BY
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Finance Bill 2017

Mairéad Hennessy gives an overview of Budget 2018 / Finance Bill 2017

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On 10th October 2017, Finance Minister Pascal Donohoe announced Budget 2018. Similar to last year, the government is operating on the back of a sustained period of strong domestic economic growth and improved employment rates. The measures introduced aim to support an improved supply of housing, capital and infrastructure investment and help businesses deal with the challenges presented by Brexit.

This article provides commentary on the main measures announced in the Budget and further details as provided for in the Finance Bill which was published on 19th October 2017.

Personal taxation measures

Income tax rates remain unchanged with the standard rate at 20% and the higher rate at 40%.

The point at which an individual attracts the higher 40% income tax rate has increased by €750. Therefore, the income levels at which individuals will pay the higher tax rates in 2018 compared with 2017 are as follows:

Standard Rate Tax Band	2018	2017
Single Individual	€34,550	€33,800
Married One Income	€43,550	€42,800
Married Two Incomes	€69,100	€67,600

Income tax credits

Personal Income Tax Credits remain unchanged at €1,650 for single individuals and €3,300 for married couples. The Earned Income Tax Credit will increase from €950 to €1,150 in 2018 for taxpayers earning self-employed trading or professional income and for business managers who are not eligible for the PAYE tax credit of €1,650. The Home Carer's Tax Credit will increase by €100 for 2018 to bring it up to €1,200 per annum. This credit can be claimed by a jointly-assessed couple where one spouse or civil partner works in the home to care for children or other dependents.

Universal social charge (USC)

The entry point of USC remains at €13,000. However, the 2.5% rate will reduce to 2% and the 5% rate will reduce to 4.75%.

The USC rates applicable to income for 2018 will be:

- On the first €12,012 - **0.5%**
- On the next €7,360 - **2.0%**
- On the next €50,672 - **4.75%**
- On the balance - **8%**
- Self-employed earning in excess of €100,000 - **11%**

The Budget 2018 changes to the USC rates and income bands reduces the top marginal rate of tax on income of up to €70,044 to 48.75%.

A working group will be established to plan the amalgamation of USC and PRSI over the medium term. Reducing the personal tax burden on the working population remains a key issue for the future. Hopefully, the consultation in relation to PRSI and USC will provide a platform to address such broader personal tax issues.

Business taxation

Importantly, Minister Donohoe reaffirmed the government's commitment to the 12.5% corporation tax rate. In recognising the importance of certainty in relation to taxation, a public consultation is being launched on the recommendations contained in Mr Seamus Coffey's Review of the Corporate Tax Code.

Specific business taxation measures announced include:

- A new *Brexit Loan Scheme* of up to €300 million will be available to SME's at competitive rates to support short-term working capital needs. This is intended to help SME's adapt and grow their businesses in advance of Brexit.
- The scheme of *accelerated capital allowances for energy efficient equipment* will be extended to the end of 2020.
- *Capital allowances for intangible assets* provided for under Section 291A TCA 1997 and any related interest will be restricted to 80% for expenditure incurred by a company on specified intangible assets with immediate effect.
- The Finance Bill inserts an anti-avoidance measure into the capital gains tax exemption on the *disposal of certain shareholdings* as provided for under Section 626B TCA 1997. For disposals made on or after 19 October 2017, money or other assets which are transferred to a company prior to a disposal of shares in that company in order that the share value will be derived mainly from those assets, will not be taken into account in determining whether the value of the shares disposed of is derived from those assets.
- A Committee Stage amendment to the Finance Bill will significantly amend the operation of the *Employment and Investment Incentive* (EII) as provided for in Section 492 TCA 1997. This amendment is being introduced to address a compliance issue with EU State Aid rules. The change ensures that the tax relief is only available to persons who are independent from the company.

From 2 November 2017, individuals can no longer claim EII relief for investments made in a company with which they are connected, except where:

i. The only shares a person holds in a company are a result of a previous EII investment. Such an investor, may make a follow-on investment in the company;
ii. The only shares issued are the founder shares issued on the incorporation of the company and the company has not yet commenced to trade. The connected individual is eligible to claim EII relief as the founder shares are not taken into account.

Employment taxes

Key employment engagement programme

A new Key Employee Engagement Programme (KEEP) is being introduced to support SME's attract and retain key talent by providing for an advantageous tax regime on employee share options. The Finance Bill contains details in relation to this new scheme which will be available for qualifying options granted during the period 1 January 2018 to 31 December 2023, subject to EU approval.

Under this scheme, gains arising to a key employee on the exercise of qualifying share options granted under the KEEP scheme will be exempt from income tax, USC and employee's PRSI. This means that if the company share price has increased in value between the time of grant and the exercise of the qualifying share option, the uplift in value is received tax-free by the key employee. Under current rules, the value of such gain is subject to income tax, USC and employee PRSI i.e. a potential tax liability for the employee of 52%.

Under KEEP, the employee will only pay capital gains tax at the current 33% rate on the ultimate sale of the company shares.

The value of shares acquired by key employees under the KEEP incentive will also be exempt from employer PRSI contributions, in line with the current regime applying to share-based remuneration.

The Finance Bill provides that the main features of KEEP include:

- The company must be an SME i.e. be an unquoted trading company with less than 250 employees and either an annual turnover of not more than €50 million and / or an annual Balance Sheet total not exceeding €43 million;
- The company must be Irish incorporated and resident. Alternatively, it may be resident in an EEA State but carries on a business in Ireland through a branch or agency;
- The scheme will include trades engaged in financial activities, professional services and building and construction trades;
- The scheme is available to full-time directors and employees who spend at least 30 hours per week working for the company. Importantly however, the scheme excludes proprietary directors (i.e. directors owning more than 15% of the share capital of the company);
- In order to qualify for the tax incentive, the share options must be granted at market value;
- The value of options that may be granted to a director or employee cannot exceed €100,000 in any one year, €250,000 over a 3-year period or 50% of the individual's annual emoluments in the year in which the option is granted;
- So long as the qualifying option is not exercised for 12 months after it is granted, tax will be deferred until the shares are sold, at which point capital gains tax will apply;
- The total market value of the issued but unexercised options of the company must not exceed €3 million;
- There will be an annual reporting requirement by 31 March following the year end. Should a company fail to comply with this requirement it will no longer qualify for the scheme which will trigger income tax on the exercise of the options.

Benefit-in-kind on electric vehicles

It was announced in the Budget that there will be a 0% benefit-in-kind rate for employees receiving electric vehicles from their employers in 2018. At the end of October, Minister Donohoe confirmed that this tax incentive will now be available for a minimum of three to five years. The exact details regarding the scheme will be set out in the Finance Act when it is enacted.

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The Minister has confirmed a review of benefit-in-kind for employees and directors for vehicles with the aim of making recommendations for next year's Budget.

Retail and tourism

- It has been confirmed that the *9% VAT rate* for the hospitality sector remains unchanged at 9%.
- *Excise duty* on a packet of 20 cigarettes will increase by 50 cents with a pro rata increase on other tobacco products.

Agricultural sector

Leasing land for solar panels

The leasing of agricultural land for the use of solar panels will be treated as a qualifying agricultural activity for the purposes of Capital Acquisitions Tax and Retirement Relief for Capital Gains Tax. However, there is the caveat that the solar panel infrastructure cannot exceed 50% of the total acreage of the farmland.

Consanguinity relief

Consanguinity relief for stamp duty on inter-family farm transfers is being extended for a further three years. A 1% stamp duty rate will apply to these transfers. The exemption for young trained farmers from stamp duty on agricultural land transactions remains.

Property measures

Stamp duty on commercial property

The rate of commercial stamp duty increased by 4% up to 6% with effect from midnight on 10th October subject to transitional measures provided in the Finance Bill. These transitional measures provide that the former lower rate of 2% may apply to a conveyance on sale or transfers executed on or before 1 January 2018, provided there was a binding contract in place on or before 10 October 2017 and the instrument contains a certificate to that effect.

Revenue have confirmed that, in circumstances where these transitional measures apply, a taxpayer may either:

- file the stamp duty return via the e-stamping system and pay stamp duty at the current rate of 6%. In such circumstances, a stamp certificate will issue. When the Finance Bill is enacted, the taxpayer can file an amended return and seek a refund of the additional stamp duty paid in excess of the 2% rate applicable to instruments where the transitional measures apply; or
- file the stamp duty return via the e-stamping system and pay stamp duty at the rate of 2%. In such circumstances, no stamp certificate will issue. Revenue have indicated that when the Finance Bill is enacted, they will provide further guidance as to how the stamp duty certificate may be obtained.

A stamp duty refund scheme was also announced in relation to the purchase of commercial land for development of housing. To qualify for this relief, developers must begin to develop the land within 30 months of purchasing the land. This scheme is not in the Finance Bill as published on 17th October but it is likely to be brought forward during the committee stage of the Bill.

Capital gains tax (CGT) 7- year exemption

The CGT relief in respect of land and buildings purchased between 7 December 2011 and 31 December 2014 applies where such property was held for a minimum 7-year period. This 7-year holding period to qualify for the CGT exemption will be reduced to an ownership period of at least 4 years and no more than 7 years. The relief will be tapered for property owned for more than 7 years.

Vacant site levy

The vacant site levy is due to come into effect in 2018 and can apply to sites with potential to provide housing to meet local housing demand. The levy will be applied for second and subsequent years that the site is vacant. From 1 January 2019, a levy rate of 3% will apply for property which has been held in 2018 and this rate will increase to 7% for each subsequent year.

Mortgage interest relief

Mortgage interest relief for individuals who took out qualifying home loans between 2004 and 2012 will continue until 2020 but on a tapered basis at just 75% in 2018, 50% in 2019 and 25% in 2020.

The restriction on interest relief on rented residential property will continue on a phased basis so that 85% of the interest payable which otherwise would be allowed, is available as a deduction against rental income received from 1 January 2018,90% for 2019, 95% for 2020 and 100% for 2021 and future years.

Pre-letting expenses

Property owners who rent out residential property that has been vacant for at least 12 months will be entitled to a tax deduction of up to €5,000 per vacant residential property for pre-letting expenses that are revenue in nature. To qualify, residential properties must be let between the date of passing of the Finance Act 2017 (expected in late December 2017) and 31 December 2021. The relief will be clawed back if the property ceases to be let as residential property within 4 years of the first letting.

Help to buy incentive

It is welcome that the Help to Buy (HTB) incentive has been retained without any changes. An Independent Assessment of the HTB has concluded that there is no evidence to date that HTB is impacting the price of homes for first-time buyers. However, the price of new builds must be carefully monitored over the coming months.

Final comment

Many of the new measures have been welcomed by SME's and the property sector. However, there is also disappointment that no improvements were made to the capital gains tax relief for entrepreneurs and the tax relief for foreign assignees to Ireland (SARP). It is hoped that enhancements to these incentives will be included in future Budgets to ensure Ireland remains an attractive location for business investment.