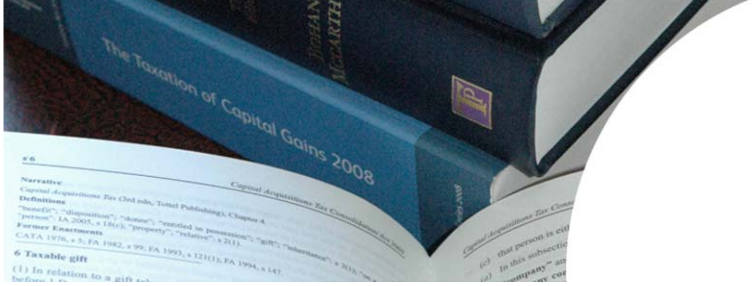

O'HANLON TAX LIMITED

Finance Act 2009

The Finance Act 2009 was signed on 3 June 2009, and the following summary looks at some of the main provisions of the Act.

Income Tax: Income Levy

The Finance Act 2009 increased the income levy to new levels, bringing the effective top rate of income tax to 54% (Income Tax 41%, PRSI 3%, Health Levy 5%, and Income Levy 5%) for the tax year 2009.

Under the current regime, the top rate of tax is set to be 55% for 2010 (Income Tax 41%, PRSI 3%, Health Levy 5%, and Income Levy 6%).

Top rate of Income Tax	
Income Tax	41%
Income Levy	6%
PRSI	3%
Health Levy	5%
Total	55%

The levy applies to gross income with no allowance for pension contributions or capital allowances, so it is an effective tax collection mechanism for the Minister. The marginal income tax rate would have to be increased by a figure slightly in excess of the new levy to bring in the same amount of tax.

The rate of income levy has changed mid-year in 2009 with one rate applying up to 31 April 2009 (top rate 3%) and a higher rate applying from 01 May 2009 (top rate 6%). When drafting the legislation the Minister used a blended rate for 2009, so the top rate this year is the blended 5%.

It should be noted that as PAYE employees pay tax on an earnings basis, they will have been paying the levy at the lower initial 2009 rate for the first 4 months, and will pay at the higher level for the last 8 months. Self-employed taxpayers filing returns on 31 October 2009 will use the blended rate.

Taxpayers who are paying 2009 preliminary tax in October 2009, and who opt to base the tax payment on 2008 tax figures (the 100% of last year's tax option) will have to recalculate their 2008 tax as if the income levy was payable in 2008.

Income Tax: Health Levy & PRSI

The threshold for payment of health levy remains at €500 per week. The rates have been doubled and the entry point to the higher rate has been reduced.

Income Level	Health Levy
Up to €75,036	4%
Over €75,036	5%

The employee's annual earnings ceiling for PRSI will be increased to €75,036 per annum (previously €52,000). The weekly PRSI exemption threshold is unchanged at €352.

Income Tax: Capital Allowances on Private Hospitals & Nursing Homes

The Finance Act 2009 ended the capital allowances scheme for private hospitals, nursing homes, convalescent homes, associated residential units and mental health centres. This is in line with the phasing out of tax-based investment schemes over the last few years.

Tax relief will remain in place for a few schemes, largely palliative care units and childcare facilities.

Income Tax: Mortgage Interest

The Finance Act 2009 reduced the tax deduction for interest paid by landlords in relation to a mortgage used to buy rented residential property, so they will only be entitled to deduct 75% of the interest paid. This provision does not affect loans for commercial properties.

Mortgage interest relief on principal residences has been discontinued for any mortgage over 7 years from 01 May.

Income Tax: DIRT & Withholding Tax

From 08 April 2009 the rate of DIRT on deposit accounts has been increased from 23% to 25%. Exit tax on payments from life assurance policies and investment funds has increased from 26% to 28%.

CGT: CGT on Sale of Assets

The rate increased from 22% to 25% for disposals occurring on or after 08 April 2009.

CAT: CAT on Gifts & Inheritances

The rate of capital acquisitions tax on a gift or inheritance has been increased from 22% to 25% for benefits taken on or after 08 April 2009, and the tax-free thresholds, below which no capital acquisitions tax is payable have been reduced by 20%.

CAT Thresholds:

CAT	2009	New 2009
Group A	€542,544	€434,000
Group B	€54,254	€43,400
Group C	€27,127	€21,700

This is the first time that there has been a reduction in the tax-free thresholds since the introduction of capital acquisitions tax. The new tax-free thresholds are back to 2003 levels. These thresholds had been increasing on an annual basis since 1991, in line with the consumer price index.

If the CPI shows a decrease in 2009, the current legislation may result in a further reduction in the tax-free thresholds in January 2010.

Stamp Duty: Stamp Duty "Trade In" Scheme

A new stamp duty "trade-in" scheme has been introduced. No stamp duty will be payable by a person who takes a traded-in property in exchange or part exchange for a new house or apartment. However, the stamp duty will fall due if the traded-in property is subsequently sold.

This provision appears to be aimed at builders and developers who have unsold units, and given the general cash flow issues in the industry it will presumably only be attractive if the potential purchaser is trading up and offering cash as well as property in return for the new dwelling.

Income Tax: Developer Losses on Residential Development Land

Profits on residential development land have been taxed at a flat rate of 20% over the last few years. Currently many developers are making losses on such land.

The Finance Act 2009 abolished the 20% rate of tax, so individuals will now pay income tax on residential land dealing profits at their marginal rate (for the year of assessment 2009).

The corporation tax rate was also changed, so companies will pay corporation tax on residential land dealing profits at 25% (for accounting periods ending on or after 01 January 2009).

The Finance Act 2009 also provided that if losses arise and a claim to use these losses has not been received by the Revenue Commissioners by 07 April 2009, then the losses will only be relievable (on a value basis) up to a maximum of 20%.

If the developer has ceased trading, so the loss is a terminal loss, the restriction will be implemented by "ring-fencing" the loss.

VAT: New Margin Scheme for Second-Hand Cars

A margin scheme has been introduced from 01 July 2009. Dealers will only need to charge VAT on the profit margin element where they buy and resell second-hand cars.

Second-hand cars acquired before 01 July 2009 and resold after that date will be taxed on the old rule (VAT on the full resale price) but the payment of the VAT due may be spread in equal amounts over the following 3 VAT periods.

The dealer cannot write off any VAT input credit received he bought the second-hand car.

VAT: VAT on Property

The Finance Act 2009 introduced a number of new provisions with regard to the "waiver of exemption" on short term lettings. The act provides that where a property is sold, the exemption will be deemed to be cancelled, and the landlord has to pay Revenue the VAT originally reclaimed, less the amount of VAT paid to Revenue on rents received.

All Taxes: New Rate of Interest

The Finance Act 2009 reduced the rate of interest on unpaid tax from 0.0273% per day, or part thereof, to 0.0219% (effectively reducing the rate from circa 10% pa to 8% pa).

There is a higher rate of interest on fiduciary taxes, such as VAT, PAYE and RCT, and this rate was reduced from 0.0322% per day, or part thereof, to 0.0273% (i.e. from circa 12% pa to 10% pa).

Life Assurance Premiums

The 2% levy on non-life insurance premiums was increased to 3%, and a new levy of 1% was introduced on life assurance policies.

Air Travel Tax

The Air Travel Tax (ATT) which was introduced by Finance (No. 2) Act 2008 was amended by Finance Act 2009. The Act provided that passengers departing from airports with less than 50,000 passengers per annum would not be subject to ATT, and removed the requirement for airlines to file monthly returns detailing passenger numbers.

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