



COMMISSION ON TAXATION
AN COIMISIÚN UM CHÁNACHAS

PART 8

REVIEW OF TAX EXPENDITURES



Part 8:

Review of Tax Expenditures — *review all tax expenditures with a view to assessing the economic and social benefits they deliver and to recommend the discontinuation of those that are unjustifiable on cost/benefit grounds*

Section 1 is an introduction.

Section 2 sets out the international and national context of our analysis of tax expenditures.

Section 3 proposes adoption of the OECD definition of tax expenditures.

Section 4 discusses the use and control of tax expenditures in Ireland.

Section 5 establishes principles and review mechanisms for the introduction and review of tax expenditures in Ireland.

Section 6 provides our determination of the benchmark tax system.

Section 7 summarises our review process for tax expenditures

Section 8 analyses tax expenditures relating to children.

Section 9 analyses tax expenditures relating to housing.

Section 10 analyses tax expenditures relating to health.

Section 11 analyses tax expenditures relating to philanthropy.

Section 12 analyses tax expenditures relating to enterprise including farming.

Section 13 analyses tax expenditures relating to employment.

Section 14 analyses tax expenditures relating to savings and investments.

Section 15 analyses other tax expenditures.

Section 16 lists tax expenditures not examined by us.

Appendix 1 contains information on the benchmark tax system.

Our recommendations in this Part are as follows:

General

8.1	The OECD definition of a tax expenditure – as a transfer of public resources that is achieved by reducing tax obligations with respect to a benchmark tax, rather than by direct expenditure – should be adopted.
8.2	Measures that are part of the benchmark tax system should not be considered as tax expenditures.
8.3	In general, direct Exchequer expenditure should be used instead of tax expenditures.
8.4	<p>There are three instances where it would be appropriate to examine the possibility of introducing a tax expenditure. These are:</p> <ul style="list-style-type: none"> • To correct market failure • To attract mobile investment • To offset shortcomings in other areas of public policy <p>Where a tax expenditure is proposed, or an existing expenditure's timescale extended, the following questions should be asked, in sequence:</p> <ul style="list-style-type: none"> • Does the expenditure fall within one or more of the three instances outlined above? • If so, does the proposal adhere to each of the following principles: <ul style="list-style-type: none"> - Efficiency - Stability, and - Simplicity • If so, can a departure from the equity principle, which the tax expenditure invariably necessitates, be justified? <p>A tax expenditure should only be introduced, or extended, if it answers affirmatively to each of these questions.</p>
8.5	<p>For all future tax expenditures, and reforms of tax expenditures, there should be:</p> <ul style="list-style-type: none"> • An <i>ex ante</i> evaluation process in advance of decisions to implement or extend any tax expenditure, including an assessment of the costs and benefits of proposals and consideration of the alternative of a direct expenditure approach. • Better measurement and data collection on the costs and benefits associated with the introduction or extension of the tax expenditure and the review of its impact. • Publication of an annual tax expenditures report by the Department of Finance as part of the annual budget process and subject to Oireachtas scrutiny. • Spending through the tax system should be controlled by, for example, the imposition of thresholds and ceilings and reductions in the rate at which tax relief is given or in the quantum of a base figure to which tax relief might apply.
8.6	Transitional arrangements should be put in place where appropriate in relation to tax expenditures which are being discontinued.

Relating to children

8.7	<p>Child benefit should be taxable income.</p> <ul style="list-style-type: none"> The taxing of child benefit should be benchmarked against alternatives, including means testing, to ascertain the most effective method of achieving the aims and objectives of the child benefit programme. If taxation is applied, we recommend the introduction of a child tax credit to offset the additional tax payable in respect of child benefit for those in the lower half of the income scale.
8.8	The exemption of foster care payments from income tax should continue.
8.9	The one-parent family tax credit should continue and the credit should be allocated to the principal carer only and in a similar way to the current arrangements for child benefit.
8.10	The home carer tax credit should continue.
8.11	The widowed parent tax credit should continue.
8.12	The capital allowances for childcare facilities should be discontinued.
8.13	The income tax exemption for childcare service providers should be discontinued.
8.14	The exemption of employer-provided childcare from benefit-in-kind charge should be discontinued.

Relating to housing

8.15	Mortgage interest relief should be continued in the case of first-time buyers and discontinued for those who are outside this category. The current step down arrangements for first-time buyers regarding the rate at which relief is given should continue to apply.
8.16	Income tax relief for rent paid for private rented accommodation should be discontinued.
8.17	The capital gains tax exemption on the disposal of a principal private residence should be continued.
8.18	Income tax relief for service charges should be discontinued.
8.19	The rent-a-room relief should be discontinued.
8.20	The capital gains tax and stamp duty exemptions on the disposal of site to a child should be discontinued.

Relating to health

8.21	Medical insurance relief should be continued on a more limited basis.
8.22	Relief for health expenses should continue at the standard rate.
8.23	Once the Fair Deal system for nursing home care has been implemented, removal of the tax relief for nursing home expenses should be considered.

8.24	The range of treatments contained within the scope of the relief for health expenses should be subject to regular review.
8.25	Tax relief for contributions paid to permanent health benefit schemes should continue.
8.26	Tax relief for long-term care policies should be discontinued.
8.27	When direct expenditure support at the appropriate level is in place, the incapacitated child tax credit should be discontinued.
8.28	The allowance for employing a carer for an incapacitated individual should continue. However, the rate of relief should be the same as that available under health expenses relief.
8.29	<p>The dependent relative tax credit should be discontinued.</p> <ul style="list-style-type: none"> • The entitlement to mortgage interest relief that is derived from entitlement to the credit in relation to a principal private residence occupied by a dependent relative should continue. A person should be able to avail of first-time buyer levels of relief once in respect of himself or herself and once in respect of a dependent relative who has not claimed for himself or herself. • The separate entitlement to CGT relief on the disposal of a principal private residence occupied by a dependent relative should be discontinued.
8.30	When direct expenditure support at the appropriate level is in place, the blind person's tax credit should be discontinued.
8.31	The arrangements for the scheme of accelerated capital allowances for palliative care units should be modified by the introduction of a termination date for the scheme.
8.32	The Disabled Drivers and Disabled Passengers Scheme should be modified in accordance with the recommendations of the 2002 Interdepartmental Review Group.
Relating to philanthropy	
8.33	The scheme for payment of tax by means of donation of heritage items should be retained but should be modified so that the tax relief is limited to 50% of the value of the item donated.
8.34	The scheme for payment of tax by means of donation of heritage property should be retained but should be modified so that the tax relief is limited to 50% of the value of the property donated.
8.35	The capital gains tax exemption on works of art loaned for public display should be retained but the exemption should only apply to the gain accruing in the period for which the work of art has been so loaned.
8.36	Income tax relief for expenditure on heritage buildings and gardens should be discontinued.
8.37	The benefit-in-kind exemption on employer-provided art objects in a heritage building or garden should be discontinued.
8.38	The CAT exemption of heritage property and heritage property of companies should be retained.
8.39	The threshold on the eligibility of individual donations to charities and approved bodies to attract tax relief should be reduced from €250 to €100.
8.40	The relief for individuals under Recommendation 8.39 should be at the standard rate in all cases.

8.41	An upper limit of €500,000 per person on the annual value of donations which may attract tax relief is recommended. This limit should be enforced using the principles of self-assessment and audit.
8.42	The self-employed should be treated in the same way as PAYE earners under the scheme with the tax relief being paid to the charity or approved body.
8.43	In relation to donations from companies, the amount that would attract tax relief should be the same as for individuals, i.e. a maximum of €500,000 per annum. The rate of tax relief on corporate donations should be the corporate tax rate and, as with donations from individuals, the tax relief should be paid to the charity or approved body.
8.44	The tax relief scheme available on donations to sports bodies should be modified. The tax relief regime that is recommended in respect of donations to charities and other approved bodies should also apply in relation to relief for donations to sports bodies and aggregate limits should apply to both reliefs.
8.45	Relief for gifts made to the Minister for Finance should continue.
8.46	The tax-exempt status of philanthropic and sports bodies should continue. However, the capital gains tax exemption should be discontinued where development land is disposed of.
Relating to Enterprise (including Farming)	
8.47	The restriction of balancing charges on a building to the relevant holding period for that building should be discontinued for future acquisitions.
8.48	Grants to meet revenue expenditure should be taken into account in calculating taxable trading income and capital allowances should be available on expenditure net of capital grants. However, in the case of employment-related grants, there may be a case for postponing the approach we suggest until more favourable labour market conditions apply.
8.49	The tax credit for research and development should continue.
8.50	Tax exemption for patent royalties should be discontinued.
8.51	The tax deduction for capital expenditure on scientific research should continue.
8.52	Film relief should be continued but should be subject to regular review in accordance with our principles as set out in Section 5 of this Part.
8.53	<ul style="list-style-type: none"> • The Business Expansion and Seed Capital schemes should remain in place up to their 2013 deadline. • The schemes should be reviewed to evaluate their effectiveness and the extent to which market failure exists in advance of any further extension beyond 2013. • The administrative burden placed on companies seeking to benefit from the schemes is onerous and should be reviewed.
8.54	Stock relief for farming businesses should be discontinued.
8.55	Income tax relief for farm land leasing income should be continued. However, the measure should be reviewed in 2012 in accordance with our principles as set out in Section 5 of this Part.
8.56	The accelerated allowance for capital expenditure on farm buildings for pollution control should not be continued when it expires in 2010. For subsequent years, normal capital allowances should apply.
8.57	The tax relief for the purchase of milk quota should be discontinued.

8.58	The restructuring aid for sugar beet growers should continue.
8.59	The tax exemption for payments to National Co-operative Farm Relief Services Ltd. and payments made to its members, should be discontinued.
8.60	The accelerated capital allowances for energy efficient equipment should continue.
8.61	Relief for investment in renewable energy generation should continue. Any extension should adhere to our general principles as set out in Section 5 of this Part.
8.62	The Mid-Shannon corridor scheme should not be continued beyond its current expiry date.
8.63	The investment allowance for machinery and plant and for exploration expenditure should be discontinued.
8.64	The tax treatment of the decommissioning of fishing vessels should continue.
8.65	<p>The relief from tax for start-up companies should be continued. However, the scheme should be modified so that companies who begin trading in 2010 or 2011 would benefit from the exemption for two-years or one-year, respectively, within the existing three-year timeframe for the relief. In addition, the exclusion which applies to service companies should be removed.</p> <ul style="list-style-type: none"> • A new scheme for unincorporated businesses should be established which would have its own three-year time cycle in line with the approach we recommend for the existing scheme. • Both the existing scheme and the proposed new one for unincorporated business should be subject to review in accordance with our general principles as set out in Section 5 of this Part after a reasonable period of time.
8.66	<p>The tax treatment of venture fund managers should be modified such that in the case of an individual who is a venture capital fund manager:</p> <ul style="list-style-type: none"> • Where the investment return on a carried interest represents income, it should be taxed at the appropriate marginal rate, and • Where the investment return on a carried interest is a capital gain, it should be subject to capital gains tax at the normal rate (25%).
8.67	The tonnage tax regime should be continued.
8.68	The capital gains tax relief for family transfers should be continued but limited so that it applies to asset values up to €3 million. Where the value of the asset transferred exceeds €3 million, only the part of the gain that is attributable to the excess over €3 million should be charged to tax.
8.69	Capital gains tax relief for disposal of a business or a farm on retirement should continue.
8.70	For business relief for CAT, a reduction of no more than 75% of the value of the business should be allowed before tax is calculated. The reduction should be subject to an overall monetary limit of €3 million.
8.71	For agricultural relief for CAT, a reduction of no more than 75% of the value of the property should be allowed before tax is calculated. The reduction should be subject to an overall monetary limit of €3 million. A condition of the relief should be that a farm asset is owned and operated as a farm for period of six years after the transfer.
8.72	Business relief and agricultural relief should be amalgamated into a single relief.
8.73	Stamp duty relief for transfers of land to young trained farmers should continue.
8.74	The stamp duty exemption relating to the sale or transfer of EU Single Farm Payment Entitlements should be continued.

8.75	The tax incentives relating to forestry should be continued.
Relating to employment	
8.76	Income tax relief for trade union subscriptions should be discontinued.
8.77	The relief for benefit-in-kind for employer-provided personal security assets and services should continue to apply where arrangements are made for all employees at risk.
8.78	The relief for benefit-in-kind and PRSI exemption for employer-provided public transport travel passes should continue.
8.79	The relief for benefit-in-kind and PRSI exemption on employer-provided bicycles and related safety equipment should continue.
8.80	The income tax exemption for scholarships should continue.
8.81	The income tax relief for fees paid for third level education should continue.
8.82	Income tax relief for fees paid for training courses should continue.
8.83	The exemption from income tax of statutory redundancy payments should continue.
8.84	Income tax relief for <i>ex-gratia</i> termination payments should continue but the quantum of the exempt payment should be limited to €200,000 and the reliefs for Standard Capital Superannuation Benefit and top-slicing relief should be simplified.
8.85	<i>Ex-gratia</i> termination payments related to death or disability should be subject to a limit in relation to the tax-free amount permissible.
8.86	Income tax relief for termination payments where an employment involves foreign service should continue. However, it should be subject to an overall monetary cap of €200,000 in line with our recommendation for termination payments in excess of the statutory redundancy amount.
8.87	The exemption from income tax for retraining on redundancy should continue.
8.88	There are grounds for discontinuing the systematic short-time relief for equity reasons. However, discontinuation should not be implemented until more favourable labour market conditions apply.
8.89	Income tax relief for long-term unemployed and double deduction in respect of payroll costs should continue.
8.90	Income tax relief for employees on payments related to compensation for loss of future earnings should continue.
8.91	The PRSI exemption for employee (unapproved) share options should be discontinued.
8.92	Continue the income tax exemption for approved profit-sharing schemes (APSSs) and remove the PRSI, health contribution levy and income levy exemptions.
8.93	The tax treatment which applies to employee share ownership trusts (ESOTs) should continue.
8.94	<ul style="list-style-type: none"> • The income tax exemption for approved share option schemes (APSOs) should be discontinued. • The taxable value of option gains should also be liable to both employer and employee PRSI and to the health contribution levy and the income levy.
8.95	Continue the income tax exemption for Save As You Earn (SAYE) schemes and remove the PRSI, health contribution levy and income levy exemptions.

8.96	Extend the SAYE rules to permit a broader range of employee stock purchase plans (offered to all employees on similar terms and subject to an overall share purchase limit) to be eligible for income tax relief.
8.97	The income tax exemption for new shares purchased on issue by employees should be discontinued.
8.98	The artist's exemption should be discontinued; consideration should be given to introducing income averaging in the taxation of income from creative work.
8.99	<p>The sportsperson's relief should continue.</p> <ul style="list-style-type: none"> • The total repayment of tax for any 10-year period should be capped at €350,000 as adjusted for inflation. • The sportsperson can only select a block of 10 consecutive years for which to claim the relief as opposed to the best 10 non-continuous years. • The relief should be subject to review after five years of operation under these new arrangements.
8.100	The seafarer's allowance should be discontinued.
8.101	<p>The expenses of members of the Oireachtas should be treated in the same way under the tax code as expenses paid to employees and office holders generally.</p> <ul style="list-style-type: none"> • A monetary limit should be put in place on the dual abode allowance and the flat rate element of the relief which applies in relation to hotel and guesthouse accommodation should be discontinued.
8.102	The income tax exemption for payments under Scéim na bhFoghlaimoirí Gaeilge should be discontinued.
Relating to savings and investments	
8.103	Tax exemption for the income of credit unions should be continued.
8.104	The annual exemptions for interest and dividends on special term accounts and special term share accounts should be continued.
Relating to other expenditures	
8.105	The age tax credit should continue.
8.106	The age exemption and marginal relief should continue.
8.107	The tax relief for income under dispositions for short periods (deeds of covenant) should continue.
8.108	The tax relief available to Veterans of the War of Independence should continue.
8.109	The relief from income tax of military and other pensions, gratuities and allowances should continue. In future, the tax treatment of military service gratuities should be consistent with the tax treatment of lump sum payments in other public service employments.
8.110	The exemption from income tax of profits from lotteries should continue.
8.111	Consanguinity relief within the stamp duty code should continue.

Section 1:

Introduction

Our terms of reference asked us to “review all tax expenditures with a view to assessing the economic and social benefits they deliver and to recommend the discontinuation of those that are unjustifiable on cost/benefit grounds”.

We identified this task as comprising the following elements:

- Establish a comprehensive list of all tax relieving measures in the Irish taxation system
- Identify those measures that are structural reliefs and therefore part of the benchmark tax system
- Identify those measures that are tax expenditures
- Establish evaluation criteria against which these tax expenditures may be assessed
- Identify the policy rationale for each tax expenditure
- Assess its economic and social benefits
- Evaluate its cost and benefits, and
- Make a recommendation to continue, discontinue or modify each expenditure

We examined tax expenditures introduced in legislation up to and including Finance (No. 2) Act 2008 and that had not been repealed by legislation up to Finance Act 2009. In total 245 tax relieving measures¹ were identified. Having reviewed these, we concluded that 130 were benchmark tax system measures and 115 were tax expenditures.

To facilitate the review, we classified these expenditures into eight categories:

1. Children
2. Housing
3. Health
4. Philanthropy
5. Enterprise and Farming
6. Employment
7. Savings and investment
8. ‘Other’ tax expenditures

We also considered those tax expenditures that have recently been discontinued.

This Part first outlines the context of our analysis and our assessment of the definition and role of tax expenditures. It then establishes a set of principles that we believe should apply to all current and future tax expenditures. It outlines our determination of the tax measures that are part of the benchmark tax system. Following this, each of the tax expenditure categories is reviewed and a summary report of our considerations and the expenditures classified within them is presented.

¹ A number of these involve more than one legislative provision.

Section 2:

International and national context

Over time the increasing number, scope and estimated cost of tax expenditures has raised issues for governments about their appropriate use, their control and their measurement. Detailed reporting began in Germany and the United States in the late 1960s with other countries following in the late 1970s (Austria, Canada, Spain and the UK) and 1980s. In many cases an annual report on tax expenditures was published and/or incorporated into the government budgetary process.

Since the 1980s, the OECD has undertaken various studies and reviews aimed at advancing general knowledge and understanding among member countries in the use, control and measurement of tax expenditures. While there are difficulties associated with cross-country identification and comparison of these expenditures, we have drawn upon the work of the OECD in undertaking our review. Similarly, we have been informed by the work of various academics and research institutes (nationally and internationally) who have examined tax expenditures.

In Ireland, tax expenditure information has been published by the Revenue Commissioners in their annual Statistical Report and as part of the Department of Finance Tax Strategy Group papers. Both have provided estimates of the annual costs of the major tax expenditures in the areas relating to income taxes, corporation taxes, pensions and savings and capital taxes. In addition the Revenue Commissioners' reports have presented a list of tax expenditures "where costs are not currently quantifiable or are negligible or are not identifiable within total aggregates".

There have also been a number of detailed examinations of tax expenditures, in particular associated with a review of property-based tax incentive schemes as announced in Budget 2005 and introduced in Budget 2006.

However, when taken together and compared to the more extensive list of tax expenditures, included in this report, official publications to date have not comprehensively set out all the tax expenditures in the Irish taxation system. Traditionally, these expenditures have been most readily identified with direct taxes. However, as can be seen from this report, they are spread widely through the tax system and across all categories of tax.

Section 3:

Definition of a tax expenditure

We note that, to date there has been no generally accepted definition of what constitutes a tax expenditure in Ireland. Tax incentives, which are introduced as alternatives to direct Government spending so as to achieve given economic and social objectives, are generally considered tax expenditures. In addition, modifications of the tax system in the form of reliefs, exemptions, deductions from tax due, rate reliefs and tax deferrals may also be viewed as tax expenditures. One of our tasks, therefore, has been to seek to address the lack of a comprehensive definition that might formally apply in the Irish context.

In that context, we note the OECD definition of a tax expenditure as:

"a transfer of public resources that is achieved by reducing tax obligations with respect to a benchmark tax, rather than by direct expenditure"².

2 OECD Committee on Fiscal Affairs, discussion document dated 20 December 2007 - Update on Tax and Growth: Issues for Discussion 20 December 2007.

We adopted the OECD definition for the purposes of our review and we recommend that this definition should be consistently used in classifying tax expenditures in Ireland.

A second definitional task for us has been to identify those tax measures which, although they reduce the tax base, should more properly be regarded as part of the benchmark tax system. There are valid reasons why a tax system might need to incorporate relieving measures and exemptions, for example to help it function equitably and efficiently and to interact with other systems at an international level. Such measures, while they may reduce the tax base as compared with circumstances where they did not apply, may reasonably be regarded as part of the structure of the tax system or, if not inherently structural, are desirable elements that make the tax system function efficiently. We refer to these as benchmark measures³. The OECD definition above captures this concept. Later in this Part we provide further detail of that process. However, in the context of establishing a definition of tax expenditures, we recommend that measures which are part of the benchmark tax system should not be considered as tax expenditures.

While we have attempted to be as comprehensive as possible in our application of the above definition to the Irish taxation system, there are a number of items that could be classified as tax expenditures which we have not included. These cover areas such as exemptions from local authority commercial rates, most PRSI exemptions and differential rates applying to the various taxes, in particular VAT and excise duties.

Recommendation 8.1

The OECD definition of a tax expenditure – as a transfer of public resources that is achieved by reducing tax obligations with respect to a benchmark tax, rather than by direct expenditure – should be adopted.

Recommendation 8.2

Measures that are part of the benchmark tax system should not be considered as tax expenditures.

Section 4: The use and control of tax expenditures in Ireland

International literature on tax expenditures ascribes the growth in their use to a number of factors including the possibility of administrative efficiency, political attractiveness and the potential for less regular scrutiny than might be the case with programmes of direct spending. Tax expenditures, it is argued, can support an activity without the need to put in place administrative agencies or discrete payment arrangements. In addition, difficulties associated with measuring the cost and benefits of schemes, or the absence of measurement activity altogether, combined with the benefit of lower taxes for the recipients, make such programmes politically attractive.

In the Irish context, tax expenditures have been identified as having a number of objectives including:

- Encouraging investment – such as the business expansion scheme
- Encouraging business activities – such as the tax credit for research and development
- Subsidising costs incurred by individuals – such as mortgage interest and health expenses, and
- Administrative efficiency in delivering a transfer of resources

³ These are equivalent to measures which the OECD might refer to as those which are part of the benchmark tax.

Tax expenditures can involve a number of undesirable characteristics. These include:

- A lack of equity as between different taxpayers, particularly through the redistribution of resources to individuals with higher levels of income or capital
- A lack of transparency and visibility in the allocation of public resources
- The potential to facilitate tax avoidance
- Inefficient allocation of scarce resources that may also involve a deadweight element
- No time limits or time limits that are not adhered to
- No cost constraints, and
- Neither regular nor rigorous reviews

The potential unequal distribution of public resources, which arises from the use of tax expenditures, was a key consideration for us. It informed both our review of existing tax expenditures and our recommendations for the future approach to tax expenditures. Tax expenditure necessarily involves the imposition of a corresponding financial burden on others as a result of the tax forgone through the tax expenditure. In the case of tax expenditures intended to meet a social need (such as, for example, the costs of childcare) we sought to assess whether the existing tax expenditures were appropriately targeted at those in greatest need of support. Where we have found this not to be the case we have recommended alternative approaches such as direct expenditures.

With regard to tax expenditures designed to meet economic objectives (such as job creation) we sought evidence that the initial cost of the expenditure was justified by the consequent increase in economic activity. Where this was not evidenced, we have recommended discontinuance.

To the extent that the beneficiaries of tax expenditures are those with higher incomes or substantial capital, this results in a transfer of financial resources to these beneficiaries by the rest of the taxpaying community, including those on low incomes. In other circumstances, tax expenditure not replaced by increased taxation may lead to reduced public expenditure on essential projects.

As regards the lack of transparency of tax expenditures, throughout our review we encountered many instances where basic cost and benefit data were not available for tax expenditures. Where costs were available, we note that the quality of these estimates was variable. For example, the cost estimate for mortgage interest relief which is derived from the tax relief at source system operated by the financial institutions is likely to be reasonably accurate but the estimated costs of tax expenditures for occupational pensions are less certain because of a lack of data and variability in the assumptions used to calculate them. It is difficult to see how accountability and control in the allocation of public resources can be adequately secured where basic information on the annual cost of so many tax expenditures remains unavailable or unreliable.

We note that many of the tax expenditures where one might expect to see a time constraint were not subject to any time limitation. Further, while there has been more activity in reviewing tax expenditures in recent years, including evaluating proposed new measures on an *ex-ante* basis and introducing them on a time limited basis, there is scope for a periodic review of resource allocation through the tax system that is comprehensive, systematic and rigorous.

Tax expenditures are equivalent to direct public spending and, as such, they should be reviewed as regularly and as carefully. This suggests that an evaluation process which is similar to that which exists in

relation to direct expenditure might appropriately be considered in relation to tax expenditure programmes. For example, on the expenditure side, various Oireachtas Committees have a role in examining the estimates of Government Departments and expenditure is reviewed by the Comptroller and Auditor General. Also, the detailed approach outlined in the Guidelines for the Appraisal and Management of Capital Expenditure Proposals in the Public Sector published by the Department of Finance is relevant as a template for the evaluation process.

We have concluded that, in general, direct Exchequer expenditure should be used instead of tax expenditures. This allows greater transparency and control of public resources and avoids many of the aforementioned undesirable characteristics. While this is our general view, we also believe that tax expenditures, if carefully designed and controlled as is suggested in Section 5, have a role to play in delivering desired behavioural responses.

Recommendation 8.3

In general, direct Exchequer expenditure should be used instead of tax expenditures.

Section 5: Template for introduction and review of tax expenditures

5.1. Conditions for tax expenditures

We recommend that where a tax expenditure is proposed, or an existing expenditure's timescale extended, it should be consistent with the principles outlined in this section.

In all cases, the following questions should be asked in sequence:

- Is a tax expenditure more appropriate than direct expenditure?
- If so, does the proposal adhere to each of the following principles:
 - Efficiency
 - Stability, and
 - Simplicity
- If so, can a departure from the equity principle, which the tax expenditure invariably necessitates, be justified?

A tax expenditure should only be introduced, or extended, if it answers positively to each of these questions. We outline details on each of the questions below.

5.2. Appropriateness of tax expenditure

We considered the circumstances in which it might be appropriate for Government to introduce a tax expenditure. In that regard, we noted a conclusion in the second report of the previous Commission on Taxation that:

"... it is not sufficient to show that the activity at which the incentive is directed is worthy and would benefit. If this criterion were accepted to justify incentives, virtually all items would qualify for incentives ... because there is almost no activity which cannot be shown to benefit from a selective reduction in taxation."⁴

⁴ Second Report of the Commission on Taxation, Direct Taxation: The Role of Incentives, p. 18.

The Commission placed such incentives in the context of broader economic policy stating that:

“the level and pattern of economic activity is affected much more by the general economic policy of the government than by any set of specific measures labelled incentives”.

It, therefore, espoused a narrow role for taxation incentives stating that they “are justified only on very limited grounds” which were identified as cases of market failure, competitive concerns with regard to internationally mobile capital investment, and as second-best solutions required to offset shortcomings in other policy areas.

We concur with the conclusion of the previous Commission on Taxation that there are three instances where it would be appropriate to examine the possibility of introducing a tax expenditure. These are:

- To correct market failure
- To attract mobile investment
- To offset shortcomings in other areas of public policy

5.3. Efficiency

The previous Commission on Taxation stated that:

“Efficient incentives should be designed to achieve specific results and examined to see to what extent they are achieving their objective. They should also be flexible so that they may be tailored to individual circumstances. Such flexibility is essential if payments are not to be made in cases in which the particular activity would take place in any event. Flexibility implies selectivity. A balance must be struck between the costs arising from additional bureaucracy needed to provide incentives selectively and the waste of resources that arises if they are given universally”.

It further stated that:

“In order to be efficient, the number of incentives provided must be strictly limited to the encouragement of activities that have a high national priority. They cannot be used to encourage all desirable activities. The provision of an incentive increases the amount of resources devoted to the favoured activity by increasing the relative rewards for that activity. It follows that the provision of an incentive for additional activities dilutes the effectiveness of each existing incentive. If incentives are provided for every activity, none benefits; but the administrative complexities increase and overall efficiency suffers”.

An implication of the contextual commitment in our terms of reference to keep the tax burden low, enhance rewards to work and increase the fairness of the tax system is that there is no room for inefficient instruments of policy, if all these objectives are to be met. We concur with this view. If expenditures in a tax system are to be efficient, they must be responsive and capable of being revised, refocused or ended in the light of new circumstances. In addition, the requirements of efficiency and flexibility suggest that tax expenditures should invariably be time-limited and subject to regular review.

5.4. Stability

A stable tax expenditure is one that is clearly defined to serve a set objective within a specified time period. Such stability is desirable as it diminishes uncertainty for both Government and the recipients of the incentive.

5.5. Simplicity

Tax expenditures should be as simple as possible. Simplicity implies that they should be accessible and the associated rules should be clear. Tax expenditures should be transparent so that the potential benefits to the recipients and the costs and benefits to the Exchequer are easily understood. The administrative and compliance burden that they impose should be proportionate.

5.6. Equity

Of their nature, tax expenditures necessarily offend against the principle of equity. Typically, they only immediately benefit those taxpayers who are in a position to have their liability reduced or eliminated and are of no immediate financial benefit to those outside the tax system. They result in a more favourable tax position for the beneficiaries of the tax expenditure. Within differential rate band structures, tax expenditures may confer a greater benefit on those higher up the income scale who are liable to pay at the higher rate of tax as compared with those lower down that scale. We consider that the inconsistency with the equity principle is the overarching reason why tax expenditures should be used sparingly.

Recommendation 8.4

There are three instances where it would be appropriate to examine the possibility of introducing a tax expenditure. These are:

- To correct market failure
- To attract mobile investment
- To offset shortcomings in other areas of public policy

Where a tax expenditure is proposed, or an existing expenditure's timescale extended, the following questions should be asked, in sequence:

- Does the expenditure fall within one or more of the three instances outlined above?
- If so, does the proposal adhere to each of the following principles:
 - Efficiency
 - Stability, and
 - Simplicity
- If so, can a departure from the equity principle, which the tax expenditure invariably necessitates, be justified?

A tax expenditure should only be introduced, or extended, if it answers affirmatively to each of these questions.

5.6. Introduction and review process for tax expenditures

Where, based on the above analysis, it has been decided that a tax expenditure is appropriate, the path to its introduction should incorporate the following steps:

- Policy analysis
- Initial design of tax expenditure (including duration, reporting, compliance and administration issues)
- Impact analysis
- Consultation with stakeholders
- Final proposals and
- Legislative process

For all future tax expenditures, and reforms of tax expenditures, we recommend that there should be:

- An *ex-ante* evaluation process in advance of decisions to implement or extend any tax expenditure. As part of this process, the costs and benefits of the proposal should be assessed and the alternative of a direct expenditure approach should be considered. Only those which can be justified by reference to that test should be put in place or continued.
- Better measurement and data collection of the costs and benefits associated with the introduction or extension of the tax expenditure and the review of its impact. This is an essential prerequisite to tighter measurement and control of public resources. Consequently, we believe that data collection on costs and benefits needs to be considered in the design or modification of tax expenditures. While acknowledging the compliance burden, consideration needs to be given to requiring beneficiaries of tax expenditures and the sponsoring State agency, to play a greater role in this area.
- The publication of an annual tax expenditures report by the Department of Finance which should be a part of the annual budget process and subject to Oireachtas scrutiny. We note that there are a number of models available in this regard in OECD countries. This report should include both the costs of the various tax expenditures and also the evaluation of the impact of tax expenditures reviewed during the period.

In addition, as a means of exerting control over spending through the tax system, a number of devices might usefully be considered including the imposition of thresholds and ceilings (outside of which no tax relief would be available) and reductions in the rate at which tax relief is given or in the quantum of a base figure to which tax relief might apply.

While tax expenditures are introduced on the basis that benefits will outweigh costs, it must be acknowledged that, due in part to the aforementioned data deficiencies, we have found it very difficult to measure and assess this for the tax expenditures that we reviewed. Nonetheless, through the implementation of the above proposals these impediments should be removed and the aim should be to move to a position where measurement and robust assessment of costs and benefits are possible.

Recommendation 8.5

For all future tax expenditures, and reforms of tax expenditures, there should be:

- An *ex ante* evaluation process in advance of decisions to implement or extend any tax expenditure, including an assessment of the costs and benefits of proposals and consideration of the alternative of a direct expenditure approach.
- Better measurement and data collection on the costs and benefits associated with the introduction or extension of the tax expenditure and the review of its impact.
- Publication of an annual tax expenditures report by the Department of Finance as part of the annual budget process and subject to Oireachtas scrutiny.
- Spending through the tax system should be controlled by, for example, the imposition of thresholds and ceilings and reductions in the rate at which tax relief is given or in the quantum of a base figure to which tax relief might apply.

Section 6:

Determination of the benchmark tax system

A key part of our task was to define the tax reliefs which form part of the benchmark tax system. This task was important for a number of reasons:

- It enabled us to identify the tax expenditures for review
- It had never been undertaken previously
- It may serve as a useful template for the future

At an international level there are a variety of views about what should appropriately be incorporated in a benchmark tax system and the definition of what constitutes a tax expenditure can be controversial. As a consequence, countries' practices in presenting tax expenditure accounts vary substantially. According to the OECD, the benchmark tax system incorporating the set of benchmark reliefs and exemptions, may comprise "the rate structure, accounting conventions, the deductibility of compulsory payments, provisions to facilitate administration and provisions relating to international fiscal obligations". Where the tax system deviates from the benchmark, a tax expenditure is said to exist⁵.

We identified that some 130 measures are appropriate to the benchmark tax system within the following five categories:

1. Measures that are inherent in the design of the tax system including avoidance of double taxation and complying with international (fiscal) obligations together with minor reliefs and measures to facilitate tax administration
2. Measures related to the unit of taxation and measures that are tax neutral
3. Deductions for expenses incurred in earning income
4. Measures related to the State and
5. Court awards and compensation payments

We consider that the status of items which are currently designated as part of the benchmark tax system is not immutable and that Government properly retains the right to alter that status. The system should be responsive to the needs of the community and the economy and reviewed on a regular basis.

A list of the 130 measures contained in the benchmark tax system is contained in Appendix 1.

5 OECD (1996) Tax Expenditures: Recent Experiences, OECD, Paris. This report outlined the position as it obtained in 14 OECD countries, including Ireland. The 14 countries were Australia, Austria, Belgium, Canada, Finland, France, Germany, Ireland, Italy, the Netherlands, Portugal, Spain, the UK and the US.

Section 7:

Review process for current tax expenditures

Our terms of reference asked us to review all current tax expenditures and in doing so to consider the costs and benefits associated with each measure. To complete this task we took the following steps:

- Identify tax expenditures relating to each of the eight categories for each type of tax
- Liaise with the Revenue Commissioners and the Department of Finance to ensure all the reliefs were captured and to identify those reliefs for which costs were available
- Critically assess the costs associated with the reliefs in the group
- Identify the policy objectives and considerations which underpin these tax reliefs
- Evaluate the extent to which the reliefs are consistent with the principles as set out in Section 5 of this Part
- Identify and consider the social and economic benefits which accrue from the provision of the reliefs
- Identify methods for quantifying benefits in a manner which enabled comparisons with the costs of the reliefs to be made
- Consider the extent to which benefits might otherwise be evaluated
- Seek to assess the costs against benefits
- Seek to determine the distributional impact of the reliefs across various income groups, and
- Make other relevant observations as appropriate

Throughout the remainder of this Part we list each of the reliefs by category and present corresponding data for costs, numbers benefiting, year of estimate and statutory reference. In all cases, the data we use is the most recent available to us. The cost figures presented have been calculated using the initial revenue loss/gain (revenue forgone) method. This method measures the amount by which tax revenue is reduced or increased as a consequence of the introduction or abolition of a tax expenditure, based on the assumption of unchanged behaviour and unchanged revenues from other taxes. While this approach has limitations it has been the method used to date by the Department of Finance and the Revenue Commissioners.

Transitional arrangements

In a number of instances we recommend that particular tax expenditures be discontinued. In some cases, it may be appropriate to put in place suitable transitional arrangements so that individuals are not unfairly disadvantaged by discontinuation of a relief.

Recommendation 8.6

Transitional arrangements should be put in place where appropriate in relation to tax expenditures which are being discontinued.

Section 8:

Tax expenditures relating to children

Tax expenditure	Statutory reference	Estimated		Year of estimate	Continue ✓ Discontinue ✗ Modify ❄
		Cost €m	Numbers benefiting		
Exemption of child benefit from income tax	S194 TCA	427 ⁶	384,500	2009	✗
Exemption of foster care payments from income tax	S192B TCA	30 ⁷	3,326	2007	✓
One-parent family tax credit	S462 TCA	186	123,100	2006	❄
Home carer tax credit	S466A TCA	62	85,000	2006	✓
Widowed parent tax credit	S463 TCA	5	2,300	2006	✓
Capital allowances for childcare facilities	S843A TCA	6	304	2006	✗
Income tax exemption for childcare service providers	S216C TCA	<1	230	2006	✗
Exemption of employer-provided childcare from BIK charge	S120A TCA	6 ⁸	N/A	2000	✗

N/A – Not available

8.1 Exemption of child benefit from income tax

Child Benefit⁹ is a universal support payment which is payable to parents or guardians of children under 16 years of age, or under 19¹⁰ years of age if the child is in full-time education. The purpose of the payment is to assist parents with the costs of raising children as well as with childcare costs. In 2008 it was paid to 580,000 families in respect of 1.1 million children at an estimated cost of €2.5 billion.

6 This estimate does not include the yield from income earners whose current income levels are below the threshold to taxation and who could be brought into the tax net if child benefit payments were included as taxable income. The estimate includes the cost of the exemption of benefit for children aged 18 in 2009.

7 Estimate calculated by the Revenue Commissioners using average marginal rate. The figure is likely to be an overestimate as it takes no account of the expenses which foster parents incur while caring for a foster child.

8 Details of cost and take up are not collected by the Revenue Commissioners. Summary of Budget measures 1999 estimated a yearly cost of €6.35 million (£5 million).

9 In 2009, parents with children under 5 1/2 years also receive the Early Childcare Supplement. This payment is being discontinued and is being replaced with effect from 1 January 2010 with a pre-school Early Childhood and Education Scheme (ECCE) for all children between the ages of 3 years 3 months and 4 years 6 months. A capitation grant will be payable to service providers who provide free pre-school services.

10 With effect from 1 January 2009, only half the payment is available in respect of children aged 18 and, with effect from 2010, the payment is being discontinued in respect of such children. These changes were provided for in Budget 2009.

In 2009, the amounts of child benefit payable are:

No. of children	Annual value of child benefit payment*
1	€1,992
2	€3,984
3	€6,420
4	€8,856

* figures assume children are under 18 years old. Higher amounts are payable where the number of children is greater than four.

Income from child benefit is specifically excluded from the calculation of income for taxation purposes. The Revenue Commissioners provided us with the following estimate of the distribution of recipients of the tax relief who number approximately 384,500¹¹:

- 20% of the families who benefit from the relief have income below €40,000
- 65% of the families who benefit have an income between €40,000 and €100,000 and
- 15% of the beneficiaries are families with income above €100,000

Child benefit was introduced to provide parents with direct support for children. The payment was increased significantly in value in recent years with the aim of assisting parents and enhancing the level of support provided in respect of the costs of raising children, including childcare costs. Child benefit does not present barriers to parents taking up employment because it is payable regardless of income, is not taxable and is not reduced as income increases.

The tax exemption is one of very long standing; children's allowance, which was the forerunner of child benefit, was also statutorily exempt from tax¹². Untaxed child benefit delivers the full value of intended assistance to the principal carer in a household. NESCS¹³ cites three objectives underlying the provision of child benefit:

- An anti-poverty objective
- Support for working parents with the cost of childcare, and
- Recognition of the value of women's work caring for children in the home

Child benefit is payable irrespective of family income or need. The exemption of child benefit from tax means that the payment may be of greater benefit to individuals liable at the higher rate of tax as compared with recipients liable at the standard rate or those who are outside the tax net. This raises questions about the equity of the tax treatment of the payment. An efficiency question also arises about the payment of child benefit to families in the higher income ranges regardless of need.

One option to address the equity and efficiency issues would be to make child benefit subject to taxation. Another would be to means test the payment. The Government has indicated publicly that it is considering both options. We have not examined means-testing in detail on the basis that it is not within our terms of reference. We note also the proposal from the Special Group on Public Service Numbers and Expenditure Programmes that child benefit rates should be reduced and standardised. Implementation of such a proposal would reduce child benefit cost but leave

11 Those who are outside the tax system are not included in this figure.

12 Section 354 of the Income Tax Act, 1967 refers.

13 NESCS Research Series, Paper No. 6, Winter 2007, Ireland's Child Income Supports: The Case for a New Form of Targeting

unresolved the equity and efficiency issues which we highlight above.

Research from both NESCF and the ESRI suggests ways in which equity and efficiency could be addressed and taxation of child benefit is suggested as a possible approach as part of these:

- A NESCF working paper suggested the introduction of a second tier payment (i.e. paid in addition to child benefit) which would replace Family Income Supplement (FIS) and Child Dependent Allowances (CDAs) and would be paid to low income families only. The proposals suggest that the cost of the new arrangements could be met through for example rescinding the higher rate of child benefit for third or subsequent children or taxing child benefit
- The ESRI¹⁴ suggested that one way of achieving greater targeting with child benefit would be to increase it while making the payments taxable. This would result in full payment to those on low incomes, who would have more need of it, while giving a reduced net payment to those paying at the standard rate and a further reduced net payment to those paying at the higher rate. The ESRI stated that:

“the taxable status of child benefit could have been changed more readily at the same time as substantial increases in payment levels were introduced. In the absence of substantial further increases in child benefit, making the payment taxable would require the ‘clawing back’ of some of the net benefit for high earners”.

There are a number of legal and policy issues which need to be addressed satisfactorily as a pre-requisite to taxation. These include:

- Legal ownership of the child benefit payment
- Whether there would be an entitlement to an employee tax credit and standard rate band in respect of child benefit
- Ownership, allocation and impact of the child tax credit which we propose in Section 2 of Part 5, including how it would relate to the employee tax credit, and
- Impact on entitlement to the home carer tax credit consequent on the withdrawal of the tax exemption for child benefit

In relation to legal ownership of the child benefit payment, we are aware of independent legal advice obtained previously in the context of the deliberations of the Tax and Welfare Integration Group (TWIG) in the early 1990s which suggested that the taxation of child benefit could be problematic within the present social welfare legislative structures.

Overall we do not consider that the significance of any of these issues is such that it would deflect us from the view that, in principle, the taxation of child benefit would improve the equity and efficiency of the child benefit payment.

Conclusion

The exemption of child benefit from tax confers a greater benefit to those higher up the income scale as compared with recipients who are liable only at the standard rate or who are outside the tax net altogether. We consider that this raises questions about the equity of the tax treatment of the payment; there is also an efficiency question related to giving the payment to families regardless of need. These issues arise regardless of the quantum of the payment.

14 [2007] “Child poverty and child income supports: Ireland in comparative perspective” – Tim Callan, Kieran Coleman, Brian Nolan, John R Walsh.

The taxation of child benefit would improve the distributive impact of child benefit support.

In the course of our analysis, we explored the impact of the application of income tax to child benefit. Based on that analysis, we are satisfied that the taxation of child benefit, once in place, would be equitable and would improve the efficiency of the payment. After taxation, child benefit would give those who remain outside the tax net the full gross benefit of child benefit; those higher up the income scale would get the benefit less tax at the standard rate while those taxable at the higher rate would get the benefit less tax at that rate.

Because child benefit increases with the number of children, the move to taxation would impact most on larger families. This may not be an intended outcome and minimising the impacts in this regard will present a challenge to policy makers. As noted above, the Government has indicated that it is also considering the option of means-testing child benefit. It seems to us that this option also presents implementation challenges. The Government will presumably also consider the Special Group recommendation as mentioned above. Overall, however, on equity grounds and with the objective of improving the targeting of the support, our view is that the payment should be taxed. However, we consider that the option of taxing the benefit should be benchmarked against alternatives (including means-testing) to ascertain the most effective method of achieving greater equity and improved targeting of the support.

When implementing this recommendation, we believe that care will be needed to deal with the legal and policy issues identified above and to avoid possible employment disincentive effects that may arise. We also note that a successful implementation of this recommendation necessitates further and closer co-ordination between the Revenue Commissioners and the Department of Social and Family Affairs.

Recommendation 8.7

Child benefit should be taxable income.

- The taxing of child benefit should be benchmarked against alternatives, including means testing, to ascertain the most effective method of achieving the aims and objectives of the child benefit programme.
- If taxation is applied, we recommend the introduction of a child tax credit to offset the additional tax payable in respect of child benefit for those in the lower half of the income scale.

8.2 Exemption of foster care payments from income tax

Description

Payments made by the Health Service Executive to foster parents and relatives in respect of children in their care are exempt from income tax. The 2008 rates of payment were €16,588 per annum for a child under 12 years and €17,992 per annum for a child over 12 years. In 2007 a total of €97.7 million was paid to 3,326 foster carers.

Conclusion

Children in foster care are in the care of the State, under the Child Care Act 1991. Foster carers undertake to care for foster children on the State's behalf and as such are a unique group in often difficult circumstances. Given the particular nature of this exemption and having regard to the fact that the primary aim of foster care payments is to reimburse foster parents for the expenses incurred

in raising foster children, we recommend that this exemption should continue.

Recommendation 8.8

The exemption of foster care payments from income tax should continue.

8.3 One-parent family tax credit

Description

A single parent, whether widowed, single, separated or divorced, with a dependent child or children may be entitled to receive the one-parent family tax credit. The value of this credit is €1,830 per annum. The one-parent family tax credit, where due, is given in addition to the basic personal tax credit. The tax credit can be claimed in full by each parent provided the child resides with the claimant for a whole or part of the year of claim. This condition is deemed by the Revenue Commissioners to be fulfilled if a child resides with a parent for at least one night in the year. The relief was originally introduced to assist single and widowed parents who work outside the home and who have dependants. The underlying purpose of the relief, therefore, is to support labour market participation of single parents with sufficient income to avail of the value of the credit.

Conclusion

We acknowledge that this tax relief plays a role in supporting and incentivising the labour market participation of single and widowed parents. We therefore recommend that the tax credit should continue. However, we also note that the annual cost of this relief is considerable. We recommend that Government should seek to minimise or eliminate the inefficiency (or deadweight element) associated with this relief in relation to the allocation of the full credit (and the additional standard band which applies as a result) to both parents. Such a move would help restore greater balance between the cost of the tax credit and the benefit derived from it. Accordingly, we recommend that the credit be allocated to the principal carer only in accordance with the current arrangements for child benefit.

Recommendation 8.9

The one-parent family tax credit should continue and the credit should be allocated to the principal carer only and in a similar way to the current arrangements for child benefit.

8.4 Home carer tax credit

Description

A tax credit of €900 is available for married couples, jointly assessed to tax, where one spouse works in the home caring for a dependent child, a person over 65 or a person who is permanently incapacitated. A dependent person does not include a spouse. To qualify for the full credit, the annual income of the carer must not exceed €5,080. A reduced tax credit is given where the annual income of the carer is between €5,080 and €6,880. Where annual income exceeds €6,880 no tax credit is given. The Carer's Allowance payable by the Department of Social and Family Affairs is disregarded for determining entitlement to the tax credit.

The home carer tax credit was introduced in 2000 in the context of individualisation of the tax bands. The credit compensates for partial band individualisation where families have dependants.

Conclusion

In Section 2 of Part 5, we recommend that the present arrangements with regard to band structure and credits which apply to married one-earner and married two-earner couples should remain in place. The credit forms part of the current “hybrid” structure relating to band individualisation and it would not be realistic to contemplate its withdrawal while the current arrangements in relation to the tax bands continue to exist or in circumstances where band individualisation is completed. In addition, we considered that, as a general principle and subject to resource constraints which may apply, the value of the credit should be increased generally in line with the value of other personal tax credits.

Recommendation 8.10

The home carer tax credit should continue.

8.5 Widowed parent tax credit**Description**

In the year of bereavement a widowed person may receive a personal tax credit which is equivalent to the married tax credit. Following the year of bereavement, a widowed parent with a qualifying child may qualify for the one-parent family tax credit in addition to the single personal tax credit. A further credit, the widowed parent tax credit, is also available, on a sliding scale, for the first five years after bereavement. For 2008 and subsequent years, this credit is worth €4,000 in the first year of entitlement and €2,000 in the fifth year. In determining whether a child is qualifying or not, the conditions applicable to the one-parent family tax credit apply.

Conclusion

We consider that this credit helps widowed parents to cope financially with the transition from married to widowed life, particularly in circumstances where commitments may have been entered into previously. It also assists widowed parents accessing or remaining in the labour market in the years immediately following bereavement.

Recommendation 8.11

The widowed parent tax credit should continue.

8.6 Capital allowances for childcare facilities**Description**

Capital expenditure incurred on the construction, extension and refurbishment of a building or part of a building used as a childcare facility qualifies for accelerated capital allowances. The premises must be in use for the purpose of providing a pre-school service or a pre-school service and a day care or other service to cater for children other than pre-school children.

Conclusion

While we acknowledge the need for policy initiatives in the area of childcare we consider that these accelerated capital allowances for the construction, conversion and refurbishment of childcare facilities, like the other tax expenditures for property, raise issues of effectiveness, deadweight and adverse equity impact. We do not consider accelerated capital allowances to be an appropriate

policy instrument in this area and we recommend that they be discontinued.

Recommendation 8.12

The capital allowances for childcare facilities should be discontinued.

8.7 Income tax exemption for childcare service providers

Description

This relief provides an income tax exemption of up to €15,000 where a childcare service is provided in a carer's home.

Conclusion

We note that this relief does not require minimum standards of care as a precondition for entitlement and that the take-up of this relief has been limited with a total of 230 cases in 2006.

Recommendation 8.13

The income tax exemption for childcare service providers should be discontinued.

8.8 Exemption of employer-provided childcare from BIK charge

Description

Where an employer provides free or subsidised childcare facilities (which meet appropriate standards) for employees, no taxable benefit arises to the employee.

Taxpayers are not required to provide details of this benefit-in-kind in their tax returns and therefore we have not been able to assess the cost, availability and progress of this measure. However, given that the employer must finance and manage the facility, or provide capital for the construction or refurbishment of the premises, it is likely such facilities can only be provided by larger employers. It is unlikely that smaller employers could afford to provide such facilities.

Conclusion

We consider that this tax expenditure is an inappropriate instrument to address the provision of childcare for employees. While it can assist labour force participation, it raises equity issues in relation to those parents whose employment does not provide such facilities. Accordingly, we recommend that it should be discontinued.

Recommendation 8.14

The exemption of employer-provided childcare from the benefit-in-kind charge should be discontinued.

Section 9:

Tax expenditures relating to housing

Tax expenditure	Statutory reference	Estimated		Year of estimate	Continue ✓ Discontinue ✗ Modify ❄
		Cost €m	Numbers benefiting		
Mortgage interest relief	S244 TCA	705	750,000	2008	❄
Income tax relief for rent paid	S473 TCA	48	144,500	2005	✗
Capital gains tax exemption on principal private residence	S604 TCA	2,440	47,340	2006	✓
Income tax relief for service charges	S477 TCA	21	363,900	2006	✗
Rent-a-room relief	S216A TCA	4	3,560	2006	✗
Capital gains tax and stamp duty relief for disposal of a site to a child	S603A TCA; S83A SDCA	38	5,450	2007/08	✗

9.1 Mortgage interest relief

Description

Income tax relief is provided at source through financial institutions for interest paid on a loan that finances a principal private residence. The loan must be used for the purchase, repair, development or improvement of the taxpayer's principal private residence. The principal private residence may be located in Ireland, Northern Ireland or Great Britain. The limits on relief with effect from 1 May 2009 are as follows.

	First-time buyers				Others	
	Maximum interest	Rate of tax relief			Maximum interest	Rate of tax relief
		Years 1 - 2	Years 3 - 5	Years 6 - 7		
Single	€10,000	25%	22.5%	20%	€3,000	15%
Married/widowed	€20,000	25%	22.5%	20%	€6,000	15%

Conclusion

We noted the distributional impact of the relief for the year 2005¹⁵ with those in the top two income deciles accounting for close to half of the tax foregone. Considering the tax relief in isolation, this raises issues of equity, although a range of other housing supports are available which have a greater impact on those in the lowest income deciles.

Mortgage interest relief has been part of a very generous tax regime for owner-occupied housing and there are strong grounds for considering its withdrawal having regard to considerations

of efficiency and equity. We concur with the NESC view that any policy which seeks to improve affordability for buyers through offering higher levels of relief is unlikely to do so and may only result in higher prices. The discontinuation of mortgage interest relief might be expected in the longer term to help improve the efficiency of the housing market as well as releasing resources for other purposes.

A case for retention can be made in relation to first-time buyers who, generally speaking, come to the market without the equity that is available to other buyers. NESC has observed that removal of mortgage interest relief would impinge most on first-time buyers who would see their monthly payments rise and the value of their recently acquired property decline.

Recommendation 8.15

Mortgage interest relief should be continued in the case of first-time buyers and discontinued for those who are outside this category. The current step down arrangements for first-time buyers regarding the rate at which relief is given should continue to apply.

9.2 Income tax relief for rent paid

Description

Income tax relief at the standard rate is available to individuals for rent paid for private rented accommodation which is their sole or main residence. The maximum levels (at 1 January 2009) of rent paid for private rented accommodation on which rent relief can be claimed and the current maximum levels of relief available annually are as follows:

Maximum interest	Single		Married	
	Rent	Tax relief	Rent	Tax relief
Aged under 55	€2,000	€400	€4,000	€800
Aged 55 and over	€4,000	€800	€8,000	€1,600

Conclusion

In the same way as mortgage interest relief increases the cost of housing, rent relief increases the cost of private rented accommodation. In its document, *Housing Policy in Ireland: Performance and Policy*, NESC indicated that:

"...it is likely that the relief benefits not only tenants, but also landlords, since it tends to increase demand and therefore rents".

Consistent with our recommendation on mortgage interest relief for non first-time buyers we consider that rent relief should also be discontinued. There is a case for discontinuing the relief over a number of years, particularly having regard to the scale of the relief available to those aged 55 or over.

Recommendation 8.16

Income tax relief for rent paid for private rented accommodation should be discontinued.

9.3 Capital gains tax exemption on principal private residence

Description

There is an exemption from capital gains tax on the disposal of a principal private residence (including grounds up to 0.4047 hectare (one acre)), except to the extent that the gain derives from development land. The exemption is proportionately restricted where the property was rented out, used for business purposes or left unoccupied during the period of ownership.

Conclusion

Although the efficiency and equity of this tax expenditure is debatable, we recommend its retention in the context of our recommendation to introduce a comprehensive annual tax on residential property.

Recommendation 8.17

The capital gains tax exemption on the disposal of a principal private residence should be continued.

9.4 Income tax relief for service charges

Description

Income tax relief is available for local service charges that are paid in full and on time either by the person liable for them or by another person who resides in the premises to which the service relates. The service charges may be paid to a local authority or an independent contractor. The relief is given at the standard rate of tax for any service charges paid, including "bin tags", in the previous year. Our views in relation to tax relief for service charges are set out in further detail in Section 8 of Part 11.

Conclusion

We consider that there is no sound rationale for tax relief on service charges. We therefore recommend that the relief be discontinued.

Recommendation 8.18

Income tax relief for service charges should be discontinued.

9.5 Rent-a-room relief

Description

Where an individual rents a room or rooms in a 'qualifying residence' and the gross rent received (including sums arising for food, laundry or similar goods and services) does not exceed €10,000 (in 2009), the income is exempt from income tax. A 'qualifying residence' is a residential premises in Ireland, which is occupied by an individual as his or her principal private residence during the year of assessment. The income is also exempt from PRSI, health levy and income levy but it must be reported on the annual income tax return.

Conclusion

Rent-a-room relief was introduced in 2001 on grounds of market failure in the supply of rented accommodation. The relief may also have enabled property buyers to secure higher mortgage facilities by providing extra income on which lending levels were based. The market failure relating to undersupply of rental accommodation and rental affordability no longer applies. On

equity grounds, it is inappropriate to distinguish between income from renting out a room and other income which is subject to tax.

We consider, therefore, that the original rationale for this relief no longer applies and that it should be discontinued.

Recommendation 8.19

The rent-a-room relief should be discontinued.

9.6 Capital gains tax and stamp duty exemption on disposal of site to a child

Description

Exemption from capital gains tax is provided in respect of any gain on a disposal of a site by a parent to his or her child (including foster children). The land must be used by the child to build a house which is to be used as the child's only or main residence. The market value of the land must not exceed €500,000 at the date of the disposal and the area of the land must not exceed 0.4047 hectare (exclusive of the area on which the house is to be built). If the child disposes of the land without a dwelling house having been built on the site and occupied by the child as his or her only or main residence for three years, the gain which was exempted is treated as accruing to the child and tax is payable on the gain.

A corresponding exemption from stamp duty is provided to the child who may only benefit from the measure once. If the site value exceeds €500,000, stamp duty is charged on the entire value.

Conclusion

By definition, the exemption confers an advantage on persons who are in possession of an asset (land) which they are in a position to dispose of with a resultant capital gain. While the disposal might not take place in the absence of the exemption, the child would, presumably, acquire a site at another location in the normal way - albeit at, perhaps, a higher cost than would be charged by the parent. We consider that equity requires that the gain should be treated in the same manner as would a gain from the disposal of any other asset and be taxed accordingly. Similarly, the stamp duty exemption should be discontinued.

Recommendation 8.20

The capital gains tax and stamp duty exemptions on the disposal of site to a child should be discontinued.

Section 10:

Tax expenditures relating To health

Tax expenditure	Statutory reference	Estimated		Year of estimate	Continue ✓ Discontinue ✗ Modify ❄
		Cost €m	Numbers benefiting		
Relief for medical insurance	S470 TCA	321	1,017,400	2008	❄
Relief for health expenses	S469 TCA	167	348,800	2006	❄
Relief for contributions paid to permanent health benefit schemes	S471 TCA	3	23,000	2006	✓
Long-term care policies	S470A TCA	–	–	–	✗
Incapacitated child tax credit	S465 TCA	16	11,000	2006	✗
Allowance for employing a carer for an incapacitated individual	S467 TCA	3	820	2006	❄
Dependent relative tax credit, mortgage interest relief and principal private residence relief	S466, 244 and 604(10) TCA	1 N/A N/A	15,500 N/A N/A	2006	❄
Blind person's tax credit	S468 TCA	>1	880	2006	✗
Palliative care units	S268(2BA) TCA	N/A	N/A	–	❄
Tax concessions for disabled drivers/passengers	S92 FA'89	68	12,500	2008	❄

10.1 Relief for medical insurance

Description

Tax relief is provided at the standard rate of income tax for medical insurance premiums paid to cover a range of medical expenses. The relief also covers premiums paid on dental insurance policies for non-routine dental treatment. For the payments to qualify for relief, they must be made to an authorised insurer listed in the Register of Health Benefit Undertakings established under the Health Insurance Act 1994. Relief is available in respect of an individual, his or her spouse and the children or other dependants of the individual or his or her spouse.

The relief is granted under a tax relief at source system to all holders of medical insurance irrespective of whether or not they have a tax liability to offset the value of the relief. The subscriber pays the premium net of the tax relief and the insurer obtains a refund of the relevant amount from the Revenue Commissioners.

Conclusion

We acknowledge that medical insurance is expensive and that medical insurance relief plays a role in attracting and retaining individuals within the medical insurance system. However, there is a sizeable deadweight element as many individuals would pay these premiums in the

absence of the tax relief. We also acknowledge that without medical insurance, it would be necessary for the State to provide treatment to more individuals through the public health system.

We have concluded that there is a case for continuing this relief but on a more limited basis. A new arrangement should be put in place whereby the tax relief is limited to a fixed amount per individual regardless of the level of cover purchased by the individual. This amount should then be index-linked to the Consumer Price Index in subsequent years. Under this approach, the relief for family premiums would be based on the number of individuals to which the cover related.

We note the proposals contained in the Health Insurance (Miscellaneous Provisions) Bill, 2008 which envisage that additional age-related tax relief will be provided for those aged 50 or over. We understand that the proposed arrangement is intended to prevent costs for those over 50 years rising rapidly against the background where the former risk equalisation scheme was found to be unlawful. We also understand that it is intended that the additional tax relief will apply for a three-year period in the context of broader plans by the Department of Health and Children to replace the risk equalisation scheme with a new scheme. We believe that it is appropriate that such arrangements should be made on a temporary basis.

Recommendation 8.21

Medical insurance relief should be continued on a more limited basis.

10.2 Relief for health expenses

Description

Health expenses relief is provided against income tax for the unreimbursed cost of a specified list of health expenses. The relief is provided at the standard rate of income tax except in the case of nursing home expenses which are provided at the marginal rate. There is no requirement that there be a relationship between the taxpayer receiving the relief and the person who is the subject of the claim.

Conclusion

We consider that the tax relief for health expenses may give rise to the costs of some treatments being higher than they might otherwise be in the absence of the relief. However, the relationship between the tax relief and the cost of health care is not a direct one in all cases. We believe that a case can be made for the continuation of the relief particularly in the case of costs which are unavoidable rather than discretionary in nature. However, we note that the relief is of no benefit to individuals on low income levels who have no income tax liability.

We conclude that there is a case for continuation of this relief but that it should be standard rated in its entirety and we note the measure in Finance (No. 2) Act 2008 to standard rate most elements of the relief. We also consider that the range of treatments contained within the scope of the relief should be subject to regular review.

We separately considered the issue of nursing home expenses. We concluded that the proposed Fair Deal¹⁶ system for nursing home care offers an equitable basis for determining the level of financial support to be provided by the State to those who need nursing home care. Consequently, we recommend that, once the Fair Deal system has been implemented, removal of the tax relief should be considered.

16 Based on our understanding of the proposed Fair Deal scheme at July 2009.

Recommendation 8.22

Relief for health expenses should continue at the standard rate.

Recommendation 8.23

Once the Fair Deal system for nursing home care has been implemented, removal of the tax relief for nursing home expenses should be considered.

Recommendation 8.24

The range of treatments contained within the scope of the relief for health expenses should be subject to regular review.

10.3 Relief for contributions paid to permanent health benefit schemes

Description

Tax relief at the marginal rate (and PRSI) relief is available on the full cost of contributions to permanent health benefit (income continuance) schemes subject to the contributions not exceeding 10% of total income. The schemes provide for regular payments to individuals in the event of loss or diminution of income as a result of ill-health. All benefits from these schemes are liable for tax.

Conclusion

We considered that the current arrangements should continue.

Recommendation 8.25

Tax relief for contributions paid to permanent health benefit schemes should continue.

10.4 Long-term care policies

Description

This relief, introduced in 2001, is available in respect of premiums paid on qualifying insurance policies designed to cover in whole or in part the future needs of individuals who are unable to perform at least two activities of daily living or who are suffering from severe cognitive impairment. The relief is standard-rated and is given under a tax relief at source system. Qualifying policies must be approved by the Revenue Commissioners and benefits payable are not taxable.

Conclusion

We consider it inequitable that, unlike pension schemes and permanent health schemes, contributions to these policies are relieved of tax and the benefit paid is not subject to tax. Were this scheme to continue, its taxation structure should conform to that of comparable schemes. However, we note that, despite this relief being in place since 2001, no products are available and there have been no claimants under the scheme. We consider it undesirable to have a relief in the tax code that is not being used and we therefore recommend that it be discontinued.

Recommendation 8.26

Tax relief for long-term care policies should be discontinued.

10.5 Incapacitated child tax credit

Description

The incapacitated child tax credit may be claimed by a parent or guardian of a child who is permanently incapacitated, either physically or mentally, from maintaining himself or herself and had become so before reaching 21 years of age or had become so after reaching the age of 21, but while still in full-time education or while training full time for a trade or profession for a minimum of two years. Where more than one child is incapacitated, a tax credit may be claimed for each child. Where the child is maintained by one parent only, that parent is entitled to claim the full amount of the tax credit. However, where the child is maintained by more than one person, the tax credit is divided between them in proportion to the amount paid by each towards the maintenance of the child. In 2008, the value of the tax credit was €3,660.

Conclusion

We concluded that while parents and guardians of permanently incapacitated children are deserving of additional support from the State, it is inequitable that individuals on low incomes who are not liable to taxation, yet are caring for an incapacitated child, obtain no benefit from the tax credit. Indeed it may be argued that such individuals may have greater need of additional support. We recommend that the appropriate level of State support be provided to all incapacitated children through direct expenditure and that the tax credit be discontinued. However, the direct expenditure support at the appropriate level should be put in place first; only then should the tax credit be withdrawn.

Recommendation 8.27

When direct expenditure support at the appropriate level is in place, the incapacitated child tax credit should be discontinued.

10.6 Allowance for employing a carer for an incapacitated individual

Description

This allowance is for the employment of a carer for an incapacitated individual. The allowance is claimable where an individual employs a person to care for a family member who is totally incapacitated by old age or infirmity. Where two or more persons employ the carer, the allowance will be apportioned between them. Carers may be employed on an individual basis or through an agency and the relief is not due if the carer is employed as a housekeeper only or if the dependent relative tax credit or incapacitated child credit has been given in respect of the employed carer. The allowance is up to €50,000 and is available at the marginal rate of tax.

Conclusion

We acknowledge that there is a strong social aspect to this relief. It allows incapacitated individuals to remain in the home which is in their best interests and consistent with various policy objectives. We recommend that the relief should be continued. However, it is inequitable that the relief confers a greater benefit to an individual paying at the higher rate of tax as compared with that conferred on an individual paying tax at the standard rate or who is outside the tax net. Consequently, we recommend that the rate of relief should be the same as that available under health expenses relief.

Recommendation 8.28

The allowance for employing a carer for an incapacitated individual should continue. However, the rate of relief should be the same as that available under health expenses relief.

10.7 Dependent relative tax credit and related reliefs

Description

The tax credit is claimable if a person maintains at his or her own expense: a relative who is incapacitated by old age or infirmity from maintaining himself or herself; a widowed mother or mother in law, widowed father or father in law – regardless of age and state of health; or a son or daughter who is resident with the claimant and upon whom the claimant is dependent by reason of old age or infirmity.

The value of the credit is €80 per annum and is only available where the dependent relative has income that does not exceed a limit (€13,873 in 2009). An individual entitled to claim this credit may by virtue of entitlement also claim mortgage interest relief in respect of interest paid to provide the relative with his or her sole main residence. There is an exemption from capital gains tax on a principal private residence occupied by a dependent relative (regardless of level of income).

Conclusion

While the nominal value of the dependent relative tax credit is too small to be of any material benefit to a claimant (and we recommend that it be discontinued), we recommend that the entitlement to mortgage interest relief, that is derived from entitlement to the credit in relation to a principal private residence occupied by a dependent relative, should continue. The nominal value of the credit is not significant but the fact that it acts as a key to other tax concessions is an important consideration.

We note that the purpose of this tax concession is generally to assist people in old age or infirmity who may be in need of accommodation. It is not to facilitate the sale of a house and the distribution of the proceeds by a person whose relative would then provide them with a further house with assistance from this relief. Therefore, having regard to our recommendation in respect of mortgage interest relief, a person should be able to avail of first-time buyer levels of relief once in respect of himself or herself and once in respect of a dependent relative who has not claimed for himself or herself. We also recommend that the separate entitlement to CGT relief on the disposal of a principal private residence occupied by a dependent relative should be discontinued.

Recommendation 8.29

The dependent relative tax credit should be discontinued.

- The entitlement to mortgage interest relief that is derived from entitlement to the credit in relation to a principal private residence occupied by a dependent relative should continue. A person should be able to avail of first-time buyer levels of relief once in respect of himself or herself and once in respect of a dependent relative who has not claimed for himself or herself.
- The separate entitlement to CGT relief on the disposal of a principal private residence occupied by a dependent relative should be discontinued.

10.8 Blind person's tax credit

Description

A tax credit (2009 value of €1,830) is claimable by a person who is blind throughout the year of assessment. Where both husband and wife are blind the tax credit is doubled. Additionally, relief (€825 in 2009) at the standard rate of income tax is claimable for a guide dog.

Conclusion

We consider it inequitable that this tax expenditure only benefits blind persons who are liable to tax and with sufficient income to absorb the credit; blind persons on lower incomes or those dependent on social welfare obtain no benefit from this credit. We recommend that the appropriate level of State support be provided to blind persons through the direct expenditure route and that the tax credit be discontinued. However, as in the case of the incapacitated child tax credit, direct expenditure support at the appropriate level should be put in place first; only then should the tax credit be withdrawn.

Recommendation 8.30

When direct expenditure support at the appropriate level is in place, the blind person's tax credit should be discontinued.

10.9 Palliative care units

Description

The 2008 Finance Act introduced a scheme of accelerated capital allowances for palliative care units. Capital allowances are available at 15% for the first six years and at 10% for the seventh year. To qualify a unit must be regarded as a hospital or hospice within the meaning of the Public Health (Tobacco) Act 2002 as amended, or other similar facility mainly involved in palliative care. The unit must have a minimum of eight in-patient beds and make available 20% of its capacity annually for the treatment of public patients.

Conclusion

We have been unable to examine this tax expenditure empirically given that it was only introduced in 2008 and no data on its operation is available. However, this scheme is a property-related tax incentive and we have reviewed it as such. Our conclusions are relevant to this scheme and more broadly to the category of property-related tax incentives, which have been a common form of tax expenditure in the Irish tax system.

We believe that these property tax incentives have been measures through which the general body of taxpayers has provided transfers to investors who could participate in these schemes. Issues of effectiveness, deadweight and adverse equity impact arise in relation to them and we are reluctant to recommend them as appropriate policy instruments.

As regards the scheme for palliative care units, we consider that there may be a role for this measure in very limited circumstances where, for example, the normal operation of the market fails to deliver a required response quickly enough or at all. This incentive should only be available in accordance with the general principles on tax expenditures outlined earlier in this Part, including the requirement for *ex-ante* evaluation. Even then, the scheme should only be used in circumstances

where a clear and identified market failure or deficiency exists and where it can be focussed to address such a failure in a pre-defined and targeted way.

Control mechanisms such as a requirement that potential qualifying projects be approved by an independent body should be an intrinsic feature of the arrangements. Overall, the incentive should operate within strict time constraints and be subject to fixed statutory termination dates. It should not be extended without a review of whether there is a continuing need for support through the tax system.

Recommendation 8.31

The arrangements for the scheme of accelerated capital allowances for palliative care units should be modified by the introduction of a termination date for the scheme.

10.10 Tax concessions for disabled drivers and disabled passengers

Description

The Disabled Drivers and Disabled Passengers Scheme applies to persons with physical disabilities and to those responsible for the transportation of disabled persons (e.g. family members or voluntary organisations). Under the terms of the scheme, an individual can claim remission or repayment of vehicle registration tax (VRT), repayment of value-added tax (VAT) on the purchase of a vehicle and repayment of VAT on the cost of adapting a vehicle, up to a maximum of €9,525 for a disabled driver and €15,875 for a disabled passenger or for a family member. Individuals who qualify for the scheme can also claim repayment of excise duty on fuel used for the transport of a disabled person, up to a maximum of 2,728 litres (600 gallons) per year (all figures relate to 2009). In addition, a vehicle which has been admitted to the scheme will also be entitled to an exemption from payment of annual road tax. The individual's means are not taken into account for the purposes of determining eligibility for the scheme. A 2002 Interdepartmental Review Group quoted its broad objective as: "improving the quality of lives of disabled persons through enhancing their overall mobility in a manner consistent with not imposing an unreasonable burden on scarce Exchequer resources".

Conclusion

We note that this scheme was reviewed in detail by an Interdepartmental Review Group in 2002. We endorse the recommendations of that group, which we have summarised below, and urge their implementation.

**Recommendations of the 2002 Interdepartmental Review Group
(summarised by this Commission)**

- Consider replacing the medical criteria based on lack of limbs with a more general mobility-focussed medical assessment
- Provide an overall assessment of the mobility level of the individual rather than concentrating purely on the specifics of the physical disability
- Separate the two parts of the scheme, leaving a vehicle tax-based scheme for drivers and replacing the passenger side of the scheme with a direct payment or allowance scheme
- Widen the scope for access to voluntary groups to the scheme
- Introduce minimum age limits for passengers
- Increase the claim period from two years to three years or reduce the level of tax relief in the case of second and subsequent applications. It is estimated that this would reduce the cost of the scheme by 50%
- Introduce a common monetary limit for both drivers and passengers

In addition, the Review Group set down core principles against which the options for the future might be measured.

Recommendation 8.32

The Disabled Drivers and Disabled Passengers Scheme should be modified in accordance with the recommendations of the 2002 Interdepartmental Review Group.

Section 11:

Tax Expenditures Relating to Philanthropy

Tax expenditure	Statutory reference	Estimated		Year of estimate	Continue ✓ Discontinue ✗ Modify ❄
		Cost €m	Numbers benefiting		
Payment of tax by means of donation of heritage items	S1003 TCA	5	5	2008	❄
Payment of tax by means of donation of heritage property to the Irish heritage trust	S1003A TCA	4	4	2008	❄
Capital gains tax exemption on works of art loaned for public display	S606 TCA	N/A	N/A	–	❄
Income tax relief for expenditure on heritage buildings and gardens	S482 TCA	6	180	2006	✗
BIK exemption for employer-provided art objects in a heritage building or garden	S236 TCA	–	–	–	✗
CAT exemption for heritage property and heritage property of companies	S77 CATCA	1	2	2003	✓
	S78 CATCA	–	–	2008	
Tax relief for donations to charities and approved bodies	S848A TCA	50	107,100	2006	❄
Tax relief for donations to sports bodies	S847A TCA	>1	580	2006	❄
Tax relief for gifts made to the Minister for Finance	S483 TCA	N/A	N/A	–	✓
Income tax exemption for sports bodies	S235 TCA	N/A	2,015	2009	❄
Capital gains tax exemption for sports bodies	S610 TCA	N/A	N/A	–	✓
Stamp duty exemption for sports bodies	S82B SDCA	3.0	94	2008	✓
CAT exemption for gifts/inheritances taken by charities	S76 CATCA	N/A	N/A	–	✓
Income tax exemption for charities and similar bodies	SS207-211 and S213 TCA	–	–	–	✓
CGT exemption for charities and similar bodies	S609 TCA	N/A	N/A	–	❄
Stamp duty exemption for charities and similar bodies.	S82, 82A and 102 SDCA	20 ¹⁷	720	2008	✓

17 Cost refers to Section 82 only.

11.1 Payment of tax by means of donation of heritage items

Description

This relief facilitates the payment of tax by means of donation of heritage items. Any item used in this way must be approved by a selection committee¹⁸ and donated to a specified national cultural institution¹⁹. The relief consists of a tax credit equal to 80% of the value of the heritage item(s) donated which can be credited against the donor's tax liabilities. To qualify for the relief, an item must be considered an outstanding example of the type of item involved, pre-eminent in its class, whose export would constitute a diminution of the accumulated cultural heritage of Ireland, or whose import into Ireland would constitute a significant enhancement of the accumulated heritage of Ireland. The item must be considered suitable for acquisition by the by the national cultural institution to which the heritage item is being donated. The minimum value of the item must be €150,000, or in the case of a collection must be worth at least €50,000²⁰.

Conclusion

This relief, along with a number of other heritage-related measures, aims to promote and enhance the cultural heritage of Ireland and also supports tourism. The items which may be the subject of the relief are a finite resource and their transfer into public ownership is worthy of support through the tax system. We consider that the scheme should be continued. However, it should be modified so that the tax relief is limited to 50% of the value of the item donated.

Recommendation 8.33

The scheme for payment of tax by means of donation of heritage items should be retained but should be modified so that the tax relief is limited to 50% of the value of the item donated.

11.2 Payment of tax by means of donation of heritage property to the Irish Heritage Trust

Description

This relief facilitates the payment of tax by means of donation of heritage property to the Irish Heritage Trust and has a similar structure and quantum of relief to the scheme of payment of tax by means of donation of heritage property. This scheme was introduced in 2006 and extended in 2007 and 2008 to allow for the donation to the Trust of a particular collection of paintings and furniture.

Conclusion

As with the scheme for payment of tax by means of donation of heritage items, this measure aims to promote and enhance the cultural heritage of Ireland and also supports tourism. Heritage properties are a finite resource and their transfer into public ownership is worthy of the support through the tax system. We consider that the scheme should be continued. However, it should be modified so that the tax relief is limited to 50% of the value of the property donated.

Recommendation 8.34

The scheme for payment of tax by means of donation of heritage property should be retained but should be modified so that the tax relief is limited to 50% of the value of the property donated.

18 An officer of the Minister for Arts, Sport and Tourism (Chairperson), the Chief Executive of the Heritage Council, the Director of the National Library of Ireland, the Director of the Arts Council, the Director of the National Archives, the Director of the Crawford Art Gallery Cork Ltd., the Director of the National Gallery of Ireland, the Director of the National Museum of Ireland, and the Director and Chief Executive of the Irish Museum of Modern Art.

19 Modern Art, the Crawford Art Gallery Cork Ltd. or any other such body as may be approved.

20 The €50,000 limit does not apply in the case of any one item for collections consisting wholly of manuscript or archival material that are at least 30 years old.

11.3 Capital gains tax exemption on works of art loaned for public display

Description

This section provides an exemption from capital gains tax on the disposal of a work of art that has previously been loaned to an approved gallery or museum or to the Irish Heritage Trust for a period of not less than 10 years (six years for loans made before February 2nd 2006). This exemption was introduced in 1991 to enable galleries and museums around the country, which are approved by the Revenue Commissioners, to enhance their collections. Such bodies may receive on loan valuable works of art for display to the public and will enable the public have access to a considerable body of significant artistic work which might not otherwise be on display. The categories of objects to which the section applies are "any picture, print, book, manuscript, sculpture, piece of jewellery or work of art". 'Work of art' would encompass other categories not specifically mentioned, for example, silver, glass and porcelain.

To qualify for the exemption, the object must have a value of not less than €31,740 at the date it is loaned. The Revenue Commissioners may consult with such person or body of persons as, in their opinion, may be of help to them to enable them decide as to the market value of any particular object. A gallery or museum, which is to receive the object, must be approved by the Revenue Commissioners.

The object loaned must be the subject of, or included in, a display to which the public is afforded reasonable access and the minimum period of the loan must be for a period of not less than 10 years from the date of the loan. It is not necessary that the object be on display to the public during the entire period of the loan.

Where after the end of the loan period the object is disposed of by the person who lent it, the disposal is treated for capital gains tax purposes, as if neither a gain nor a loss arises on the disposal. This treatment arises only to a disposal by the person who lent the object. It does not apply to a disposal by a successor in title.

Conclusion

This exemption enables public access to significant artistic work which might not otherwise be on display. We consider that the measure should be retained but that it should be modified so that the exemption only applies to the gain accruing over the period for which the work of art has been loaned to an approved gallery or museum or the Irish Heritage Trust.

Recommendation 8.35

The capital gains tax exemption on works of art loaned for public display should be retained but the exemption should only apply to the gain accruing in the period for which the work of art has been so loaned.

11.4 Income tax relief for expenditure on heritage buildings and gardens

Description

This tax expenditure provides relief to the owner or occupier for expenditure incurred on the repair, maintenance or restoration of a building which is intrinsically of significant scientific, historical, architectural or aesthetic interest and to which reasonable access is afforded to the public or which is a guest house approved by the National Tourism Development Authority (Fáilte Ireland). The

relief also applies to expenditure incurred on the maintenance or restoration of a garden which is intrinsically of significant horticultural, scientific, historical, architectural or aesthetic interest. The building or garden must afford reasonable access to the public and the dates and times it is open to the public must be advertised. In the case of a guest house, it must be registered or listed by the National Tourism Development Authority (Fáilte Ireland) and must be in use as a guest house for at least six months of the year, four of which must be in the period 1 May to 30 September.

Relief of up to €6,350 is also provided annually for expenditure incurred on the repair, maintenance or restoration of approved objects on display in approved buildings and gardens. Alternatively, this relief may be used to cover expenditure incurred in respect of an approved building or garden:

- On the installation, maintenance or replacement of an alarm system or
- For public liability insurance

Qualifying expenditure which cannot be offset against a person's income for a chargeable period may be carried forward to the two subsequent chargeable periods. The scope of this section is affected by the high earner restriction.

Since the inception of this tax expenditure, 264 properties have availed of the relief of which 152 determinations were made in the 10-year period to 2007. Almost 40% of heritage property owners in Ireland have availed of the relief at some point in time. Non-compliance with the public access requirements can result in removal of the property from the list, revocation of public access determination and subsequent withdrawal of the relief.

Conclusion

As with other heritage-related tax reliefs, this measure aims to promote and enhance the cultural heritage of Ireland and also supports tourism. While the desirability of State support for heritage buildings and gardens is acknowledged, and the number of these properties is finite, our view in relation to this measure is that assistance through the tax system is not the most appropriate means of support. In our view, if the aim is correction of market failure or offsetting shortcomings in other areas of public policy, the direct expenditure route is more appropriate in this case. We recommend that the measure be discontinued.

Recommendation 8.36

Income tax relief for expenditure on heritage buildings and gardens should be discontinued.

11.5 BIK exemption on employer-provided art objects in a heritage building or garden

Description

This relief exempts an individual from a benefit-in-kind income tax charge and from a charge to tax in respect of any distributions to participants in respect of certain benefits. The benefit must consist wholly of a loan to the individual of a work of art or a scientific collection which is owned by the company in which the individual is an employee or director and which is available for viewing by the public in a building approved for the purposes of the scheme of tax relief for expenditure on significant buildings and gardens.

Conclusion

We conclude that this relief raises issues of equity. It is narrowly focussed in terms of potential

beneficiaries and the majority of taxpayers, who bear the costs arising, would not be in a position to avail of it. We believe that a charge to tax should arise on such a benefit and therefore recommend that the relief be discontinued.

Recommendation 8.37

The benefit-in-kind exemption on employer-provided art objects in a heritage building or garden should be discontinued.

11.6 CAT exemption of heritage property and heritage property of companies

Description

There is an exemption from capital acquisitions tax in respect of a gift or inheritance of objects of national, scientific, historic or aesthetic interest or a heritage house or garden that is situated in Ireland and not held for the purposes of trading, subject to conditions. Similarly, shares in a family-controlled private company are exempt from tax to the extent that their value is derived from heritage property that would qualify for exemption if the property was heritage property not owned by a company. The exemption only applies to a company where the property is owned by that company on or before 12 April 1995.

This exemption is granted to pictures, prints, books, manuscripts, works of art, jewellery, scientific collections and other items not held for trading which are kept permanently in Ireland and which reasonable viewing facilities for viewing are available to the public, recognised bodies or associations of persons. Temporary absences outside Ireland which are approved by the Revenue Commissioners may be allowed.

To qualify for the exemption, the objects must form part of the gift or inheritance both at the date of the gift or inheritance and at the valuation date. The exemption is withdrawn if reasonable viewing facilities to the public are unavailable or if the object, house or garden, or the shares deriving their value from such heritage property, are sold by the beneficiary within six years of the valuation date of the gift or inheritance. However, the exemption will still be granted where the sale of the object, house or garden, is a sale by private treaty, to the National Gallery of Ireland, the National Museum of Science and Art or other bodies specified in legislation.

Conclusion

This exemption aims to promote and enhance the cultural heritage of Ireland and supports tourism. The exemption enables public access to significant heritage houses and gardens and to objects of national, scientific, historic or artistic interest which might not otherwise be on display. Heritage properties are a finite resource and worthy of support through the tax system. We consider that the scheme should be continued.

Recommendation 8.38

The CAT exemption of heritage property and heritage property of companies should be retained.

11.7 Donations to approved bodies

Description

This scheme provides tax relief in respect of donations made by individuals or companies to eligible charities and other approved bodies where the donation is at least €250 in any year. The relief also applies to donations of quoted securities.

The structure of this scheme differentiates between donations made by PAYE taxpayers, self-employed taxpayers and companies. Where the donor is a PAYE taxpayer, the relief is granted at the individual's marginal rate of tax and the tax refund goes to the charity. In the case of donations made by the self-employed, who pay tax on a self-assessment basis, and by companies, it is the donor who claims the relief and not the recipient of the donation.

The relief is restricted to 10% of the donor's income where the donor is associated with the approved body. The relief is not available where a benefit is conferred on the donor or any person associated with the donor. It is also not due where the donation is conditional on, or associated with, any arrangement involving the acquisition of property by the charity or approved body. It is also a specified relief for the purposes of the high earners restriction.

Conclusion

We consider that there is a general benefit to society from donations to charities and other approved bodies and that the State should continue to support this activity. However, we believe that the State's exposure to costs in this area should not be unlimited. Given this, we recommend the introduction of an upper limit of €500,000 per person on the annual value of donations which may attract tax relief.

This limit should be enforced using the principles of self-assessment and audit. In addition, the relief should be standard rated for all and the threshold on the eligibility of individual donations to attract tax relief should be reduced from €250 to €100.

We also conclude that it is not possible to justify the different treatment of self-employed and PAYE earners under the scheme. As part of the revised arrangements for the scheme, measures should be introduced to address this. We have a preference for a simple approach with a payment representing the tax relief being made to the charity or approved body in respect of donations made by self-employed persons in line with the current approach for donations made by PAYE earners. We also believe that there is merit in simplifying the administrative process associated with the scheme.

In the light of our recommendation that the tax relief should go to the charity or approved body, the relief should be removed from the scope of the measure to restrict the annual tax relief available to high earners. Finally, in relation to donations from companies, the amount that would attract tax relief should be the same as for individuals, i.e. a maximum of €500,000 per annum. The rate of tax relief on corporate donations should be the corporate tax rate and, as with donations from individuals, the tax relief should be paid to the charity or approved body.

Recommendation 8.39

The threshold on the eligibility of individual donations to charities and approved bodies to attract tax relief should be reduced from €250 to €100.

Recommendation 8.40

The relief for individuals under Recommendation 8.39 should be at the standard rate in all cases.

Recommendation 8.41

An upper limit of €500,000 per person on the annual value of donations which may attract tax relief is recommended. This limit should be enforced using the principles of self-assessment and audit.

Recommendation 8.42

The self-employed should be treated in the same way as PAYE earners under the scheme with the tax relief being paid to the charity or approved body.

Recommendation 8.43

In relation to donations from companies, the amount that would attract tax relief should be the same as for individuals, i.e. a maximum of €500,000 per annum. The rate of tax relief on corporate donations should be the corporate tax rate and, as with donations from individuals, the tax relief should be paid to the charity or approved body.

11.8 Donations to sports bodies

Description

Tax relief is available on donations to specified sports bodies for the funding of capital projects. To be regarded as an approved sports body, an organisation must obtain from the Revenue Commissioners both a valid tax clearance certificate and a statement that, in accordance with the provisions of the Taxes Consolidation Act 1997, the body is exempt from tax because it is established solely for the purpose of promoting athletic or amateur games or sports and its income is applied solely for that purpose. The project must be approved by the Minister for Arts, Sport and Tourism and the estimated aggregate cost of the project must be less than €40 million. The types of projects which are eligible to be approved include the purchase, construction or refurbishment of a building to be used for sporting or recreational activities, the purchase of land for such activities, the purchase of permanently based sports equipment and the improvement of pitches and playing surfaces. Tax relief is granted at the individual's marginal rate of tax. The arrangements for allowing the tax relief for donations are similar to those for the scheme of donations to approved bodies.

Conclusion

We concluded that the tax relief regime that is recommended in respect of donations to charities and other approved bodies should also apply in relation to this relief.

Recommendation 8.44

The tax relief scheme available on donations to sports bodies should be modified. The tax relief regime that is recommended in respect of donations to charities and other approved bodies should also apply in relation to relief for donations to sports bodies and aggregate limits should apply to both reliefs.

11.9 Relief for gifts made to the Minister for Finance

Description

Tax relief is available in respect of a gift of money “made to the Minister for Finance for use for any purpose for or towards the cost of which public moneys are provided and which is accepted by that Minister”. ‘Public moneys’ is defined as moneys charged or issued out of the Central Fund provided by the Oireachtas. Where an individual makes a qualifying gift, he or she is entitled to deduct the amount of the gift from his or her income chargeable to income tax for the year in which the gift is made. There is no minimum or upper limit on the amount that may be gifted.

The primary purpose of this relief is to facilitate individuals and companies who wish to make voluntary gifts of money to the State. This has included facilitating State office holders in voluntarily reducing their income during periods of fiscal difficulty.

Conclusion

We note that the State stands to benefit in cash terms from the existence of this relief. The gain to the Exchequer resulting from a gift being made exceeds the associated tax foregone. We consider that it is sensible to retain this measure.

Recommendation 8.45

Relief for gifts made to the Minister for Finance should continue.

11.10 Tax exemptions for philanthropic bodies and sport bodies

Description

The remaining seven items in this Section relate to the taxable status of philanthropic and sports bodies. The collective effect of these provisions is that charities and sports bodies are exempt from taxation (income tax, capital gains tax, stamp duty and, in the case of charities, CAT). Sections 2 and 3 of the Charities Act 2009, respectively, define the terms “charitable organisation” and “charitable purpose”. However, these are not relevant for tax purposes.

Conclusion

We consider that the tax-exempt status of philanthropic and sports bodies should continue. However, we believe that the capital gains tax exemption should be discontinued to the extent development land is disposed of.

Recommendation 8.46

The tax-exempt status of philanthropic and sports bodies should continue. However, the capital gains tax exemption should be discontinued where development land is disposed of.

Section 12:

Tax expenditures relating to enterprise (including farming)

Tax expenditure	Statutory reference	Estimated		Year of estimate	Continue ✓
		Cost €m	Numbers benefiting		Discontinue ✗
					Modify ❄
Restriction of balancing charges on a building to the relevant holding period for that building	S274 TCA	N/A	N/A		✗
Tax treatment of grants	S223–S226 and S317 TCA	N/A	N/A		✗
Research and development tax credit	S766 and 766A TCA	54	162	2006	✓
Tax exemption for patent royalties	S234 and 141 TCA	84	1,100	2006	✗
Deduction for capital expenditure on scientific research	S765 TCA	N/A	N/A		✓
Relief for investment in films	S481 TCA	31		2007	✓
Business Expansion Scheme and Seed Capital Scheme	S488-508A TCA	18		2007	✓
Stock relief for farmers	S666-667B TCA	2	N/A	2007	✗
Tax relief for income from leasing farm land	S664 TCA	27	6,000	2005	✓
Accelerated capital allowances for farm buildings for the control of pollution	S659 TCA	N/A	N/A	–	✗
Capital allowances on purchase of milk quota	S669B TCA	N/A	N/A	–	✗
Restructuring aid for sugar beet growers	S657B TCA	10	N/A	2008	✓
Payments made to National Cooperative Farm Relief Services Ltd. and payments made to its members	S221 TCA	N/A	N/A	–	✗
Accelerated capital allowances for energy efficient equipment	S285A TCA	N/A	N/A	–	✓
Relief for investment in renewable energy generation ²¹	S486B TCA	N/A	N/A	–	✓
Mid-Shannon Corridor Tourism Infrastructure Investment Scheme ²²	S372AW-372AZ TCA	N/A	N/A	N/A	✗
Investment allowance in respect of mining exploration expenditure and plant and machinery	S677 and 678 TCA	N/A	N/A	–	✗

21 No annual cost available. However, the cumulative cost of the measure in the period 1999 to 2006 was estimated at €10 million.

22 No annual cost available.

Decommissioning of fishing vessels	S288(6) TCA	N/A	N/A	–	✓
Tax exemption for startup companies	S486C TCA	25 ²³	N/A	–	✳
Tax treatment of venture capital fund managers	S541C TCA	N/A	N/A	–	✳
Tonnage Tax	Part 24A Sch 16B TCA	N/A	N/A	–	✓
Capital gains tax relief for disposal of a business or farm on retirement	S598 TCA	N/A	N/A	–	✓
Capital gains tax relief for disposal within the family of a business or farm	S599 TCA	N/A	N/A	–	✳
Business relief for CAT	S92 CATCA	30	201	2008	✳
Agricultural relief for CAT	S89 CATCA	100	1,594	2008	✳
Stamp duty relief for young trained farmers	S81A SDCA	71	1,604	2008	✓
Stamp duty exemption for single farm payment entitlements	S101A SDCA	N/A	N/A	–	✓
Forestry tax incentives	S232 and 564 TCA	5	N/A	2006	✓

12.1 Restriction of balancing charges on a building to the relevant holding period for that building

Description

The measure provides that, in some cases, a balancing charge arising on the disposal of a building will not be charged to tax.

In general, where capital expenditure has been incurred on a building and the expenditure has qualified for capital allowances, any disposal of the building will give rise to a balancing allowance or charge to equate the total capital allowances over the period of ownership to the reduction in value, if any, over that period.

However, no balancing charge is made where the disposal occurs after the end of the 'holding period' in relation to the building or structure for balancing event purposes. The length of this period depends on the type of building or structure involved and the time when the expenditure on its construction was incurred and ranges between 10 and 25 years.

Normal capital allowances are included in the benchmark tax system and are not regarded as a tax expenditure - see recommendation 7.18 in Part 7 on the appropriate tax base for business income. This is because they reflect an expense taken into account in calculating income. The non-charging of a balancing charge on a building that is sold after the relevant period is not a normal capital allowance matter. It involves a write-off of tax and is thus regarded as a tax expenditure rather than a benchmark tax system issue.

23 Estimated full year cost when introduced in Budget 2009.

Conclusion

Where capital allowances are available, the tax system should compensate the owner of a building for depreciation sustained from its use for business purposes. It should not under-compensate or over-compensate. The restriction of the balancing charge to disposals of a building in the holding period results in an over-compensation for depreciation and should be discontinued for future acquisitions²⁴.

Recommendation 8.47

The restriction of balancing charges on a building to the relevant holding period for that building should be discontinued for future acquisitions.

12.2 Tax treatment of grants

Description

A range of grants received by a taxpayer to meet expenditure may be disregarded for tax purposes.

Under first principles, a grant towards a revenue expense of a trader would be taken into account in calculating taxable trading income as this applies to most grants. However, there are a number of exceptions to this treatment, including small enterprise grants and employment grants. Similarly, capital grants would reduce the base for capital allowances on capital assets, but again there are exceptions to this.

Conclusion

All grants are paid to meet expenditure. Where they are paid to meet revenue expenditure that is tax deductible, it is logical that they should be taxable and where they are paid to meet capital expenditure that qualifies for capital allowances, it is equally logical that capital allowances should be available on the expenditure net of grant. We do not consider it appropriate that the tax system should treat any grants in a different way.

We recommend that all grants to meet revenue expenditure should be taken into account in calculating taxable trading income and capital allowances should be available on expenditure net of capital grants. However, in the case of employment-related grants, there may be a case for postponing the approach we suggest until more favourable labour market conditions apply.

Recommendation 8.48

Grants to meet revenue expenditure should be taken into account in calculating taxable trading income and capital allowances should be available on expenditure net of capital grants. However, in the case of employment-related grants, there may be a case for postponing the approach we suggest until more favourable labour market conditions apply.

12.3 Tax credit for research and development

Description

A tax credit is available to a company that is engaged in in-house qualifying research and development (R&D) that is undertaken in Ireland (or within the European Economic Area if it is not eligible for tax relief outside Ireland). Expenditure will not qualify for the credit to the extent that it is covered by grant aid.

²⁴ If recommendation 7.18 is adopted, this recommendation will no longer be relevant.

The credit is given for qualifying R&D expenditure that is incremental over the amount of R&D spending in 2003. The credit is calculated as 25% of qualifying expenditure and is offset against the corporation tax payable by the company for the accounting period in which the expenditure was incurred. If the credit exceeds the corporation tax for that year, it can be offset against corporation tax for the previous year. Any surplus is carried forward for offset against liability in subsequent years. As an alternative, a company may claim to have any credit that cannot be offset against the current or the previous year repaid to it over a period of up to three years.

The credit does not cover expenditure on buildings. A separate non-incremental credit of 25% of expenditure on buildings used for R&D purposes is available over four years on a straight line basis with similar rules regarding use of the credit.

Expenditure by companies on R&D work subcontracted to unconnected parties qualifies under the scheme up to a limit of 10% of qualifying R&D expenditure in any year. This is in addition to provisions by which the cost of R&D subcontracted to universities in the EU and EEA is allowed.

Conclusion

Given that the R&D tax credit scheme has only been in place since 2004, there is limited information available against which to assess its cost effectiveness.

We consider that it is very important in terms of incentivising economic activity that there be properly focussed and genuinely effective incentives in the area of research and development. The tax credit for expenditure on research and development scheme does this and incentivises important research and development activities. We consider that the tax credit for expenditure on research and development scheme should continue.

Recommendation 8.49

The tax credit for research and development should continue.

12.4 Tax exemption for patent royalties

Description

Royalty income derived from qualifying patents is exempt from income tax and corporation tax subject to an annual limit. A qualifying patent is a patent on an invention for which the research and development work was carried on in a country in the European Economic Area. An individual who owns a patent is only entitled to an exemption as inventor or co-inventor. There is an annual limit of €5 million on the amount of exempt royalty income.

Dividends paid by a company out of patent income are also exempt from tax. If the patented invention does not involve radical innovation, the amount of exempt patent income that can be distributed tax-free in any accounting period is limited to the amount of expenditure incurred on research and development in that period.

Conclusion

We have reservations about the effectiveness of the measure in incentivising companies to engage in R&D activities in Ireland. We are of the view that the relief has not resulted to any great extent in companies carrying out R&D activity and that, where it was being used by such companies, it was being used in some cases as a tax avoidance device to remunerate employees.

We also believe that the deadweight element of the scheme is significant and that the patent income exemption is a windfall gain after a successful invention rather than an incentive to encourage research and development.

Our view is that it is very important in terms of incentivising economic activity that there be properly focussed and genuinely effective incentives in the area of research and development. The R&D tax credit incentivises research and development activity more directly than the patent royalty scheme and available resources should be focused on that scheme. The patent royalty exemption should therefore be discontinued.

Recommendation 8.50

Tax exemption for patent royalties should be discontinued.

12.5 Tax deduction for capital expenditure on scientific research

Description

This section gives an allowance in respect of capital expenditure on scientific research incurred by a person carrying on a trade to which the expenditure relates. An allowance is also available where the capital expenditure on scientific research is incurred by a person carrying on a trade but the expenditure is not related to the person's trade. Unused allowances in respect of capital expenditure on scientific research may be carried forward against future trading income.

Conclusion

We consider that this allowance complements the R&D tax credit and that it should be continued.

Recommendation 8.51

The tax deduction for capital expenditure on scientific research should continue.

12.6 Film relief

Description

The measure allows a deduction from income for investments in films by individuals and companies. Individual investors may invest a minimum of €250 and up to a maximum of €50,000 under the scheme in any tax year. Corporate investors may invest up to €10,160,000 under the scheme in any 12-month period²⁵.

Investors can claim tax relief on 100% of their investment. Any part of their investment that has not been relieved can be carried forward to the following tax year should earnings in the year of investment be insufficient to absorb the full deduction.

The maximum amount of funding that can be raised for an individual film production was increased to €50 million in Finance Act (No. 2) Act 2008. A maximum of 80% of the total cost for a film budget can be raised through the relief. Where shares are held for more than one year, the relief claimed on the investment is ignored for CGT purposes. Any loss on disposal of the shares is restricted by the amount of the relief.

²⁵ Subject to a cap of €3,810,000 on investment in any single film, and subject to the requirement that, if €3,810,000 has been invested in films with budgets greater than €5,080,000, the rest of the investments are in films with budgets of €5,080,000 or less.

Conclusion

We note the following points which were contained in the 2007 Indecon review²⁶ of film relief:

- For every €100 raised under section 481, the Exchequer cost is €34 but only €19 goes as a subsidy to the film producers²⁷ (Page 35)
- On average, investors receive back only 76% of their investment and their return is entirely due to the tax subsidy received (Page 36)
- Ireland is almost unique in Europe for offering a tax incentive for television production (Page 21)
- The film sector in Ireland is primarily dependent on competing on the basis of tax incentives which can easily be replicated in other counties. This vulnerability was highlighted by Indecon as far back as 1998 (Page 66)

Indecon's cost-benefit analysis indicated that the relief over the years 2003 to 2006 had produced small net gains to the Exchequer. The figures indicate that while total tax and other benefits exceed the costs, when even relatively low level of opportunity costs are taken into account, the benefits of the scheme to the Irish economy are very low and have declined over recent years.

The structure of the relief and the manner in which it may be used by investors also raises a question of equity. Those lower down the income scale are unlikely to be in a position to have the initial capital to leverage a loan in order to avail of the relief.

At the same time, however, we are aware of the competitive international environment which exists in the film industry. Ireland competes with other countries and locations for productions. These include, for example, Australia, New Zealand, the UK, Canada, New York, Fiji and Hungary. We also acknowledge the role which the sector plays in supporting a significant number of jobs in the economy. We consider that film relief should be continued.

Recommendation 8.52

Film relief should be continued but should be subject to regular review in accordance with our principles as set out in Section 5 of this Part.

12.7 Business Expansion Scheme and Seed Capital Scheme

Description - Business Expansion Scheme (BES)

Under the scheme, an investor qualifies for tax relief, at the marginal tax rate, on investments, in shares of a qualifying company, of up to €150,000 per annum (minimum €250). The relief applies provided that the shares are held for a minimum period of five years. The shares must be new ordinary shares that carry no preferential rights and there must not be any condition which would eliminate the investors' risk. An investor may not be connected with the company.

The aggregate amount of tax relieved funds that a company can raise under the BES is €2 million, subject to a maximum of €1.5 million in any one 12-month period.

With effect from 1 January 2007, the company must be either:

- A micro or small enterprise, as defined
- A medium sized enterprise, as defined, which is located in an 'assisted' area or

²⁶ 'Review of Section 481 Film Relief', Indecon International Economic Consultants, November 2007.

²⁷ Indecon indicated that the figures were derived by them from a survey of a sample of leading Irish film producers.

- A medium sized enterprise not located in an assisted area, which is at a stage of development not beyond start up stage, as defined. Medium sized enterprises operating in “non-assisted” areas of Ireland may only qualify for BES in their seed/start up phase of development

The money subscribed must be used with a view to the creation or maintenance of employment to enable the company to:

- Undertake one of the qualifying trading operations, or enlarge its capacity to do so
- Engage in, or assist in, research and development, the acquisition of technological information and data, the development of new or existing products or services
- Identify and develop new markets for its products and services and develop its existing markets, or
- Increase its sales of products or services

Description - Seed Capital Scheme (SCS)

The Seed Capital Scheme (SCS) was introduced to encourage individuals currently or formerly in employment to establish new business ventures. Where an individual invests in new ordinary shares of a newly incorporated company, relief will be given against income of the person for any of the previous six years prior to the year of investment and any tax overpaid will be refunded. To qualify for the relief, applications must be approved by a certifying agency. An unemployed person or a person who was made redundant may also claim the relief.

To qualify for a tax refund an individual must invest in his/her own business. The size of the refund depends on the amount of the individual’s investment. For any particular year, the refund is limited to the tax the individual paid in previous years, subject to a limit of the tax paid on total income of €100,000 per annum with an overall limit for the previous six years of the tax paid on total income of €600,000. SCS projects can also seek BES funding but the overall company limit of €2 million applies.

Conclusion

The Small and Medium Enterprises (SME) sector is important to the Irish economy in terms of output, competitiveness and employment.

We consider that the Business Expansion Scheme, including the Seed Capital Scheme, helps to address the issue of market failure in relation to the availability of equity capital and that it should remain in place up to its 2013 deadline. The schemes should be reviewed to assess whether market failure continues to exist and whether the schemes continue to be effective in advance of any extension to it beyond 2013.

We hold the view that the administrative burden placed on companies seeking to benefit from the schemes is onerous and should be reviewed.

Recommendation 8.53

- The Business Expansion and Seed Capital schemes should remain in place up to their 2013 deadline.
- The schemes should be reviewed to evaluate their effectiveness and the extent to which market failure exists in advance of any further extension beyond 2013.
- The administrative burden placed on companies seeking to benefit from the schemes is onerous and should be reviewed.

12.8 Stock relief for farming businesses

Description

Relief from income tax for increases in trading stock (inventory) values is given to farming businesses. The relief is calculated by reference to the increase in the value of trading stock of the farming trade in an accounting period.

Broadly speaking, the relief takes the form of a deduction, to be allowed in calculating the trading profits of an accounting period, of 25% of the amount of the increase in value of trading stock at the end of the accounting period over and above the opening value. Stock relief may not be used to create or augment a loss.

An enhanced rate of stock relief applies to 'young trained farmers', i.e. farmers who are under 35 years of age and who meet applicable training or education requirements. In the case of these farmers, the stock relief deduction allowed is 100% of the increase in stock values instead of the usual 25%, beginning in the year in which the individual commences farming. This higher rate of stock relief applies for four years and thereafter reverts to 25% annually.

Farming stock is the basis from which income is derived and it can take a number of years to build up that stock. The relief can also help new entrants to farming.

Conclusion

Although the relief assists new entrants to farming, we believe that it is not equitable that this measure is only given to one sector of the economy. The original justification for stock relief – high inflation – no longer exists and it has long been abolished for other sectors of the economy. We consider, therefore, that the relief should be discontinued.

Recommendation 8.54

Stock relief for farming businesses should be discontinued.

12.9 Income tax relief for farm land leasing income

Description

Relief from income tax is granted to persons aged 40 and over (and all persons permanently incapacitated from farming through infirmity) for income arising from the leasing of farm land to an unconnected farmer (under a written arm's length lease for five years or more).

For leases made on or after 1 January 2007, a tax allowance of up to €20,000 is available for a lease of at least 10 years or more, €15,000 for a lease of between seven and 10 years and €12,000 in any other case.

The minimum lease period was intended to allow farmers time to gain the benefits from improvement work they might carry out on the leased land. Its objective is to improve the scale and efficiency of commercial farming at a reasonable cost; the means whereby that is to be achieved is by seeking to change the behaviour of some landowners whose main occupation is other than farming.

There are unique structural factors pertaining to Irish farming that need to be taken into account. Providing a tax relief for the owner of the land is one way of doing this. Because the supply of land is fixed, it is reasonable to treat the owner's leasing income differently to his or her income

from renting other assets. The preponderance of short-term letting and conacre, and the desirable policy goal of shifting the balance towards long-term leasing which would facilitate better planning and farm management are features of agriculture that are not found in other sectors.

Conclusion

The measure (in its current form) is only in place since 2007. It may therefore be premature to evaluate its effectiveness.

The measure is intended to facilitate the more productive use of the land. Providing a tax relief for the owner of the land is one way of doing this. We, therefore, consider that this relief should be continued. However, it should be reviewed in accordance with our principles as set out in Section 5 of this Part after five years of operation.

Recommendation 8.55

Income tax relief for farm land leasing income should be continued. However, the measure should be reviewed in 2012 in accordance with our principles as set out in Section 5 of this Part.

12.10 Capital expenditure on farm buildings for pollution control

Description

Farmers who incur capital expenditure on the construction of specified buildings or structures (e.g. waste storage facilities, effluent tanks and housing for cattle) used for the control of pollution can claim accelerated allowances in respect of that expenditure. The scheme covers expenditure incurred between April 1997 and the end of December 2010.

To qualify for these accelerated allowances a farmer must have a farm nutrient management plan in place. That plan must accord with official guidelines and the buildings or structures must be constructed in accordance with the farm nutrient management plan and must be certified as being necessary for the control of pollution by the agency or planner who drew up the plan.

Recommendation 8.56

The accelerated allowance for capital expenditure on farm buildings for pollution control should not be continued when it expires in 2010. For subsequent years, normal capital allowances should apply.

12.11 Tax relief for purchase of milk quota

Description

Capital expenditure incurred on the purchase, after 1 April, 2000, of a milk quota by a milk producer may be written off over a seven-year period (15% per annum over six years and 10% in year seven).

Conclusion

We note that the milk quota system is due to expire in 2013. Expenditure on milk quotas will be subject to the regime we suggest in Part 7 (see Recommendation 7.18) to replace capital allowances for tax purposes with accounting depreciation. On this basis, the relief should be discontinued.

Recommendation 8.57

The tax relief for the purchase of milk quota should be discontinued.

12.12 Restructuring aid for sugar beet growers

Description

Payments made to individual sugar beet growers under the EU scheme of aid for the restructuring of the sugar beet industry would normally be chargeable to income tax in the year these payments are made. The aid is paid under the EU temporary scheme for the restructuring of the sugar beet industry. It also involves payments in the form of diversification aid under the same scheme. Under this relieving measure, the payments can instead be spread over six years beginning in the year in which the payment is made. Once the grower has opted for this method of dealing with the payments, they cannot subsequently opt out - this is to ensure that all the income received will eventually be taxed.

Conclusion

This is a limited measure targeted at a specific sector of the farming community in respect of a particular tranche of income. This aid could, in some circumstances, have moved some farmers into a higher income tax bracket in the year of receipt through events entirely outside their control. All the income will eventually be subjected to a charge to income tax, albeit at a rate that may be lower than would obtain if it were to be taxed in the year of receipt. Final payments under the scheme will be paid in the period up to 2012. We consider that the tax treatment should be retained.

Recommendation 8.58

The restructuring aid for sugar beet growers should continue.

12.13 Tax exemption for payments to National Co-operative Farm Relief Services Ltd and payments made to its members

Description

Exemption from corporation tax applies in respect of payments made by the Minister for Agriculture and Food to National Co-operative Farm Relief Services Ltd and to payments made by that body to its member co-operatives.

Conclusion

This exemption from corporation tax was introduced in 1994. It covers payments of financial support made by the Minister for Agriculture and Food under specific agreements made in 1991 and 1995 (and subsequent amendments of those agreements) to the National Co-operative, that is, the society registered in 1980 as "National Co-operative Farm Relief Services Limited". These payments are intended for the support of farm relief services throughout the country. This exemption applies only to the named body and is targeted at assisting it and the farm relief services which operate around the country.

We see no basis for this exemption and consider that it should be discontinued.

Recommendation 8.59

The tax exemption for payments to National Co-operative Farm Relief Services Ltd. and payments made to its members should be discontinued.

12.14 Accelerated capital allowances for energy efficient equipment

Description

The measure provides for accelerated capital allowances for expenditure on new energy efficient equipment acquired by trading companies. It allows capital allowances of 100% in the year in which the expenditure is incurred on the equipment covered by the scheme.

The initiative applies for a trial period of three years from 2008 to 2011 to new equipment in designated classes of technology. The tax incentive scheme was approved for EU state aid purposes.

Conclusion

There is a market failure to the extent that companies do not use energy efficient equipment. However, to the extent that companies may be using such equipment in any event, some deadweight cost arises. Getting increased use of such equipment should assist in improving cost competitiveness while helping to reduce overall energy demand and carbon emissions. The incentive is in the nature of a 'pump-priming' exercise and applies for a period of three years. It is proposed that the scheme will be reviewed to ascertain its effectiveness. The time limited nature of the scheme is a welcome feature and is consistent with our principles.

There may be some inequity in that the measure applies only to companies. However, the scheme is a pilot one and the question of its extension to other taxpayers can be considered in due course.

We recommend that the measure should continue for its current term.

Recommendation 8.60

The accelerated capital allowances for energy efficient equipment should continue.

12.15 Relief for investment in renewable energy generation

Description

The tax relief for investment by corporate enterprises to invest in renewable energy production was introduced in 1999 for a three-year period and has been extended on a number of occasions since then and will now expire on 31 December 2011.

The measure provides that a company will be entitled to obtain a deduction from its total profits for an investment that it makes in shares of a qualifying company. The funds must be used by the qualifying company for a renewable energy project that has been certified by the Minister for Communications, Marine and Natural Resources. The relief is restricted to 50% of the relevant cost of the project subject to an overall limit of €9,525,000, whichever is the lesser. An individual company or group of companies may not invest more than €12,700,000 in such projects.

Conclusion

The purpose of the measure was to encourage investment in renewable energy with the aim of facilitating the growth of electricity generation capacity using these sources. The measure is aimed at protecting the environment and reducing CO₂ and other greenhouse gas emissions by promoting sustainable energy and tackling climate change. The take-up of the scheme has been low because of the low corporation tax rate in Ireland. We note that the scheme recommenced on 27 February 2009. We recommend that it should adhere to our general principles as set out in Section 5 of this Part.

Recommendation 8.61

Relief for investment in renewable energy generation should continue. Any extension should adhere to our general principles as set out in Section 5 of this Part.

12.16 Mid-Shannon corridor tourism infrastructure investment scheme**Description**

The measure provides for capital allowances to be available in relation to tourism infrastructure facilities. The qualifying period for the scheme runs until 31 May 2013. Relief is provided by way of accelerated capital allowances over seven years for qualifying construction and refurbishment expenditure incurred in the qualifying period²⁸. In the case of refurbishment, the qualifying expenditure must exceed 20% of the market value of the property before work commences.

Conclusion

We are of the view that, while area-based tax schemes may be intended to address regional imbalances, they may in fact give rise to further such imbalances. We recommend that the Mid-Shannon corridor scheme should not be continued beyond its current expiry date.

Recommendation 8.62

The Mid-Shannon corridor scheme should not be continued beyond its current expiry date.

12.17 Investment allowance for machinery and plant and for exploration expenditure**Description**

There an investment allowance of an additional 20% of expenditure incurred on mining exploration expenditure and for new machinery and plant used in a mine.

Conclusion

It is inappropriate that tax allowances in excess of the expenditure incurred should be available to the mining industry. We are of the view that the investment allowances should be ended.

Recommendation 8.63

The investment allowance for machinery and plant and for exploration expenditure should be discontinued.

12.18 Decommissioning of fishing vessels**Description**

Any balancing charge arising as a result of the receipt of a decommissioning payment under the EU scheme for compensation in respect of the decommissioning of fishing vessels is spread evenly for tax purposes over five chargeable periods, the first of which is the year of receipt. The impact is to spread the tax due over five years.

Conclusion

This is a limited measure targeted at a specific sector in respect of a particular tranche of income. This aid could, in some circumstances, have moved some recipients into a higher income tax

28 In areas which are not in the Border Midlands West (BMWV) region only 80% of construction and refurbishment expenditure can qualify for relief.

bracket in the year of receipt. All the income will be subjected to a charge to income tax over the five-year period, albeit at a rate that may be lower than would obtain if it were to be taxed in the year of receipt. In the circumstances, we recommend that the scheme should be continued.

Recommendation 8.64

The tax treatment of the decommissioning of fishing vessels should continue.

12.19 Tax exemption for start-up companies

Description

This measure provides a new relief from corporation tax for companies commencing to trade in 2009. The exemption is granted in respect of the profits of a new trade and chargeable gains on the disposal of any assets used for the purposes of a new trade.

The exemption is granted by reducing the total corporation tax (including the tax referable to capital gains) relating to the trade to nil. Full relief is granted where the total amount of corporation tax payable by a company for an accounting period does not exceed €40,000. Marginal relief is granted where the total amount of corporation tax payable by a new company for an accounting period amounts to between €40,000 and €60,000. No relief applies where corporation tax payable is €60,000 or more.

Conclusion

We note that this scheme has not been the subject of a commencement order at the time of writing. However, we consider that it has a role to play on market failure grounds and should remain in place having regard to its potential benefits.

We consider that the scheme could benefit from a number of modifications to help support business, particularly in the very challenging economic environment which is likely to exist for some time. First, the requirement for companies to commence in 2009 should be altered so that those who begin trading in 2010 or 2011 would benefit from the exemption for two years or one year, respectively, within the existing three-year timeframe for the relief. Second, the exclusion which applies to service companies should be removed.

In addition to our recommendations which apply to the existing scheme, we recommend that a new scheme for unincorporated businesses be established which would have its own three-year time cycle in line with the approach we recommend for the existing scheme. To reduce potential deadweight costs, such businesses should be full-time enterprises and should be required to file tax returns throughout the period of the exemption.

Both the existing scheme and the new one which we propose for unincorporated business should be subject to review in accordance with our general principles as set out in Section 5 of this Part after a reasonable period of time.

Recommendation 8.65

The relief from tax for start-up companies should be continued. However, the scheme should be modified so that companies who begin trading in 2010 or 2011 would benefit from the exemption for two-years or one-year, respectively, within the existing three-year timeframe for the relief. In addition, the exclusion which applies to service companies should be removed.

- A new scheme for unincorporated businesses should be established which would have its own three-year time cycle in line with the approach we recommend for the existing scheme.
- Both the existing scheme and the proposed new one for unincorporated business should be subject to review in accordance with our general principles as set out in Section 5 of this Part after a reasonable period of time.

12.20 Tax treatment of venture capital fund managers

Description

A reduced rate of tax is applicable to the share of profits of a relevant investment that a venture capital manager receives for managing the investment. A relevant investment is an investment that is maintained for a period of at least six years in a private trading company that carries on a business, set up after 1 January 2009, of research, development and innovation activities. "Innovation activities" means new technological, telecommunication, scientific or business processes.

These profits are known as "carried interests" and are separate from the profits made by the general investors in a venture capital fund. The amount of "carried interest" in relation to a relevant investment that can benefit from the tax relief cannot exceed 20% of the total profits from the relevant investment.

For tax purposes, the profits derived from the carried interest are deemed to be chargeable gains and special rates of capital gains tax are then applied. A capital gains tax rate of 15% applies to carried interest in respect of partnerships and 12.5% in respect of companies.

Conclusion

The 12.5% rate that applies to investment returns on carried interests of venture fund managers that are companies is appropriate as, in most cases, the investment return would in any event constitute trading income so that the return would be taxable at the normal corporate rate.

In the case of an individual who is a venture capital fund manager, equity requires that:

- Where the investment return on a carried interest represents income, it should be taxed at the marginal income tax rate, and
- Where the investment return on a carried interest is a capital gain, it should be subject to capital gains tax at the normal rate of 25%.

Recommendation 8.66

The tax treatment of venture fund managers should be modified such that in the case of an individual who is a venture capital fund manager:

- **Where the investment return on a carried interest represents income, it should be taxed at the appropriate marginal rate, and**
- **Where the investment return on a carried interest is a capital gain, it should be subject to capital gains tax at the normal rate (25%)**

12.21 Tonnage tax

Description

Tonnage tax is an alternative method of calculating profits from shipping activities for corporation tax purposes based on the tonnage of the ship rather than the actual profit. Tonnage tax allows Irish-based companies to compete with competitors benefiting from tonnage tax regimes and additional tax and social security incentives in their own jurisdictions. Tonnage tax regimes within Member States are also supported at EU level on competitive grounds. Other drivers for the introduction included developing the maritime transport industry in Ireland, facilitating the growth of the indigenous sector and attracting interest from foreign direct investors.

Conclusion

We note that the tonnage tax regime plays a role in supporting the retention in Ireland of the operational base of the main Irish shipping companies. We consider that the regime should be continued on the grounds that it supports economic activity in the shipping sector.

Recommendation 8.67

The tonnage tax regime should be continued.

12.22 Capital gains tax relief for disposal within the family of a business or farm on retirement

Description

There is an exemption from capital gains tax where an individual, who is aged 55 or over, disposes of a business or farm or shares in a family company or holding company to a child (which includes a nephew or a niece²⁹, a foster child, and the child of a deceased child) without an upper limit on the qualifying consideration. If the assets acquired by the child are disposed of within six years from the date of acquisition, the capital gains tax which would have been payable becomes due.

Conclusion

In our view, there is a case on both economic and social grounds to support the transfer of smaller farms or businesses within families. However, the same argument does not apply in the case of larger farms or businesses. There is a need for structural reform as regards the viable scale and efficiency of farm units and to facilitate succession within farming. We consider that the capital gains tax relief for family transfers should be continued but limited so that it applies to asset values up to €3 million, with capital gains tax payable on an apportionment basis for values in excess of that.

Recommendation 8.68

The capital gains tax relief for family transfers should be continued but limited so that it applies to asset values up to €3 million. Where the value of the asset transferred exceeds €3 million, only the part of the gain that is attributable to the excess over €3 million should be charged to tax.

12.23 Capital gains tax relief for disposal of a business or farm on retirement

Description

There is an exemption from capital gains tax where an individual, who is aged 55 or over, disposes of a business or farm or shares in a family company or holding company and the consideration does not exceed €750,000. Where the consideration exceeds €750,000, marginal relief which

restricts the tax payable to one-half of the difference between the consideration and the limit applies.

Conclusion

The relief encourages the timely and efficient transfer of businesses and farms to new owners and may provide an income in retirement to those who may not otherwise have made pension provision. We recommend that it be continued.

Recommendation 8.69

Capital gains tax relief for disposal of a business or a farm on retirement should continue.

12.24 Business relief for CAT

Description

This relief was introduced to treat gifts and inheritances of business assets more favourably than other gifts and inheritances. Currently the relief reduces the taxable value by 90%.

The relevant business property must have been owned for a minimum period of five years prior to the transfer of the gift (two years in the case of an inheritance). The relief is withdrawn if the property is disposed of within six years and is not replaced by other qualifying property or if the property ceases to be a qualifying property.

Conclusion

In our view, there is a case on social grounds to support the transfer of smaller businesses. However, the same argument does not apply in the case of larger businesses.

We consider, therefore, that the business relief for CAT should be limited, by reducing the level of discount on market value from 90% to 75% and by introducing a ceiling on the amount qualifying for discount.

We also consider that the reduction should be subject at an overall monetary limit that would facilitate the transfer of small and medium enterprises. The limit we suggest is €3 million, i.e. the maximum amount by which the value of a business may be reduced is €3 million.

Recommendation 8.70

For business relief for CAT, a reduction of no more than 75% of the value of the business should be allowed before tax is calculated. The reduction should be subject to an overall monetary limit of €3 million.

12.25 Agricultural relief for CAT

Description

Relief from capital acquisitions tax is provided, subject to conditions, in respect of gifts and inheritances of agricultural property as defined (see below). The relief (which is analogous to business relief, described above) operates by reducing the market value of agricultural property by 90% so that gift or inheritance tax is calculated on an amount – known as the “agricultural value” – which is substantially less than the market value. In general, the relief applies provided the beneficiary qualifies as a farmer.

For the purposes of this relief, a 'farmer' means an individual (regardless of occupation) in respect of whom at least 80% of his or her assets, after taking a gift or inheritance, consist of agricultural property on the valuation date of the gift or inheritance. The 80% test does not apply in the case of agricultural property consisting of trees and underwood. The term 'agricultural property' means agricultural land, pasture and woodland in an EU Member State; crops and trees growing thereon; houses and other farm buildings appropriate to the property; livestock, bloodstock and machinery on the land; and an EU single farm payment entitlement.

There are a number of circumstances in which the relief can be wholly or partly withdrawn. This will happen:

- If the property is sold. Other than in relation to timber in woodlands, the relief is withdrawn where the agricultural property is sold (or compulsorily acquired) within six years of the date of the gift or inheritance and is not replaced within one year of the sale or within six years of the compulsory acquisition by other agricultural property
- If a residency requirement is not met. In the case of a gift or inheritance the relief is withdrawn unless the individual in receipt of the benefit is resident in Ireland for all of the three subsequent tax years

Conclusion

As with business relief, there is a case on social grounds to support the transfer of smaller farms to a new generation. However, the same argument does not apply in the case of larger farms.

We consider, therefore, that the agricultural relief for CAT should be limited, by reducing the level of discount on market value and by introducing a ceiling on the amount qualifying for discount.

We consider that a reduction of no more than 75% of the asset value should be allowed before tax is calculated.

We also consider that the reduction should be subject at an overall monetary limit that will facilitate the intergenerational transfer of small farms. The limit we suggest is €3 million, i.e. the maximum amount by which the value of the property may be reduced is €3 million. In the same way as business relief requires that a business is carried on for a period of six years after a transfer, we consider that this measure should require that the farm asset is owned and operated as a farm for a period of six years after the transfer.

Recommendation 8.71

For agricultural relief for CAT, a reduction of no more than 75% of the value of the property should be allowed before tax is calculated. The reduction should be subject to an overall monetary limit of €3 million. A condition of the relief should be that a farm asset is owned and operated as a farm for a period of six years after the transfer.

We consider that there is a case for the amalgamation of business relief and agricultural relief in a single measure. However, the requirement under business relief that the business must have been carried out for a period of five years before the transfer could, in the case of farming, act as an impediment to leasing of land. In recognition that leasing of farm land contributes to increased efficiency in the sector, the "leasing out of farm land" before the gift or inheritance should qualify as a "business" in a single relief system.

Recommendation 8.72

Business relief and agricultural relief should be amalgamated into a single relief.

12.26 Stamp duty relief for transfers of land to young trained farmers

Description

Deeds of transfer executed on or after 2 April 2007 and before 31 December 2012 are exempt from stamp duty when land is transferred by way of gift or sale to a 'young trained farmer'. The farmer in question must be under 35 years of age on the date of the execution of the deed of transfer and at that date must have attained appropriate qualifications. A declaration must also be made by the farmer that he or she will, for a period of five years from the date of execution of the deed of transfer:

- Spend not less than 50% of his or her normal working time farming the land, and
- Retain ownership of the land

Relief can be withdrawn if the land is disposed of within five years from the date of execution of the deed of transfer and is not replaced by other land within one year of disposal. The relief subsidises the acquisition of farm land by young trained farmers and applies whether the land is acquired by gift from a family member or by purchase from a third party.

Conclusion

In looking at this relief, we took account of the demographic profile of the farming population. The most recent CSO data on the labour input in Irish farming shows that 26% of farmers are in the 55-64 age bracket and 25% are over 65 years, while only 8% are under 35 years. While equity and efficiency issues arise in relation to this exemption, on balance we consider that it should be continued.

Recommendation 8.73

Stamp duty relief for transfers of land to young trained farmers should continue.

12.27 Stamp duty exemption for single farm payment entitlement

Exemption from stamp duty is provided on the sale, transfer or other disposition of an EU single farm payment entitlement. The entitlement is property in its own right and would be liable to duty at the non-residential rates on a transfer. Any contract or agreement for sale, or a mortgage, of the entitlement is covered by the exemption and the exemption applies to instruments executed on or after 1 January 2005. While other support schemes continue to apply, the single farm payment scheme will constitute the main EU support for farmers from 2005 until at least 2012. To be eligible, farmers must meet certain conditions which cover issues such as land being at their disposal for a minimum period and also engaging in good farming and environmental practices.

Conclusion

This relief exempts farmers from a liability to stamp duty that they would otherwise have to discharge. The rationale is that it encourages the transfer of the entitlements along with eligible land in order to promote viable land holdings. We consider that the relief is one of a number of measures which facilitate the more productive use of land and that it should be continued.

Recommendation 8.74

The stamp duty exemption relating to the sale or transfer of EU Single Farm Payment Entitlements should be continued.

12.28 Forestry tax incentives

Description

Profits or gains from the occupation of woodlands in Ireland that are managed on a commercial basis and with a view to realising profits are exempt from income tax and corporation tax.

Where an individual makes a disposal of woodland, the consideration for the disposal of the trees growing on the land and saleable underwood are not taken into account for capital gains tax purposes. Likewise, in calculating the gain, the attributable cost of trees growing on the woodland is excluded. Thus, where land held by an individual is sold with standing timber on it, the consideration for the disposal is to be apportioned and the part of the consideration attributable to the trees or saleable underwood is excluded for capital gains tax purposes. Insurance proceeds received by an individual in respect of the destruction of or damage to standing timber or saleable underwood are also excluded for capital gains tax purposes. This measure does not apply to companies or other bodies of persons.

Conclusion

We acknowledge that there is a market failure issue in relation to afforestation which public policy ought to address. Pending a review of the appropriate means (i.e. direct expenditure or tax expenditure) of State support for woodlands, we recommend the forestry tax expenditures be continued.

Recommendation 8.75

The tax incentives relating to forestry should be continued.

Section 13:

Tax expenditures relating to employment

Tax expenditure	Statutory reference	Estimated		Year of estimate	Continue ✓
		Cost €m	Numbers benefiting		Discontinue ✗
Employee tax credit	S472 TCA	2,522	1,626,700	2006	❄
Income tax relief for trade union subscriptions	S472C TCA	19	294,300	2006	✗
Benefit-in-kind exemption for employer-provided personal security assets and services	S118A TCA	N/A	N/A	–	✓
Benefit-in-kind and PRSI exemption for employer-provided public transport travel passes	S118(5) TCA	N/A	41,338 ³⁰	–	✓
Benefit-in-kind exemption on employer-provided bicycles	S118(5G) TCA	2 ³¹	N/A	–	✓
Income tax exemption for scholarships	S193 TCA	1	4,028	2006	✓
Income tax relief for fees paid for third-level education	S473A TCA	16	30,800	2006	✓
Income tax relief for fees paid for training courses	S476 TCA	N/A	N/A	–	✓
Income tax exemption for statutory redundancy payments	S203 TCA	78	22,100	2006	✓
Income tax relief for termination payments in excess of the statutory redundancy amount	S201(3) TCA and Sch 3	20	2,050	2006	❄
Income tax exemption for termination payments related to death, injury or disability	S201(2) TCA	N/A	N/A	–	❄
Tax relief for termination payments where employment involves foreign service	S201(4) TCA	N/A	N/A	–	❄
Benefit-in-kind exemption for retraining provided as part of a redundancy package	S201(1A) TCA	N/A	N/A	–	✓
Systematic short-time relief	S126 (3)(c) TCA	2	1,800	2008	✗
Income tax relief for the long-term unemployed and double payroll deductions for employers	S472A and S88A TCA	<1	360	2006	✓
Income tax relief for reorganisation payments	S480 TCA	N/A	N/A	–	✓

30 Based on data provided by transport companies.

31 Budget estimate of cost over a five-year implementation period.

PRSI exemption for share options	S985A (1A) TCA	18	3,900	2006	×
Approved profit-sharing schemes	S509-518 TCA	57	59,300	2006	✱
Employee share-ownership trusts	S519 TCA	6	16,300	2006	✓
Approved share-option schemes	S519D TCA	3	1,400	2006	×
Approved savings-related share option schemes	S519A TCA	2	3,000	2006	✱
Relief for new shares purchased on issue by employees	S479 TCA	<1	184	2006	×
Artist's exemption	S195 TCA	66	2,890	2006	×
Sportsperson's relief	S480A	<1	32	2006	✱
Seafarer's allowance	S472B TCA	<1	170	2006	×
Allowances for expenses of members of Oireachtas	S836 TCA	–	–	–	✱
Payments under Scéim na bhFoghlaiméoirí Gaeilge	S216B TCA	N/A	N/A	–	×
Remittance basis of taxation	S18(2)(f), 29(4) and S825B TCA	N/A	N/A	–	×

13.1 Employee tax credit

Description

The employee tax credit, also known as the PAYE tax credit, may be claimed by an individual, who is in receipt of emoluments chargeable to income tax under Schedule E. The value of the credit is €1,830 per annum. It is provided on an individualised basis and this has been the case since it was first introduced as an allowance. It is not applicable to emoluments paid by a company to proprietary directors or their spouses or to those who are self-employed.

The employee tax credit is considered in Section 2 of Part 5.

13.2 Income tax relief for trade union subscriptions

Description

An income tax credit of €70 (2008) is available for individuals paying trade union subscriptions.

Conclusion

We consider that membership of a trade union is likely to be influenced by the benefits of membership and may be a condition of employment. The value of the tax credit is unlikely to be a factor. Having regard to the significant element of deadweight associated with the tax relief, we consider that the relief should be discontinued.

Recommendation 8.76

Income tax relief for trade union subscriptions should be discontinued.

13.3 Benefit-in-kind exemption for employer-provided personal security assets and services

Description

An exemption from an income tax benefit-in-kind charge applies where an employer provides a security asset or service for use by a director or employee and there is a work-related credible and serious threat to the employee's security.

Conclusion

The relief has strict conditions, is narrowly focussed and may be justified by reference to the 'policy failure' condition in our guiding principles. However, we consider that it is important that appropriate security protection should be available to all employees and directors who are at risk.

Recommendation 8.77

The relief for benefit-in-kind for employer-provided personal security assets and services should continue to apply where arrangements are made for all employees at risk.

13.4 Benefit-in-kind and PRSI exemption for employer provided public transport travel passes

Description

Where an employer provides an employee with a monthly or annual bus or rail pass, the employee is exempt from income tax benefit-in-kind and PRSI and the employer is exempt from PRSI. Employees' salaries may be reduced without tax consequences to finance the cost of the scheme.

Conclusion

This scheme should be continued having regard to its aim of encouraging the use of public transport.

Recommendation 8.78

The relief for benefit-in-kind and PRSI exemption for employer-provided public transport travel passes should continue.

13.5 Benefit-in-kind exemption on employer-provided bicycles and associated safety equipment

Description

An exemption from an income tax benefit-in-kind charge and employer PRSI are available where an employer gives a bicycle and related safety equipment to an employee or director which is used to travel to work. There is a €1,000 limit on the cost incurred and the exemption can be claimed once in any five-year period. Employees' salaries may be reduced without tax consequences to finance the cost of the scheme.

Conclusion

The benefits of the introduction of a tax relief scheme to encourage more employees to cycle to and from work can be seen in terms of lowering carbon emissions, reducing traffic congestion and increasing the fitness levels of those who take up the scheme.

This scheme may have incentive effects in encouraging a shift from car transport and in helping to increase awareness of the merits of such a move. At the same time, we acknowledge that it is

likely to involve a deadweight element as employees that are already cycling to and from work are those most likely avail of the scheme. On balance, however, we recommend that the scheme should continue having regard to the potential social and economic benefits which may arise.

Recommendation 8.79

The relief for benefit-in-kind and PRSI exemption on employer-provided bicycles and related safety equipment should continue.

13.6 Income tax exemption for scholarships

Description

There is an income tax exemption for scholarship payments to individuals receiving full-time instruction at a university, college, school or other educational establishment in respect of undergraduate or postgraduate courses.

Conclusion

The tax expenditure supports exceptional individuals to realise their academic potential which is both economically and socially worthwhile. We recommend that it be continued.

Recommendation 8.80

The income tax exemption for scholarships should continue.

13.7 Income tax relief for fees paid for third-level education

Description

Income tax relief is available for the payment of fees for third-level education courses in approved colleges. The relief is granted at the standard rate of tax for fees for an approved course whether paid on the student's own behalf or on behalf of another individual. In the case of a parent, claims for more than one child can be made. The relief applies to fees up to €5,000 for each individual course. Tuition fees paid for full-time and part-time undergraduate courses of at least two years' duration and for postgraduate courses between one and four years duration are eligible for relief. Fees which are met from any other source, e.g. grant or scholarship, are not allowable.

Conclusion

The measure supports investment in education and human capital development. We recommend that it be continued.

Recommendation 8.81

The income tax relief for fees paid for third-level education should continue.

13.8 Income tax relief for fees paid for training courses

Description

Income tax relief is available for tuition fees paid for a training course of up to two years duration on information technology and foreign languages, where the courses and the course providers have been approved by FÁS. The tax relief is granted at the standard rate of income tax, and applies to fees ranging from €315 to €1,270 incurred by a taxpayer or his or her spouse.

Conclusion

The measure has human capital development and employment support dimensions and is consistent with national education and training policy. We recommend that it be continued.

Recommendation 8.82

Income tax relief for fees paid for training courses should continue.

13.9 Income tax exemption for statutory redundancy payments**Description**

Statutory redundancy payments made to employees are exempt from income tax. The amount payable under the Redundancy Payments Acts 1967-2007 is related to the employee's length of service and normal weekly earnings, up to a maximum wage of €600 per week. Payments by employers are part-funded from the Social Insurance Fund.

Conclusion

The exemption for statutory redundancy payments has a role to play in facilitating business rationalisation and also assists employees to meet financial commitments while seeking alternative employment or making the transition to retirement.

Recommendation 8.83

The exemption from income tax of statutory redundancy payments should continue.

13.10 Income tax relief for termination payments in excess of the statutory redundancy amount**Description**

Ex gratia termination payments (whether the employee is made redundant or not) in excess of the statutory redundancy amount may also be free of income tax to the extent that they are covered by tax exemptions and reliefs. The basic income tax exemption is €10,160 plus €765 per full year of service. An individual may avail of this exemption each time he or she is made redundant from unconnected employments.

In addition, the basic exemption may be increased by an 'additional amount' of up to €10,000. The additional amount may be availed of by an individual every 10 years.

As an alternative to the basic exemption (or the basic exemption increased by any additional amount), a taxpayer may claim SCSB (Standard Capital Superannuation Benefit) where this is higher. This relief, which generally benefits those with high earnings and long service, is calculated at 1/15th of the yearly salary (averaged over the last three years of service) per complete year of service, less any tax-free lump sum which is received or receivable under any approved or statutory pension scheme.

If an employee is liable to tax on any of his or her *ex-gratia* termination payment an additional relief known as 'top-slicing relief' may be due. Any amount liable to tax is charged, not at the taxpayer's marginal rate for the year in which the payment is made, but at an average tax rate calculated by reference to the previous three years.

Conclusion

Tax reliefs relating to termination payments have, similarly to statutory redundancy exemption, a

role to play in facilitating business rationalisation and have a business function as well as assisting employees to meet financial commitments while seeking alternative employment or making the transition to retirement. We formed the view that, although some level of relief should continue, the exemption should be subject to an overall monetary limit of €200,000. Simplification, particularly in relation to SCSB and top slicing relief is also desirable.

Recommendation 8.84

Income tax relief for *ex-gratia* termination payments should continue but the quantum of the exempt payment should be limited to €200,000 and the reliefs for Standard Capital Superannuation Benefit and top-slicing relief should be simplified.

13.11 Income tax exemption for *ex-gratia* termination payments related to death, injury or disability

Description

The following payments are exempt from income tax:

- Any *ex gratia* termination payment made due to the death of the employee, and
- Any *ex gratia* termination payment made due to injury or to disability of the employee

Conclusion

On the death of an employee, there may be a case on compassionate grounds for a payment to a surviving spouse, for example, to enjoy tax-free status to some degree. Similarly, where the employee suffers injury or disability and his or her ability to carry out the duties of the office or employment is curtailed or eliminated, it may also be possible to make a case for a tax exemption.

However, there is no limit on the scale of payment that can be made in either of the circumstances mentioned. In the case of injury or disability, there is also no requirement for the employee's ability to carry out his or her duties to be impaired or eliminated in order for the payment to be tax-free. There is, therefore, a case for imposing a limit on the tax-free amount. In addition, consideration might be given to linking the tax-free element of a disability payment to the level of disability which exists but we recognise that there may be significant practical difficulties in implementing such a proposal.

Recommendation 8.85

Ex-gratia termination payments related to death or disability should be subject to a limit in relation to the tax-free amount permissible.

13.12 Income tax relief for termination payments where an employment involves foreign service

Description

Where a termination payment is made in respect of an office or employment in which an individual's service includes a period of foreign service, full relief from income tax is available where the foreign service comprised:

- Three-quarters of the whole period of service
- Where the period of service up to the termination date exceeded 10 years, the whole of the last 10 years, or

- Where the period of service up to termination date exceeded 20 years, half of that period, including any 10 of the last 20 years

Partial relief is available where an individual does not qualify in full for the foreign service exemption. In this case, the taxable amount is determined by time apportionment by reference to the time of foreign service.

Conclusion

To qualify for the relief, the remuneration from the office or employment must not be chargeable to Irish tax. An individual concerned would not be entitled to the yearly increase in the basic exemption provisions in respect of the time spent working abroad and the SCSB only applies to Irish employment income. We consider that it is inequitable that full exemption without any cap should be available only to a small category of individuals.

Recommendation 8.86

Income tax relief for termination payments where an employment involves foreign service should continue. However, it should be subject to an overall monetary cap of €200,000 in line with our recommendation for termination payments in excess of the statutory redundancy amount.

13.13 Exemption for retraining on redundancy

Description

An exemption from income tax benefit-in-kind of up to €5,000 is available for the cost of employee retraining, where the retraining is provided as part of a redundancy package.

Conclusion

Because this provision has recently (2008) commenced, no information is available as yet on its take-up or effectiveness. We consider that the relief should continue. However, a mechanism should be put in place an operational level to ensure that data are collected on issues such as take-up of the relief and annual cost.

Recommendation 8.87

The exemption from income tax for retraining on redundancy should continue.

13.14 Systematic short-time relief

Description

Jobseeker's benefit payable to a person in systematic short-time employment is exempt from income tax. Systematic short-time working arises where short-time working is introduced on a temporary basis for persons who are working full-time.

For a single person earning €34,000 who goes on a systematic three-day working week and gets jobseeker's benefit for the other two-days, the tax relief is worth about €820 over a full year or just under €17 per week. However, a single person on the minimum wage whose circumstances similarly change will derive no income tax benefit because his or her income is outside the tax net both before and after the short-time arrangements are put in place.

Conclusion

The exemption from taxation is provided as an incentive to workers to agree to systematic short-time working and may prevent lay-offs or plant closure.

This relief is an employment support incentive. The costs may be justified by virtue of the role of the relief in supporting companies during adverse conditions by securing the agreement of employees to move to short-time work.

However, the relief is only of benefit to those with sufficient income to pay tax and where a person loses his or her job, the jobseeker's benefit is fully taxable. In contrast, under systematic short-time relief, a person who retains a job on a short-time work arrangement will not pay tax on the jobseeker's benefit. There are grounds for discontinuing the relief for equity reasons. However, discontinuation should not be implemented until more favourable labour market conditions apply.

Recommendation 8.88

There are grounds for discontinuing the systematic short-time relief for equity reasons. However, discontinuation should not be implemented until more favourable labour market conditions apply.

13.15 Income tax relief for long-term unemployed and double deduction in respect of payroll costs

Description

These provisions provide incentives to encourage the long-term unemployed to take up employment and also encourage employers to employ the long-term unemployed.

There are two parts to the scheme. The first is an additional tax deduction, tapered over three years, for the unemployed person returning to work. A tapering child allowance in respect of dependent children may also be due.

Year	Tax deduction	Allowance for each qualifying child
Year 1	€3,810	€1,270
Year 2	€2,540	€850
Year 3	€1,270	€425

The second part of the scheme provides a double payroll deduction (in the first 36 months of employment) for employers in respect of payroll costs of the qualifying employee and the related employer PRSI contribution.

Conclusion

These provisions have a continuing role to play in assisting the long-term unemployed to take up employment and participate in the labour force.

Recommendation 8.89

Income tax relief for long-term unemployed and double deduction in respect of payroll costs should continue.

13.16 Income tax relief for employees on payments related to compensation for loss of future earnings

Description

Lump sum payments made to employees to compensate them for a reduction or possible reduction in future remuneration arising from a reorganisation of a business or change in work procedures, work methods or a change of place where the duties of the office or employment are performed may be tax relieved. The relief operates to tax the payment at the tax rate that would have applied if one-third of the payment had been made and therefore may limit exposure to higher rate income tax for employees not otherwise taxable at that rate.

Conclusion

This relief can play a role in providing a measure of support to businesses and to employment by encouraging workforce flexibility. We consider that the relief should be continued.

Recommendation 8.90

Income tax relief for employees on payments related to compensation for loss of future earnings should continue.

13.17 PRSI exemption for employee (unapproved) share options

Description

An exemption from PRSI (for employer and employee) and health contribution levy (but not income levy) applies to gains arising from the exercise of stock options (which are subject to income tax).

Conclusion

The PRSI treatment is not in accordance with the treatment in most OECD countries where social insurance contributions are payable on share option gains. The OECD reported in 2005³² that Ireland, and six other countries³³, provided an exemption from employee and employer social insurance contributions whereas 19³⁴ other countries did not.

Share option gains (and all share-based remuneration) should be liable to PRSI and health contributions given that they are a form of remuneration. Employer and employee PRSI should be payable so as to preserve the PRSI base, which should not be eroded by tax expenditure. We acknowledge that there are likely to be significant administrative issues associated with the implementation of this recommendation.

Recommendation 8.91

The PRSI exemption for employee (unapproved) share options should be discontinued.

13.18 Approved profit-sharing schemes (APSSs)

Description

Employees participating in an approved profit-sharing scheme may be allocated shares in the employing company (or its parent) with a market value of up to €12,700 each year without a liability to income tax.

32 The Taxation of Employee Share Options – OECD 2005

33 Hungary, Japan, New Zealand, Poland, Portugal and Slovakia give an exemption from social insurance contributions.

34 Austria, Czech Republic, Denmark, Finland, Germany, Greece, Iceland, Italy, Korea, Luxembourg, Mexico, Netherlands, Norway, Spain, Sweden, Switzerland, Turkey, United Kingdom and USA charge social insurance contributions on share option gains.

To be eligible for participation, the shares must be quoted and all employees must participate on similar terms. The employee participants must hold the shares for at least three years to be eligible for the income tax exemption. On a subsequent disposal the employee is liable to capital gains tax on any difference between the sale proceeds and the market value at date of acquisition. Employees' salaries may be reduced by up to 7.5% without tax consequences to finance the cost of the scheme.

Neither PRSI, income levy nor health contribution levy is payable by employees or employers on shares awarded under approved profit-sharing schemes.

Conclusion

We recommend that the income tax relief in respect of approved profit-sharing schemes should continue in view of the role these schemes play in enhancing employees' interest in the competitiveness and performance of the employer and in supporting economic activity.

However, we consider that the value of shares awarded should be liable to both employer and employee PRSI as normal remuneration so as to preserve the PRSI base, which should not be eroded by tax expenditure. They should also be liable to the health contribution levy and income levy.

Recommendation 8.92

Continue the income tax exemption for approved profit-sharing schemes (APSSs) and remove the PRSI, health contribution levy and income levy exemptions.

13.19 Employee share ownership trusts (ESOTs)

Description

ESOTs have been used mainly as a mechanism to give trusts for employees of State-owned companies shares free of charge on sale or on privatisation of the companies concerned. The scheme is designed to allow employees to acquire a significant interest in or take over their employer company in a more tax-efficient manner than was available under different incentives.

The ESOT operates in tandem with an APSS that appropriates shares to employees over time. The ESOT in conjunction with the APSS is referred to as an Employee Share Ownership Plan. To be eligible for the tax incentives, all employees must participate on similar terms.

No tax arises on the employees on establishment of the ESOT and APSS tax treatment applies to shares awarded from the ESOT to the employees.

Conclusion

ESOTs may continue to play a role in the modernisation and privatisation of State-controlled businesses and we recommend no change in the tax treatment of ESOTs. APSSs related to ESOTs should be treated in accordance with our recommendations for APSSs above.

Recommendation 8.93

The tax treatment which applies to employee share ownership trusts (ESOTs) should continue.

13.20 Approved Share Option Schemes (APSOs)

Description

Under an APSO, employees are granted options to purchase the shares in their employer company exercisable over a period. The option price is typically the market value of the shares at the date of grant of the option and the option is exercised at a later date. Any gain arising on exercise of the option by the employee is exempt from income tax. The shares must be held for three years after the option is granted in order to benefit from the tax exemption.

The requirement that exists for other tax-advantaged share schemes for all employees to participate on similar terms is significantly diluted in APSOs and there is no upper limit on the number or value of options granted. Up to 30% of the options can be granted each year without regard to this condition.

Neither PRSI, income levy nor health contribution levy is payable by employees or employers on shares awarded under APSOs.

Conclusion

An efficiency question arises in relation to APSOs. Specifically, there does not seem to be a need to provide support through the Exchequer for such schemes where the participation would likely have happened in the absence of the tax incentives. In this regard, we note that the tax yield on unapproved share option schemes in 2006 was about €88 million with 3,900 beneficiaries. Accordingly, we recommend that the income tax relief in relation to approved share option schemes be discontinued.

As with unapproved share options, the taxable value of option gains should also be liable to both employer and employee PRSI as normal remuneration so as to preserve the PRSI base, which should not be eroded by tax expenditure. Similarly the option gain should be liable to health contribution levy and income levy.

Recommendation 8.94

- The income tax exemption for approved share option schemes (APSOs) should be discontinued.
- The taxable value of option gains should also be liable to both employer and employee PRSI and to the health contribution levy and the income levy.

13.21 Save As You Earn (SAYE) share option scheme

Description

This scheme is a savings-related share option scheme, which permits employers to offer options at a fixed price with a discount of up to 25% on the market value of shares when the option is being granted. No income tax, PRSI, health contribution levy or income levy is charged on the amount of the discount. When the employees actually purchase shares, the difference in the value of the shares, between the time that the option is granted and the time of appropriation, is exempt from income tax, PRSI, health contribution levy and income levy. Shares purchased under the scheme can be disposed of immediately, though any gain (i.e. the difference between the option price and the proceeds of sale) may be liable to capital gains tax.

The shares are financed by a contractual savings scheme which is the means used by employees to save the money required to purchase the shares. Any bonus or interest paid on the savings is exempt from income tax, health contribution levy, income levy and PRSI. The scheme must

be available to all employees on similar terms and the shares must be quoted. Members of a scheme must save for a three to five-year period an amount between €12 and €500 per month. Employees are not required to purchase the shares at the end of the savings period. This provision ensures that employees are not required to buy shares where the price of the shares has fallen below the option price.

Conclusion

We recommend that the income tax relief in respect of SAYE schemes should continue in view of the role these schemes play in enhancing employees' interest in the competitiveness and performance of the employer and in supporting economic activity.

We note that the majority of companies for which SAYE schemes have been approved are Irish or UK based. In order to enable SAYE schemes such as the Employee Stock Purchase Plans (ESPPs) operated by, in particular, US companies in Ireland to be eligible for tax relief on a similar basis, we recommend that the conditions for approval of SAYE schemes be amended to facilitate inclusion of these schemes. This would primarily involve reducing the savings period to six months and permitting salary deductions to be retained by the employer outside an approved savings mechanism.

Income arising from SAYE schemes (i.e. the option gain and interest income) should be liable to both employer and employee PRSI as normal remuneration so as to preserve the PRSI base, which should not be eroded by tax expenditure. Similarly, the income should be liable for health contribution levy and income levy.

Recommendation 8.95

Continue the income tax exemption for Save As You Earn (SAYE) schemes and remove the PRSI, health contribution levy and income levy exemptions.

Recommendation 8.96

Extend the SAYE rules to permit a broader range of employee stock purchase plans (offered to all employees on similar terms and subject to an overall share purchase limit) to be eligible for income tax relief.

13.22 Income tax relief for new shares purchased on issue by employees

Description

This is a single lifetime deduction of up to €6,350 available to an employee who subscribes for shares in the employer company. The shares must generally be held for three years. On a disposal of the shares, an amount equal to the tax deduction granted is excluded from the base cost of the shares in calculating any capital gains tax liability arising.

Conclusion

We recommend that this relief be abolished in view of the very low level of participation.

Recommendation 8.97

The income tax exemption for new shares purchased on issue by employees should be discontinued.

13.23 Artist's exemption

Description

Income derived from original and creative artistic works (of artists, writers, composers and sculptors), which are recognised as having cultural or artistic merit, is exempt from income tax.

Conclusion

This exemption is not compatible with the equity principle. In addition, it is likely that the exemption involves a significant deadweight element in that the beneficiaries of the relief are likely to engage in their creative activities regardless of the existence of the relief. It is of no benefit to artists whose income does not reach the taxable threshold.

While the tax exemption may have created an environment in which the arts can flourish, considerations of equity and efficiency outweigh this factor and, accordingly, we recommend that the exemption be discontinued. To the extent that there is a need for recognition of income from artistic activity in the tax system, this should focus on those who derive their income solely or predominantly from creative work and in this context, income averaging³⁵ may have a role to play.

In making this recommendation we note also the fact that the Arts Council operates a system of grants in support of all arts disciplines.

Recommendation 8.98

The artist's exemption should be discontinued; consideration should be given to introducing income averaging in the taxation of income from creative work.

13.24 Sportsperson's relief

Description

Sportspersons in this context means athletes, badminton players, boxers, cyclists, footballers, golfers, jockeys, motor racing drivers, rugby players, squash players, swimmers and tennis players. The relief is available to sportspersons who are employees or self-employed on a professional basis but it is not available to persons engaged in sport primarily as a leisure activity or on an amateur basis.

The relief, given by way of repayment of tax, takes the form of a deduction against earnings which have arisen wholly and exclusively from sporting activity. The amount of the deduction is set at 40% of the gross receipts (before deducting expenses) of the sportsperson. The relief can be claimed for up to any 10 years of assessment back to and including the tax year 1990/1 for which the sportsperson was resident in Ireland.

The receipts eligible for the 40% deduction include:

- in the case of an employee, salaries, fees, wages, bonuses or perquisites received as a direct consequence of playing the game and
- in the case of a self-employed person, all match or performance fees, prize moneys and appearance moneys received directly from playing the game

Income such as sponsorship fees, advertising fees, income from interviews or articles or the income from endorsements is excluded from the scope of the relief.

35 Under this approach, income received over a number of years is averaged out to arrive at a representative figure for tax purposes.

The relief is to be claimed in the year the sportsperson ceases permanently to be engaged in the sport provided the individual is resident in Ireland that year. There is provision in the legislation for the relief to be withdrawn if the person later engages in the sport on a professional level.

Conclusion

We consider that there is a case for the retention of this relief based on the contribution that is made to economic activity arising from the relief and the potential social benefits at a relatively modest cost to the taxpayer, including the encouragement of positive role models which younger people may seek to emulate.

The sportsperson's relief should continue but it should be modified by the introduction of the following conditions:

- The total repayment of tax for any 10-year period is capped at €350,000 as adjusted for inflation
- The sportsperson can only select a block of 10 consecutive years for which to claim the relief as opposed to the best 10 non-continuous years
- The relief should be subject to review after five years of operation under these new arrangements

We recognise that, generally speaking, a sportsperson's career is a relatively short one. As such, there may be a legitimate expectation that this relief would be available to them, especially for those who are now coming close to retirement. Accordingly, we consider that sportspersons who are currently active and who retire in the next six years would calculate their relief without the proposed alterations above applying.

It should not be possible for a person to avail of the relief for termination payments in addition to this measure.

Recommendation 8.99

The sportsperson's relief should continue.

- The total repayment of tax for any 10-year period should be capped at €350,000 as adjusted for inflation.
- The sportsperson can only select a block of 10 consecutive years for which to claim the relief as opposed to the best 10 non-continuous years.
- The relief should be subject to review after five years of operation under these new arrangements.

13.25 Seafarer's allowance

Description

There is an annual income tax allowance of €6,350 for seafarers who are at sea for at least 161 days in a tax year. The allowance is designed to give an income tax concession to seafarers engaged on a sea-going ship which is registered in an EU Member State's register and is used solely for the trade of carrying by sea of passengers or cargo for reward; the allowance does not apply to a fishing vessel.

Conclusion

This relief is one of the few remaining personal tax reliefs available at the marginal rate of tax. Its cost and take-up are small in scale. While we note that other EU Member States provide support through tax and other concessions for seafarers, the relief is available to an Irish resident seafarer regardless of whether or not he or she works on an Irish registered vessel. In these circumstances, the value of the measure in supporting national competitiveness is open to question and we recommend that it be discontinued.

Recommendation 8.100

The seafarer's allowance should be discontinued.

13.26 Allowances for expenses of members of the Oireachtas

Description

There is an income tax exemption on allowances for expenses of members of the Oireachtas and an income tax deduction known as the 'dual abode allowance' for Ministers, Ministers of State and the Attorney General.

The expense allowances are in respect of expenses which a member is obliged to incur in the performance of his or her duties as a member of the Oireachtas and which are not otherwise directly reimbursed.

In addition to the expense allowances a Minister or a Minister of State, or the Attorney General, whose official duties as an office holder or as a member of the Oireachtas require him or her to maintain a second residence in addition to his or her main residence, can claim an income tax deduction in respect of expenses incurred in maintaining that second residence. The allowance is confined to office holders who represent constituencies outside the Dublin area and is known as the dual abode allowance. The second residence may be owned or rented or may include hotel or guesthouse accommodation.

Conclusion

In the interests of equity, it is desirable that allowances paid to members of the Oireachtas be treated in the same way under the tax code as allowances paid to employees generally.

On balance, we consider that the dual abode allowance should be continued. However, the relief should not apply in an open-ended way without limit. A monetary limit should be put in place up to which the allowance could be claimed on the basis of vouched expenses. The flat rate element of the relief which applies in relation to hotel and guesthouse accommodation should be discontinued.

Recommendation 8.101

- The expenses of members of the Oireachtas should be treated in the same way under the tax code as expenses paid to employees and office holders generally.
- A monetary limit should be put in place on the dual abode allowance and the flat rate element of the relief which applies in relation to hotel and guesthouse accommodation should be discontinued.

13.27 Income tax exemption for payments under Scéim na bhFoghlaimoirí Gaeilge

There is an exemption from income tax for income received by persons in Gaeltacht areas in providing board and lodgings to students attending Irish colleges under the scheme known as Scéim na bhFoghlaimoirí Gaeilge. The scheme is administered by the Department of Community, Rural and Gaeltacht Affairs.

Conclusion

Notwithstanding the social and cultural policy reasons which lie behind this tax exemption, the relief raises a question of equity. It is inequitable that the beneficiaries should be treated differently under the tax code than others in similar circumstances, e.g. bed and breakfast operators, and, on this basis, we recommend withdrawal of the scheme.

Recommendation 8.102

The income tax exemption for payments under Scéim na bhFoghlaimoirí Gaeilge should be discontinued.

13.28 Remittance basis of taxation

Description

The remittance basis applies to foreign sourced income and capital gains of:

- individuals who are resident but not domiciled in Ireland, and
- citizens of Ireland who are not ordinarily resident in Ireland

The general scheme is that, where the remittance basis applies, income and capital gains arising outside Ireland are charged to tax only to the extent that they are remitted to Ireland.

The remittance basis of taxation is considered in Section 6 of Part 5 and Section 5 of Part 7 of our Report.

Section 14:

Savings and investments

Tax expenditure	Statutory reference	Estimated		Year of estimate	Continue ✓
		Cost €m	Numbers benefiting		Discontinue ✗
Tax preferences for approved pension schemes*	S774 and 776 TCA	663	–	2006	✳
Exception to charge to tax under Section 777*	S778 TCA	510	–	2006	✳
Tax exemption for income of superannuation funds	S 608(2) TCA	1,200	N/A	2006	✓
Tax relief for retirement annuity premiums	S784 TCA	436	125,900	2006	✳
Tax relief for personal retirement savings accounts*	S787C TCA	56	45,200	2006	✳
Tax exemptions for pension lump sum payments	S201 TCA	130	N/A	2006	✳
Tax exemption on income of credit unions	S219A TCA	N/A	N/A	–	✓
Taxation of interest and dividends on special term accounts	S261A and S267C TCA	N/A	N/A	–	✓

*Note: PRSI relief on employer and employee contributions to superannuation schemes and relief on employee health contributions also apply and are provided for in the Social Welfare Consolidation Act 2005 and associated regulations and the Health Contributions Act 1979 and associated regulations.

14.1 Tax expenditures for retirement saving

Of the reliefs listed above, which may be categorised under the general heading of tax expenditures for savings and investments, the first six listed are reliefs relating to occupational pension schemes.

The Green Paper on Pensions (2007) estimated the cost of tax and PRSI (including the health contribution levy) relief at €2.9 billion for 2006. A breakdown of this figure is set out in Table 8.1.

Table 8.1: Estimate of the cost of tax and PRSI reliefs for occupational pension provision 2006³⁶

	Estimated costs €m
Total cost of the tax expenditure on pensions listed above	3,000
Estimated cost of PRSI and health contribution levy relief on employee and employer contributions	220
Gross cost of tax relief	3,220
Estimated tax yield from payment of tax on pension benefits	320
Net cost of tax, PRSI and health contribution levy relief	2,900

36 The figures shown do not include costs related to unfunded occupational pension arrangements.

A review of the estimates, which was carried out for the Irish Association of Pension Funds by Life Strategies Consultants³⁷, questions this number and suggests that €2.0 billion is a more credible estimate. In particular they noted that the sensitivity to market developments of the tax exemption on the income of superannuation funds is a significant element of the overall cost estimate and needs to be borne in mind.

Our recommendations on long-term savings for retirement are contained in Part 10 of our Report.

14.2 Tax exemption for credit unions

The income of credit unions (including income from investments) is exempt from corporation tax. The exemption was first introduced in 1972 to acknowledge the social purpose and community self-help nature of the credit union movement.

Conclusion

Credit unions receive preferential tax treatment compared with that available to other financial institutions. They are non-profit making community-based or work-based organisations that play a role in encouraging members to save and to act co-operatively for the benefit of all members. Having regard to the general social benefit which the credit union movement delivers we consider that the exemption from corporation tax should continue to apply.

Recommendation 8.103

Tax exemption for the income of credit unions should be continued.

14.3 Taxation of dividends on special term accounts

Annual exemptions from tax are provided for in relation to interest arising on special term accounts held in financial institutions i.e. €480 per tax year in relation to a three-year account and €635 per tax year in relation to a five-year account. A similar exemption applies in relation to dividends arising on special term share accounts held in credit unions.

Conclusion

We consider that the tax reliefs should continue to apply.

Recommendation 8.104

The annual exemptions for interest and dividends on special term accounts and special term share accounts should be continued.

37 [2008] An Analysis of certain tax aspects of the Irish system of pension provision, Life Strategies Actuarial and Strategic Consulting, May 2008

Section 15: Other tax expenditures

Tax expenditure	Statutory reference	Estimated		Year of estimate	Continue ✓ Discontinue ✗ Modify ❄
		Cost €m	Numbers benefiting		
Age tax credit	S464 TCA	28	76,700	2006	✓
Age exemption and associated marginal relief	S188 TCA	62	50,100	2006	✓
Income under dispositions for short periods (deeds of covenant)	S792 TCA	–	–	–	✓
Veterans of War of Independence	S205 TCA	<1	770	2006	✓
Military and other pensions, gratuities and allowances	S204 TCA	<2 ³⁸	N/A	2009	✓
Profits from lotteries	S216 TCA	N/A	N/A	–	✓
Consanguinity relief (stamp duty)	Sch. 1 SDCA	51	7,450	2008	✓

15.1 Age tax credit

Description

An age credit of €325 (2009 value) is available to a person (single or widowed) aged 65 or over in the year of assessment. In the case of a married couple where one spouse is, or both spouses are, aged 65 or over the age credit is worth €650 per annum (2009 value). Where such persons are in the tax net, the age tax credit applies in addition to other personal reliefs as applicable such as personal credits and the employee tax credit. The age credit is given regardless of the income of an individual.

Conclusion

The age tax credit, along with the age exemption and marginal relief discussed below, provides preferential treatment for older persons. While the age tax credit is available regardless of income, we consider that it performs a valuable social role in relation to older people and we recommend that it be continued.

Recommendation 8.105

The age tax credit should continue.

15.2 Age exemption and marginal relief

Description

Under the age exemption limits, an exemption from income tax is available to individuals aged 65 years or over whose income does not exceed specified limits. In 2009 these limits are: single/

38 The 2009 Budget booklet indicates that the cost of these pension in 2009 is expected to be €9.6 million. Assuming an average tax of 20%, the cost of the relief is likely to be less than €2 million in 2009.

widowed €20,000; married couples (either spouse aged 65 years or over) €40,000. The limits are increased by €575 per annum for each of the first two qualifying children living with a claimant at any time during the tax year. The limit is increased to €830 per annum for the third and each subsequent child.

Where an older person's or couple's income exceeds the relevant exemption limit by a small amount, a system of marginal relief applies. Under this system, the person or couple pays tax on the income which exceeds the exemption limit at a rate of 40%. This applies up to the point where it is more beneficial for the person or couple to be taxed under the normal system of credits and bands.

The primary purpose of the age exemption limits is to keep older persons on low incomes outside of the tax net. At 2009 values, the age exemption limit for a single person (€20,000) is just marginally above the level of income exempted in the case of a person in the PAYE system that avails of the personal credit, the employee credit and the age credit combined (€19,925). In such circumstances, the exemption limit confers very little additional benefit on the claimant, so the main beneficiaries are likely to be non-PAYE taxpayers.

Conclusion

We consider that the age exemption limit and associated system of marginal relief performs a valuable social role and we recommend that it continue.

Recommendation 8.106

The age exemption and marginal relief should continue.

15.3 Income under dispositions for short periods (deeds of covenant)

Description

Tax relief is available in respect of payments made under deeds of covenant. A deed of covenant is a legally binding written agreement made by an individual to pay an agreed amount to another individual, without receiving any benefit in return. To be legally effective, it must be properly drawn up, signed, witnessed, sealed and delivered to the individual receiving the payments. Any amounts can be paid under a deed but only covenants in favour of prescribed individuals qualify for tax relief.

A deed of covenant must be capable of exceeding a period of six years to qualify for tax relief.

The following covenants, in favour of specified individuals, qualify for tax relief:

Covenants to adults

- Unrestricted tax relief can be claimed on covenants in favour of permanently incapacitated adults
- Tax relief can be claimed on covenants in favour of adults aged 65 or over. However, the tax relief is subject to the restriction that the total relief available on one or more covenants cannot exceed 5% of the covenantor's total income

Covenants to minor children

- Unrestricted tax relief can be claimed on covenants in favour of permanently incapacitated minors except on covenants from parents to their own incapacitated children.

The amount of the tax expenditure in any particular case depends on the amount of tax paid by the covenantor and the amount of the covenantee's income, if any. The covenantor will always get

relief at the marginal rate. However, the covenantee is taxed on the income. As such, if the rates of tax paid by the covenantor and the covenantee are the same there is no net benefit. A covenantee whose total income (including the income received under the deed of covenant) is less than the exemption limit qualifies for a refund of the standard rate of tax deducted by the covenantor.

The benefits of this relief may be said to include the following: provides an incentive to individuals to give financial support to individuals who may need it; assist with the cost of care of incapacitated individuals; and provide additional financial support to individuals on low income.

Conclusion

Equity issues arise insofar as those higher up the income scale may derive greater benefit in terms of tax relief as compared with those lower down the income scale. There is no cost to the Exchequer where the covenantor and the covenantee pay tax at the same rate. If the covenantor pays tax at the higher rate, and the covenantee is exempt or pays tax at the standard rate, a net cost to the Exchequer will arise. We recognise that there are strong social aspects to this relief and we consider, therefore, that the relief should be continued.

Recommendation 8.107

The tax relief for income under dispositions for short periods (deeds of covenant) should continue.

15.4 Veterans of the War of Independence

Description

This tax expenditure exempts from income tax any pension, allowances, benefits or gratuities insofar as it related to relevant military service of a Veteran of the War of Independence or to an event which happened during or in consequence of such relevant military service and which is paid under the relevant legislation. The exemptions cover payments to veterans, their widows and dependants. Any such pension, allowance, benefit or gratuity is ignored in computing the recipient's total income for the purposes of the Income Tax Acts.

Conclusion

We consider that it would not be credible to seek to withdraw the relief and recommend that it should continue.

Recommendation 8.108

The tax relief available to Veterans of the War of Independence should continue.

15.5 Military and other pensions, gratuities and allowances

Description

Exemption from income tax applies to military pensions, gratuities and allowances. It applies to army wound and disability pensions; gratuities in respect of army wounds or disabilities; demobilisation pay and gratuities paid to officers of the National Forces or the Defence Forces of Ireland on demobilisation; deferred pay (within the meaning of any regulation under the Defence Act, 1954) and gratuities granted in respect of service with the Defence Forces.

Conclusion

At the level of the individual this measure recognises, through the provision of tax relief, the personal contribution to the State made by members of the defence forces and, in particular, those who have suffered wounds or disability as a result of that service. In this regard we consider this exemption to have a social dimension and we recommend that it continue. We also recommend that in future, the tax treatment of military service gratuities should be consistent with the tax treatment of lump sum payments in other public service employments.

Recommendation 8.109

The relief from income tax of military and other pensions, gratuities and allowances should continue. In future, the tax treatment of military service gratuities should be consistent with the tax treatment of lump sum payments in other public service employments.

15.6 Profits from lotteries

Description

The income of lotteries licensed under Part IV of the Gaming and Lotteries Act, 1956 is exempt from income tax. This refers to the income of those who organise the lotteries and not the gains which may arise to individuals from winning a relevant lottery. The National Lottery is exempt from the provisions of this Act and the relief is concerned with the income of lotteries licensed under the Gaming and Lotteries Act 1956, which may have a maximum prize in any one week of no more than €10,000. That Act also stipulates that the licensee "shall derive no personal profit" from the lottery.

Conclusion

We recommend that the exemption for lotteries provided by section 216 of the Taxes Consolidation Act 1997 should continue to apply.

Recommendation 8.110

The exemption from income tax of profits from lotteries should continue.

15.7 Consanguinity Relief

Description

Transfers between specified relatives qualify for a reduced rate of stamp duty. The reduced rate is half the rate of stamp duty which would otherwise apply.

Conclusion

We are recommending elsewhere in our Report (section 3.3 of Part 6) that stamp duty should be zero-rated in case of the purchase by an individual of his or her principal private residence. This proposal will diminish the relative benefit to be derived from consanguinity relief. We are also recommending that the stamp duty exemption for young trained farmers should continue to apply. While there are equity arguments in favour of withdrawal of the consanguinity relief, on balance we consider that it should continue.

Recommendation 8.111

Consanguinity relief within the stamp duty code should continue.

Section 16: Tax expenditures not examined by the Commission

A number of tax expenditures relating to property-based tax incentive schemes have not been examined by us because some had been reviewed in the run up to Budget 2006 and others in Budget 2009 with decisions taken to discontinue them. We note that transitional arrangements 'for pipeline projects' were also provided for and that the writing down periods for the schemes will run on into the future for some time yet. However, they are no longer open to new investors. The schemes in question are:

1. Urban renewal scheme
2. Town renewal scheme
3. Rural renewal scheme
4. Living over the shop scheme
5. Registered holiday cottages
6. Multi-story car parks
7. Hotels accelerated allowances
8. Registered holiday cottages
9. Student accommodation
10. Third-level educational buildings
11. Sports injuries clinics
12. Private hospitals
13. Nursing homes and convalescent facilities
14. Residential units attached to nursing homes
15. Mental health centres
16. The park and ride scheme, and
17. The general rental refurbishment scheme

While we did not review all of these schemes as part of our work we are satisfied that the decision to discontinue is the correct one in each case³⁹. Having regard to the nature of the findings which emerged from the 2005 reviews which, for example, raised issues of effectiveness, deadweight and adverse equity impact, and to our recommendations in Section 5 for the future approach to tax expenditures, we are reluctant to recommend them as appropriate policy instruments.

In addition to the above property based schemes, we did not review the following tax expenditures on the basis that decisions have been taken by Government to discontinue them:

- Measures⁴⁰ in respect of greyhound and stallion stud fees which are no longer in operation, and
- VRT relief in respect of short-term car hire (Section 134 Finance Act 1992, as amended)⁴¹

It is our view that decisions about tax expenditures in the above areas should also be similarly guided by our recommendations in Section 5 of this Part.

³⁹ We reviewed items 12 to 15 above before they were abolished in Finance Act 2009.

⁴⁰ Sections 140, 231 and 233 of the Taxes Consolidation Act refer.

⁴¹ This relief is being phased out over 2009 and 2010 and will cease to apply as and from 1 October 2011 (Finance (No. 2) Act 2008 refers).

Appendix 1:

130 Reliefs that are part of the benchmark tax system

	Reference	Description
Category 1 – Measures which are inherent in the design of the tax system including avoidance of double taxation and complying with international fiscal obligations together with minor reliefs and measures to facilitate tax administration		
1	S128D and 128E TCA	Where employees receive shares that are subject to restriction on sale, the value for income tax purposes of a restricted share is reduced by reference to a formula depending on the length of the restriction period; where employees receive shares that are subject to forfeiture, when a share is forfeited, tax previously charged is repaid.
2	S153 TCA	Non-residents are exempt from income tax on dividends from Irish companies.
3	S172C TCA	There is an exemption from dividend withholding tax where the dividend is paid to a pension fund, company, charity etc.
4	S198 TCA	Income tax exemptions apply for non-residents on Irish source interest income.
5	S200 TCA	Foreign social security pensions are exempt from income tax if residents of the paying country are tax exempt there. The pensions must correspond to Irish social welfare pensions and US pensions are ineligible for exemption.
6	S267 TCA	DIRT may be repayable where deposit interest is receivable by persons aged 65 or over or permanently incapacitated.
7	S 381-409E and 243-243B TCA	Tax relief is available for trading losses and charges on income for income tax or corporation tax.
8	S410-429 TCA	Trading losses may be surrendered between members of a corporate group.
9	S573 TCA	The transfer of assets on death is not regarded as a disposal and death is therefore not an occasion of charge to capital gains tax. The assets held by a deceased person are deemed to be acquired on his or her death by the personal representatives or legatees at their market value at the date of death.
10	S601 TCA	Gains up to €1,270 per individual per year are exempt from capital gains tax.
11	S602 TCA	Any item of tangible movable property that is sold for €2,540 or less is exempt from capital gains tax.
12	S603 TCA	Tangible movable property with an expected useful life of not more than 50 years asset is exempt from capital gains tax.
13	S613 TCA	There is an exemption from capital gains tax on National Instalment Savings, Prize Bonds, personal injury compensation and pension fund rights.
14	S626B and 626C TCA	Participation exemption for holding companies on capital gains.

15	S822 TCA	Immigrants are liable to income tax from the date of their arrival in Ireland and emigrants are liable to income tax up to the date of their departure from Ireland.
16	S825A TCA	The tax liability of cross-border workers paying tax in the country where they work is proportionally reduced by excluding the foreign income (and related tax) in computing Irish tax.
17	S826-835 TCA	Double taxation relief is provided for foreign tax, usually by the credit method.
18	S69 CATCA	Capital acquisitions tax is not payable on gifts not exceeding €3,000 per year per donor.
19	S72 and 73 CATCA	The proceeds of insurance policies that insure CAT liabilities are themselves exempt from CAT (and exit tax on approved retirement funds) to the extent that they are used to meet the tax liability.
20	S74 and 75 CATCA	Non-residents are not liable to CAT on Irish insurance policies or units in collective investment undertakings or common contractual funds where both the donor and beneficiary are foreign-domiciled and foreign-resident.
21	S81 CATCA	Irish government securities may be exempt from CAT. No Irish CAT is payable where both the donor and beneficiary are foreign-domiciled and foreign-resident; otherwise the securities must be held for 15 years before the date of the disposition.
22	S82 CATCA	There are exemptions from CAT for normal and reasonable payments within the family, payments to incapacitated individuals, normal and reasonable payments from trusts towards the support, maintenance or education of minor orphaned children, compensation and damages and winnings from betting and lotteries.
23	S83 CATCA	Gifts to oneself are exempt from CAT. The exemption also applies to gifts to (or by) companies owned by the donor.
24	S87 CATCA	Gifts and inheritances that are made free of CAT include the tax paid by the donor as part of the gift or inheritance, but there is no further grossing-up of the benefit.
25	S103 CATCA	A multiple CAT charge is eliminated where the same property is taxable more than once in the same event.
26	S104 CATCA	Capital gains tax may be credited against CAT where both taxes arise on the same property in a single event.
27	S105 CATCA	A multiple CAT charge is eliminated where the same property is taxable more than once in the same event.
28	S75 and 75A SDCA	There is a stamp duty exemption for intermediaries and clearing houses.
29	S84 SDCA	Stamp duty is repayable when a member of an approved profit-sharing scheme transfers (sells) shares under the scheme.
30	S85 SDCA	There are stamp duty exemptions for transfers of loan capital.

31	S87 SDCA	Stamp duty is not chargeable on transactions related to stock lending and borrowing.
32	S87A SDCA	Stamp duty is not chargeable on repo transactions (sale and repurchase of stock).
33	S88 SDCA	There are stamp duty exemptions for transfers of units in regulated collective investment undertakings and also for transfers of shares in companies incorporated outside Ireland.
34	S89 SDCA	There is an exemption from stamp duty on transfers of securities issued by a foreign government.
35	S90 SDCA	There are stamp duty exemptions on transfers of instruments used primarily in the financial services industry.
36	S93, 93A and 103 SDCA	There are stamp duty exemptions for social housing - houses acquired from industrial and provident societies and voluntary bodies are exempt. Shared ownership leases are also exempt.
37	S95 SDCA	There is a stamp duty exemption to the extent that the value of transferred land is represented by growing timber.
38	S98 SDCA	There is a stamp duty exemption on transfers of foreign immovable property.
39	S101 SDCA	There is a stamp duty exemption on transfers of intellectual property.
40	S109 SDCA	There is a stamp duty exemption on documents such as cover notes which are made in anticipation of the issue of a formal policy of non-life insurance.
41	S110 and 110A SDCA	Health, permanent health and critical illness insurance policies are exempt from stamp duty.
42	S113 SDCA	Stamp duty is not payable on transfer of ships and aircraft, on wills, and on instruments made by, to or with the Commissioners for Public Works.
43	Schedule 1 SDCA	Where the lease of a dwelling-house is for a period not exceeding 35 years or for an indefinite term and the rent does not exceed €30,000 per annum, the lease is exempt from stamp duty
44	S138C FA 1992	VRT is reduced for hybrid vehicles, flexible fuel vehicles, electric vehicles and electric motorcycles.
45	S96, 100 and FA 1999	Full relief from, or a reduced rate of, mineral oil tax applies to marked diesel used for certain purposes.

Category 2 – Measures related to the unit of taxation and measures which are tax neutral

46	S129 TCA	Resident companies are tax exempt on dividends from other resident companies.
47	S461 TCA	Personal tax credits for single and married persons for income tax.
48	S461A TCA	An additional personal tax credit for income tax is available to widowed persons.
49	S536 TCA	No capital gains tax is payable where insurance proceeds or compensation receipts are used to restore or replace an asset.
50	S584-587 TCA	Capital gains tax is deferred on amalgamation or reorganisation of a company.

51	S616-626 TCA	Capital gains tax is deferred on transfers of assets within a corporate group.
52	S630-638 TCA	These provisions implement the EC Mergers Directive into Irish law and provide corporation tax and capital gains tax reliefs for mergers and reorganisations.
53	S657 TCA	Farm stock may be transferred at book value for income tax purposes by a retiring farmer to his or her successor.
54	S747F TCA	Tax is deferred in an offshore fund reorganisation.
55	S751A TCA	Income tax or corporation tax is deferred where shares held as trading stock are exchanged in a corporate reorganisation.
56	S 593 TCA	Life policies are taxed only at the life company level.
57	S600 TCA	Capital gains tax is deferred when a business is transferred by an individual to a company.
58	S615 TCA	Capital gains tax is deferred on reorganisation or amalgamation of a company.
59	S751B TCA	Income tax or corporation tax is deferred on an exchange of Irish Government bonds.
60	S1025 TCA	Maintenance payments by separated spouses are deductible to the payer and taxable on the recipient for income tax purposes.
61	S1026 TCA	Separated and divorced persons may elect to be taxed jointly.
62	S1027 TCA	Payments pursuant to orders under the Family Law Acts may be made without deduction of tax.
63	S1028 TCA	Capital gains tax is deferred where assets are transferred between married persons.
64	S1030 and 1031 TCA	There is a capital gains tax exemption for transfers of assets as part of a separation or divorce agreement.
65	S70 and S71 CATCA	CAT is not payable on gifts and inheritance from one spouse to the other.
66	S79 CATCA	There is an exemption from CAT where a parent inherits from a deceased child an amount previously received as a gift or inheritance by the child from either parent.
67	S86 CATCA	There is a CAT exemption on dwelling houses transferred to other occupants of the house.
68	S88 CATCA	Transfers of property between former spouses on dissolution of a marriage are exempt from CAT.
69	S79 SDCA	There is a stamp duty exemption for transfers within a corporate group.

70	S80, 88A, 88B, 88C SDCA	Stamp duty is not payable on reconstruction or amalgamation of a company, a collective investment undertaking, a fund or a common contractual fund.
71	S80A SDCA	Stamp duty is not payable on demutualisation of assurance companies.
72	S81C SDCA	No stamp duty is payable where land is exchanged to consolidate land in a farm.
73	S96 SDCA	Stamp duty is not payable on transfers between spouses.
74	S97 SDCA	There is a stamp duty exemption for transfers of assets as part of a divorce agreement.

Category 3 – Deductions for expenses incurred in earning income

75	S83 TCA	Management expenses are tax deductible by an investment company.
76	S84 TCA	An income tax or corporation tax deduction is available for the cost of establishing or altering an employee superannuation scheme.
77	S86 TCA	An income tax or corporation tax deduction is available for the cost of registration of a trade mark.
78	S97 (2)(e) TCA	Interest expense incurred in acquiring rented property is tax deductible for income tax or corporation tax. ⁴²
79	S101 TCA	An income tax or corporation tax deduction is available where rent receivable is irrecoverable.
80	S102 TCA	Premiums on leases are deductible against income by a trading tenant over the life of the lease.
81	S103 TCA	Premiums on leases are deductible against rental income by a landlord over the life of the lease.
82	S115 TCA	Standard expense allowances are prescribed by the Minister for Finance for specific public service occupations and may be paid free of income tax; employees may alternatively deduct actual expenses incurred.
83	S118 TCA	No benefit-in-kind charge is imposed where an employer pays the cost of mobile phone, internet connection, computer equipment or professional subscription used for business purposes by an employee.
84	S195A TCA	Travel and subsistence expenses at public sector rates may be paid free of income tax to non-executive members of public and private sector non-commercial bodies where the members earn less than €14,000 pa (€24,000 for a chairman)
85	S196 TCA	Standard expense allowances paid to members of the judiciary in respect of the expenses they incur in the performance of their duties are not subject to income tax.

42 In the Supplementary Budget 2009, the level of relief which investors can claim on the interest for mortgages and loans on residential rental properties was reduced to 75%.

86	S196A and 196B TCA	Foreign service allowances of civil servants, gárdaí, defence force members and employees of State enterprise agencies are not subject to income tax. The allowances compensate for additional costs of living outside Ireland.
87	S247 TCA	Interest expense is tax deductible by a company where the loan is used to acquire a trading company.
88	S248, 250 and 253 TCA	Interest expense is deductible for income tax where the loan is used by an individual to acquire a trading company or an interest in a partnership.
89	S268-282 TCA	There is a tax depreciation allowance for industrial buildings for income tax or corporation tax.
90	S283-301 TCA	There is a tax depreciation allowance for machinery and plant for income tax or corporation tax.
91	S301 and 302 TCA	There is a tax depreciation allowance for expenditure on dredging for income tax or corporation tax.
92	S658 TCA	There is a tax depreciation allowance for farm buildings for income tax or corporation tax.
93	S669G-669K TCA	There is a four-year write-off period for stallions.
94	S673 and S674 TCA	Mine development and exploration expenditure is tax deductible for income and corporation tax.
95	S680 TCA	There is a tax depreciation allowance for mineral depletion for income tax or corporation tax where a mine is purchased.
96	S693 TCA	Petroleum exploration expenditure is deductible for income tax or corporation tax.
97	S699 TCA	An industrial and provident society may deduct rebates, discounts and dividends to members for corporation tax.
98	S837 TCA	Business expenses incurred may be deducted against the income of a clergyman or a minister of religion for income tax.
Category 4 – Measures relating to the Government, public sector bodies and holders of Government securities		
99	S36-50 TCA	Tax exemptions are available for income from Government and other public securities.
100	S197 TCA	Bonus and interest paid in respect of National Instalment Savings are exempt from income tax.
101	S206 TCA	Income derived by the Minister for Finance from investment of the social insurance fund is exempt from tax.
102	S214 TCA	Local authorities, the Health Service Executive, vocational education committees and committees of agriculture are exempt from corporation tax.
103	S218 TCA	The Housing Finance Agency plc is exempt from corporation tax on business and investment income.
104	S219 TCA	The Irish Takeover Panel is exempt from corporation tax.

105	S219B TCA	The Investor Compensation Company Ltd is exempt from corporation tax.
106	S220 TCA	The National Lottery, The Dublin Docklands Development Authority and any of its wholly owned subsidiaries, The Pensions Board, Horse Racing Ireland, Irish Thoroughbred Marketing Limited, Tote Ireland Limited and The Commission for Electricity Regulation are exempt from corporation tax.
107	S227 TCA	Non-commercial semi-state bodies are exempt from corporation tax on investment income.
108	S228 TCA	Bodies designated under the Securitisation (Proceeds of Certain Mortgages) Act, 1995 are exempt from income tax and corporation tax.
109	S230 TCA	The National Treasury Management Agency is exempt from corporation tax.
110	S230A TCA	The National Pensions Reserve Fund Commission is exempt from corporation tax.
111	S230AB TCA	The National Development Finance Agency is exempt from corporation tax.
112	S607 TCA	Various Government and other public securities are exempt from capital gains tax.
113	S610 TCA and Sch 15 TCA	The public bodies listed in the Schedule are exempt from capital gains tax.
114	S86 SDCA	Loan stock of state bodies is exempt from stamp duty.
115	S99 SDCA	The Dublin Docklands Development Authority and its subsidiaries are exempt from stamp duty on acquisition of land.
116	S99A SDCA	The Courts Service is exempt from stamp duty on acquisition of land.
117	S100 SDCA	Temple Bar Properties Limited is exempt from stamp duty on acquisition or leasing of property.
118	S105 SDCA	Securities issued by the special purpose vehicle established under the Securitisation (Proceeds of Certain Mortgages) Act, 1995 are exempt from stamp duty.
119	S106 SDCA	Instruments which secure money advanced by the Housing Finance Agency are exempt from stamp duty.
120	S106A SDCA	The National Building Agency Limited is exempt from stamp duty. bn
121	S106B SDCA	Housing authorities and affordable homes partnerships are exempt from stamp duty.
122	S108 SDCA	A range of documents which are executed by the National Treasury Management Agency in the course of the management of the national debt is exempt from stamp duty.
123	S111 SDCA	Instruments payable out of Oireachtas funds are exempt from stamp duty.
124	S112 SDCA	Certificates of indebtedness (of the State) are exempt from stamp duty.

Category 5 – Court orders, court awards and compensation payments

125	S189 TCA	Income and gains derived from the investment of funds received in compensation of personal injury are tax exempt where the income represents more than 50% or more of total income.
126	S189A TCA	Funds in trust for permanently incapacitated persons that were raised by public subscription are exempt from tax.
127	S190 TCA	Payments made by the Haemophilia HIV Trust are exempt from income tax
128	S191 TCA	Payments made by the Hepatitis C Tribunal and HIV compensation payments are exempt from income tax.
129	S192 TCA	Compensation payments in respect of thalidomide children are exempt from income tax and income and capital gains arising on investment of the compensation are also tax exempt.
130	S192A TCA	Payments in compensation for breach of an employee's rights (e.g. discrimination, harassment etc) are exempt from income tax.