have also been introduced. The specific measures were all announced as part of the National Recovery Plan 2011-2014 and are as follows:

- employee contributions to occupational pension schemes and other pension arrangements will now be subject to PRSI and the Universal Social Charge, previously such payments were exempt from PRSI, the Health Levy and Income Levy
- the annual earnings limit which determines the maximum tax-relievable pension contribution in any given tax year is being reduced from €150,000 to €115,000 for the 2011 tax year onwards
- the maximum allowable pension fund on retirement, known as the Standard Fund Threshold, is to be reduced to €2.3m with effect from 7 December 2010 (though a higher threshold can apply in certain limited circumstances)
- the imputed annual distribution for Approved Retirement Funds is to be increased from 3% to 5% with respect to asset values as at 31 December 2010 and onwards
- the overall life-time limit on the amount of tax-free retirement lump sums that an individual can receive is being reduced to €200,000 with effect from 1 January 2011. For amounts received in excess of this limit some marginal relief is available

Given the extent of these changes, and the additional changes announced in the National Recovery Plan that are yet to be introduced, it is likely that many individuals will curtail contributions to their pensions to some extent. This is disappointing considering the importance of private pension schemes in the context of the potential future economic burden of an ageing society.

Relief for Energy Efficiency Measures

The Minister announced a new scheme to provide tax relief to individuals for expenditure incurred on energy efficient equipment for their homes. The relief will take the form of a tax credit which will be given up to a maximum expenditure of €10,000 at the standard rate of tax (i.e. €2,000 being the maximum tax credit). It is proposed that the credit will be provided in the tax year following that which the expenditure is incurred.

Patent Royalty Exemption

Similar to the exemption for corporate entities, the income tax exemptions for patent royalties and dividends received from patent companies have also been abolished with effect 24 November 2010.

Property Based "Legacy" Reliefs

The Minister announced that the "legacy costs" associated with property based income tax reliefs are to be phased out by 2014 by restricting the availability of the reliefs. The Minister distinguished between Section 23-type Reliefs, which from 1 January 2011 is to be restricted to income from the Section 23 property itself, and other property based tax incentives which are to be restricted to being offset against income from the property which gave rise to the relief from 2011 and phased out completely by 2014. It is intended that all unclaimed and unused capital allowances or Section 23 relief arising after or carried forward from 2014 be terminated.

Ex-Gratia Termination Payments

With effect from 1 January 2011, the tax-free element of ex-gratia termination payments is to be restricted to €200,000. Any payments above this amount will be subject to tax at the marginal rate.

Artists Exemption

With effect from 1 January 2011, the artists' exemption from income tax is to be restricted such that an individual qualifying for the exemption can only receive income of up to €40,000 tax-free. Any income earned in excess of this amount will be subject to tax at the marginal rate.

Abolition of other Income Tax Reliefs

In line with the Government's stated intention to restrict the amount of tax reliefs available and broaden the income tax base, a number of other income tax reliefs are to be abolished with effect from 1 January 2011. These are as follows:

- tax relief on rent (phased out over an 8 year period)
- tax relief on loans to acquire shares in certain companies
- tax relief for trade union subscriptions
- tax exemption from BIK for employer provided childcare
- tax relief on subscriptions to professional bodies
- Approved Share Option Schemes (effective from 24 November 2010)
- tax relief for new shares purchased by employees

Tax on Business

Corporation Tax

As communicated in the National Recovery Plan 2011-2014, the Minister reaffirmed the Government's commitment to retaining the 12.5% corporation tax rate and emphasised its importance for future economic growth. This is good news for both domestic companies and foreign direct investment.

Employment and Investment Incentive Scheme

In a welcome move to support SMEs, a new scheme known as the "Employment and Investment Incentive" was announced by the Minister. The Scheme is being introduced to replace the under-utilised BES legislation and proposes an increase in the amount that companies can raise under the Scheme from €2m to €10m. It is also proposed that the maximum amount that can be raised in any 12 month period is raised from €1.5m to €2m, as well as relaxing certain certification requirements. The Minister stated that the new Scheme requires approval from the European Commission and the old Scheme will continue until such approval is received.

3 Year Tax Exemption for Start-up Companies

This exemption is being extended to include start-up companies which commence a trade in 2011. As a result, companies which commence a trade in 2011 can be exempt from corporation tax and capital gains tax in each of the first three years, subject to their tax liability not exceeding €40,000. However, disappointingly, it is proposed that the relief will be restricted to the amount of employers' PRSI paid by the company in an accounting period (subject to a maximum of €5,000 per employee). Therefore, where the amount of employers' PRSI paid in the accounting period is less than the corporation tax liability for that period, the relief will be restricted to the lower amount.

Patent Royalty Exemption

As previously announced in the National Recovery Plan 2011-2014, the Minister confirmed the abolition of the exemption from corporation tax on the receipt of patent royalties, effective from 24 November 2010. This is a disappointing step given its potential to hamper Ireland's ability to remain as the destination of choice for multi-nationals investing in intellectual property.

Employer PRSI on Pension Contributions

The employer PRSI exemption for employee contributions to occupational schemes and other pension arrangements will be reduced by 50% from 1 January 2011.

Energy Efficient Equipment

The scheme of accelerated capital allowances for expenditure by companies on certain energy-efficient equipment is being extended for a further three years, until 2014.

Other Taxation Measures

Capital Taxes

Stamp Duty on Residential Property: The Minister announced the intention to reduce the rate of Stamp Duty on transfers of residential property. A new flat rate of 1% will apply to transfers of property valued up to €1m, while a rate of 2% will apply to properties valued over €1m. The new rates apply to instruments executed on or after 8 December 2010.

In addition, the Minister also announced the abolition of a number of stamp duty reliefs and exemptions in relation to residential property with effect from 8 December 2010. These are:

- first-time buyer relief
- exemption for new houses under 125 sq m in size
- relief on new houses over 125 sq m in size
- consanguinity relief for residential property transfers
- exemption for residential property transfers valued under €127,000
- site to child relief

D.I.R.T. & Exit Taxes: With effect for annual payments made on or after 1 January 2011, the rate of Deposit Interest for Retention Tax that applies to deposit interest and the rate of exit tax that applies to life assurance policies and investment funds are to be increased from 25% to 27%. The rates rise to 30% for payments that are rolled up and made less frequently than annually.

Capital Acquisitions Tax: With effect from 8 December 2010, the current group tax free thresholds for gifts and inheritances are to be reduced by 20%. However, the current rate of capital acquisitions tax was left unchanged at 25%.

Capital Gains Tax: The current rate of capital gains tax was left unchanged at 25%.

Indirect Taxes & Misc.

VAT & Excise Duties: The standard rate of VAT remains unchanged for 2011 and 2012 at 21%. In 2013 there will be an increase to 22% and in 2014 to 23%. This was already announced in the National Recovery Plan 2011-2014.

Mineral Oil Tax will be increased by 4% per litre on Petrol and by 2% per litre on auto-diesel, effective from midnight 7 December 2010.

The Car scrappage scheme has been extended until 30 June 2011 and VRT relief of up to €1,250 is granted under certain conditions. The VRT relief for series production hybrid and flexible fuel vehicles has been extended until December 2012. The VRT flat-rate for Commercial vehicles (Category C) is being increased to €200 effective 1 May 2011.

The Air Travel Tax has been reduced to a single rate of €3 from 1 March 2011 to boost tourism, however on a temporary basis.

The RCT (Relevant Contract Tax) System has been changed quite considerably with the introduction of a two-rate withholding system. 20% for subcontractors registered for tax and having an established compliance record and 35% for non-registered subcontractors.

The repayment system has been replaced by an offset system, while introducing further reporting requirements for Principals.

2011 Rates and Credits

Standard Rate Tax Bands*

	Existing €	Proposed €	Decrease €
Single / Widowed Persons	36,400	32,800	-3,600
Married Couples One Income	45,400	41,800	-3,600
Married Couples Two Incomes	72,800	65,600	-7,200
One Parent / Widowed parent	40,400	36,800	-3,600

* The tax band of €65,600 available to married couples with two incomes in 2011 is transferable between spouses up to a maximum of €41,800

Tax Credits

	Existing €	Proposed €	Decrease €
Personal Credit - Single Persons	1,830	1,650	-180
Personal Credit - Married Persons	3,660	3,300	-360
Employee Credit	1,830	1,650	-180
Additional One-Parent Family Credit	1,830	1,650	-180
Home Carer Credit	900	810	-90
Widowed Person Bereaved in Year of Assessment	3,660	3,300	-360

Exemption Limits

65 Years and Older	Existing €	Proposed €	Decrease €
Single	20,000	18,000	-2,000
Married	40,000	36,000	-4,000

Other Credits

	Existing €	Proposed €	Decrease €
Incapacitated Child Tax Credit	3,660	3,300	-360
Dependent Relative Tax Credit	80	70	-10
Blind Persons Tax Credit - Single	1,830	1,650	-180
Blind Persons Tax Credit - Married (Both Blind)	3,660	3,300	-360
Additional Credit for certain Widowed persons	600	540	-60
Widowed Parent Tax Credit - Year 1	4,000	3,600	-400
Widowed Parent Tax Credit - Year 2	3,500	3,150	-350
Widowed Parent Tax Credit - Year 3	3,000	2,700	-300
Widowed Parent Tax Credit - Year 4	2,500	2,250	-250
Widowed Parent Tax Credit - Year 5	2,000	1,800	-200
Age Credit - Single	325	245	-80
Age Credit - Married	650	490	-160

Universal Social Charge (USC)**

	Existing	Proposed	Decrease
Total Income below €4,004 per annum	n/a	0%	n/a
Income up to €10,036 per annum	n/a	2%	n/a
Income between €10,037 and €16,016 per annum	n/a	4%	n/a
Income over €16,016 per annum	n/a	7%	n/a

** The USC replaces the Income Levy and the Health Contribution which are abolished with effect 1 January 2011

PRSI

	Existing	Proposed	Difference
Abolition of PRSI Ceiling with effect from 1 January, 2011	€75,036	n/a	n/a
Class S PRSI Rate Increased from 3% to 4%	3%	4%	+1% point
Modified PRSI Rate (certain Public Servants) increased on incomes > €75,036	0%	4%	+4% points
Office Holders: Introduction of 4% Rate for Persons Holding certain Offices of State	n/a	4%	+4% points

Key Contacts

ByrneWallace is one of Ireland's largest law firms and advises in relation to all aspects of taxation. For further information please contact one of the following:

Ursula Tipp
Partner & Head of Tax

Tel: +353 1 691 5283
utipp@byrnewallace.com

Andrew Kenny
Tax Adviser

Tel: +353 1 691 5500
alkenny@byrnewallace.com