Finance (No. 2) Act 2013

Finance (No. 2) Act 2013 was enacted on 18th December 2013 following on from the Budget on 15th October 2013.

The following note also includes some changes introduced by the Social Welfare & Pensions (No. 2) Bill 2013.

The following is a brief summary of the main provisions introduced that we envisage are of most relevance to our clients.

If you require any further details on any of the changes or details of any changes that we have not included in this summary please contact your usual Gilroy Gannon contact in the first instance.

Personal Tax and Employee/Employer Issues

PRSI Changes

Unearned Income

The Social Welfare and Pensions Bill introduces extended the scope of PRSI to unearned income from 1st January 2014. The 4% rate will apply.

Individuals who are not chargeable persons (not required to file a tax return) are excluded from this charge to PRSI.

Persons over 66 years of age are not liable to PRSI and therefore will not be affected by this change.

The PRSI assessed on unearned income will not contribute to an individual's entitlement to Social Welfare benefits.

Employers PRSI

The reduced rate of employer PRSI on earnings of less than €18,512 will revert to 8.5% (from 4.25%) from 1st January 2014.

Abolition of Top Slicing Relief

Top slicing relief ensured that the taxable element of an ex-gratia lump sum received on retirement or redundancy was taxed at an individual's average rate of tax in the three years prior to the retirement/redundancy.

The relief was previously capped at €200,000.

This relief will no longer apply to payments made on or after 1st January 2014.

One Parent Family Credit

From 1st January 2014, the Single Person Child Carer Tax Credit replaces the One Parent Family Tax Credit.

The credit will remain at €1,650 but will only be available to claim by the primary carer of the child.

In the past it was possible for both parents to be able to claim this relief if the qualifying conditions were met.

Home Renovation Incentive

Owner occupiers who renovate or improve their home (located in the State) can claim tax relief at a rate of 13.5% on qualifying expenditure.

They must use the services of a tax registered and tax compliant builder or contractor.

The relief will apply to expenditure incurred from 25th October 2013 to 31ST March 2016.

Qualifying expenditure includes extensions, renovations, window fitting, etc.

Relief is available on qualifying expenditure between €5k and €30k. The relief will be granted by way of a tax credit calculated at 13.5% of the qualifying expenditure. On this basis the maximum tax credit is €4,050.

Relief will be granted over the two years after the year in which the work is carried out. Any unused relief can be carried forward to future years.

In order to claim the tax credit the owner occupier must be LPT compliant.

EIIS and High Earners Restriction

The Employment & Investment Incentive is now excluded from the high earner restriction for three years when the subscription of shares is made between 16th October 2013 and 31st December 2016.

EIIS relief replaced Business Expansion Scheme (BES) relief.

This relief was introduced to reward and incentivise individuals to invest in small and medium sized enterprises.

The relief is potentially available in two tranches – the first tranche at is 30% income tax relief in the year the investment is made. The second tranche is 11% in the year following the required three year holding period once the company that the investment was made in has met certain conditions.

In the past the 30% tax relief was subject to the high earners restriction which limited its attractiveness for certain taxpayers.

Medical Insurance Tax Relief

With effect from 16th October 2013, tax relief on medical insurance premiums will be restricted to the first €1,000 per adult and the first €500 per child of any premium.

In the past relief was available at 20% on the full cost of the medical insurance premium.

This relief is normally granted at source – unless the premium is paid by the individuals employer.

DIRT

The Finance Act increased the rate of DIRT on Irish deposit interest from 33% to 41% from 1st January 2014. The exit tax rates on Irish and foreign fund investments also increased to 41% from the same date.

Business Tax Issues

Income Tax Exemption for New Businesses

This scheme is available to long term unemployed individuals (unemployed for at least 12 months) who want to set up their own business.

The scheme allows an exemption from income tax on earnings of up to €40,000 for two years where a new qualifying unincorporated business is set up.

The new business must be established after 25th October 2013 and before 31st December 2016.

This relief does not include USC or PRSI.

Research and Development (R&D) Tax Credit

The Financed Act increase the amount that can qualify for the tax credit without reference to the 2003 base year from €200k to €300k.

The amount of R&D outsourced to third parties which can qualify for the credit has been increased from 10% to 15% of in house expenditure..

If a company surrenders part of the R&D credit to a key employee to reduce their income tax and it subsequently turns out that the R&D claim made by the company was incorrect, any tax foregone will be collected from the company and not the employee. Where the company has made a claim that is found to be "deliberately false or overstated" the company will be chargeable under Case IV on an amount equal to 8 times the amount paid to the employee.

The above changes apply to accounting periods commencing on or after 1st January 2014.

Capital Gains Tax Issues

Entrepreneur Relief

The Finance Act introduces a new relief which is called “Entrepreneur Relief”. It is a CGT relief which is being introduced to encourage entrepreneurs to reinvest the proceeds of sale of assets on which they had a CGT liability back into new business activities.

The new business must comprise of relevant trading activities carried on by an individual or a qualifying company. The activities must not have been previously carried on by that individual or company or a connected person.

There are some excluded activities i.e. service companies, dealing in or developing land, film production, etc.

The CGT on the sale of the first asset (not necessarily a business asset) must have arisen in the period after 1st January 2010.

The reinvestment must be made in the period from 1st January 2014 to 31st December 2018. The holding period for the new asset is three years.

The relief can potentially reduce the CGT rate on the first disposal from 33% to 16.5%.

The relief is given at the time of disposal of the second asset – not at the time of reinvestment of the proceeds of sale into the new business.

The relief is subject to a commencement order.

Property Exemption

The 7 year exemption in relation to land and buildings was to only apply to properties purchased up to 31st December 2013. This has been extended to properties purchased up to 31st December 2014.

Remittance Basis and CGT

Non domiciled individuals are only liable to CGT on non Irish situate assets if and to the extent that the proceeds are remitted to Ireland.

Anti-avoidance legislation in introduced in the Finance Act in relation to situations where the proceeds are transferred to a spouse or civil partner and then remitted to the State.

This applies to remittances after 24th October 2013.

CGT and Release of Debts

The Act provides that where loans are used to acquire an asset and those loans are released or written off in part or in full, the base cost of the asset for CGT purposes will be reduced by the amount that was written off.

The relevant provisions apply whether the release of the debt occurs before, after or at the same time as the disposal of the asset.
It does not apply to release of debts between connected companies.

This applies from 1st January 2014.

Retirement Relief and Leased Farmland

CGT retirement relief is available on the disposal of certain business and agricultural assets where all the qualifying conditions are met.

Relief is available in certain circumstances where farmland is let and subsequently sold to a child.

Relief is extended to include the disposal of farmland to other persons where each farmland has been let to the same person for a consecutive period of 5 years.

VAT

Cash Receipts Basis – Limit increased to €2m

The annual threshold for accounting for VAT on a cash receipts basis (as opposed to an invoice basis) will increase from €1.25m to €2m from 1st May 2014.

9% VAT Rate

The Finance Act confirmed that the 9% rate of VAT introduced in July 2011 will be retained without an expiration date. It applies mainly to the hospitality sector.

Disallowance of Input VAT on Unpaid Invoices

Businesses that do not pay their suppliers within 6 months will be required to repay the VAT previously reclaimed.

Where a person deducts VAT in a taxable period but has not within 6 months of the end of that taxable period, paid the supplier for the goods or services, then an adjustment will be required in the VAT return. The amount of VAT deductible for the period will be reduced by the amount of the VAT relating to the unpaid consideration.

A re-adjustment is provided for in the event of subsequent payment or part payment for the goods or services.

This applies in respect of VAT reclaimed from 1st January 2014.

Farmers – Flat Rate Addition

The farmer's flat rate addition has increased from 4.8% to 5% with effect from 1st January 2014.

Pension Issues

The following is a summary of the main provisions;

- The maximum allowable pension fund that an individual may have at retirement which was capped at €2.3m is further reduced to €2m with effect from 1st January 2014.

- Finance Act 2013 includes an option for an individual to take a once off early withdrawal of up to 30% of their AVC funds. This provision overrides the scheme rules or contract terms.

- The Minister for Finance announced that he is introducing a new levy on pension funds of 0.15%. While the existing levy (of 0.6%) will be abolished after 2014, this new levy will result in an increase in the overall pensions levy for 2014 from 0.6% to 0.75%. It is due to reduce to 0.15% from 2015 onwards.

- Tax relief on personal pension contributions has not changed. It is still available at the individual's marginal rate of tax, based on a percentage of earnings up to a cap of €115,000.