



5 December 2008

Mr. Brian Lenihan TD
Minister for Finance
Department of Finance
Government Buildings
Upper Merrion Street
Dublin 2

Finance (No.2) Bill 2008

Dear Minister

Thank you for your letter of 28 November 2008.

I appreciate your acknowledgment of the issues raised in my letter of 21 November and felt it might be helpful to provide some more detail on other matters contained in the Finance Bill.

Changes to the penalty regime – section 91 and Schedule 5

We note your comments on the background to the changes in the civil penalty and Revenue Audit regime. We are working with Revenue on this matter through TALC and have expressed some specific concerns to them in relation to the new legislation and the impact on the Code of Practice for Revenue Audits. Our primary aim is to ensure that there are appropriate safeguards for taxpayers under the new regime, both within the legislation itself and within any new Code that is issued.

Income levy and car park levy – sections 2 & 3

The introduction of these two measures has required the drafting of 23 pages of complex legislation. Apart from the time required to understand the new regime, its operation will require significant changes to be made by business to their payroll software, to the internal records that they will need to keep and to the payroll returns which they submit to Revenue.

- It is important that sufficient time is given to the business sector to make all necessary preparations to meet the additional compliance obligations placed upon them by the new levies. In particular, we would like to see the commencement of the car park levy deferred until June 2009.

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- It would also be helpful for employers to have detailed industry guidelines on the operation of both levies and we would be happy to provide any assistance required to Revenue in the drafting of such guidelines.
- Over the next 12-18 months, a number of complexities will no doubt arise for taxpayers and employers given the level of detailed legislation that is involved with these levies. We would ask that Revenue adopt a reasonable approach to bona fide errors arising during this period under their care and management role.

Capital Gains Tax (CGT) - section 34

The Institute has expressed concerns in the past about the existing pay and file regime for capital gains tax which requires taxpayers to make two payments of tax and then file their return. The purpose of a pay and file regime is to simplify the tax system so that tax payments and returns can be dealt with once and once only. The existing regime is already complicated and the amendments in the Finance Bill make matters more difficult for taxpayers, at both an administrative level and a cash flow level.

Under the new proposals, CGT on transactions from 1 January to 30 November in the year is payable by 15 December. This may result in a tax liability arising within two weeks of the actual transaction. This is particularly burdensome when you consider that the average completion period for a transaction is 30 days, and so the result of this new amendment may mean that the funds from the sale will not even have been received before the tax is due.

In Budget 2009, you announced that the change in the CGT payment date would be brought forward in 2009 on a "once off basis". We welcomed this approach in discussions with your officials as we would be concerned about any permanent change of this nature in the CGT pay and file system. We would like to see the Finance Bill provisions reflect this commitment to a change of a temporary nature.

Preliminary corporation tax – section 34

The introduction of a second installment payment for preliminary corporation tax further adds to the difficulty for larger companies in dealing with their tax affairs. In many cases, these companies are already experiencing difficulty meeting the existing timetable for preliminary corporation tax without further accelerating the payment dates.

Resting in contract – section 75

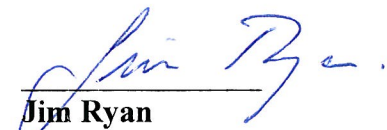
We note the changes introduced in the Bill and your comments that this provision is likely to be commenced early next year. We are concerned that the introduction of this measure is contrary to the findings of the Goodbody Economic Consultants' Report which recommended that this provision ought not to be implemented as it would have the effect of "exacerbating the down turn in the property market". As our property market is currently in decline, we would urge that the commencement of this provision is carefully considered and is not effected until the market can bear it. We would also urge that the provision is not commenced in any way which would or could have retrospective effect.

Participation exemption

We refer to the recent announcement in the UK pre-Budget Report of an exemption for foreign dividends within the large and medium business sector. Clearly we are all committed to ensuring that Ireland remains a competitive location for foreign direct investment and we believe it is important to monitor our own portfolio of incentives very closely in light of developments such as this so close to home.

The Institute would be happy to be of any further assistance on these matters and on the related issues raised in my letter of 21 November.

Yours truly,



Jim Ryan
President