

S141 – Domicile Levy


- Property test
 - Irish situate property held on valuation date (31. Dec)
 - No deduction for mortgages etc.
 - Exclusion for certain trading companies
 - Anti-avoidance re non-Irish incorporated companies
 - **Anti-avoidance re transfers of property**
- Returns of worldwide income and Irish property
- **Simplification?**



S141 – Domicile levy

- **Committee stage proposals:**
- Individual will be liable in respect of property transferred at below market value post 18.02 to
 - a spouse or minor children (except maintenance)
 - a discretionary trust
 - a foundation (unless exclusively charitable or for benefit of incapacitated individuals)
- Advance opinions where investments contemplated



S32 – Lessee entitlement to capital allowances

- Background - S299 TCA 1997
- **Allowances limited to finance leases only**
- **Conditions**
 - Joint election (or lessee election)
 - **Lessee deduction follows accounting treatment**
 - **Lessee capital allowances effectively limited to 'capital element' of finance lease payments**
- Effective for chargeable periods commencing on or after date of passing of the Act





S45 – Dividends paid out of profits of former non-residents

- Case I/III v S.129 TCA 1997
- **New Section 129A** disapplies S.129 where:
 - Payor became Irish resident in 10 years prior to payment of dividend **or if later after the date of passing of the Act**
 - Payor and shareholder companies are connected
 - Dividend is paid out of profits arising before the company became resident in the State
 - Effective for dividends paid on or after **passing of Act**


S45 – Dividends paid out of profits of former non-residents

- **Committee stage proposals**
- Distributions liable under Case IV (25%)
- Pre-migration profits now determined by reference to after tax profit up **to end of prior period** (as per P/L presented at AGM)
- Apportionment between pre and post migration
- Exception
 - S129 will still apply where paying company was never controlled prior to Irish residence by Irish residents


S45 – Dividends paid out of profits of former non-residents

- **Example**

Committee Stage Limited becomes Irish resident on 1 July 2010

Accounting period	Profit before tax	Tax	per accounts
Year ended 31.12.10	1,000,000		150,000
Year ended 31.12.11	1,500,000		125,000

Dividend on 1 February 2011
3,000,000

Profit after tax for 31.12.10 850,000

Attributable to specified period
425,000

Amount not exempt under S.129 (liable under Case IV)
2,575,000


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S50 – R&D credit

Example - Rob Research Ltd


	Year	Event	Relief (Y/N/CB)
R&D centre closures	2011	Rathgar closed	(N)
	2012	Sligo closed	(Y)
Product A Tralee	2014	Cork restarts research into product B	(CB)
Product B Sligo			
Product C Dublin (Rathmines)	2016	Rathmines closed	(N?)
Product D Dublin (Rathgar)	2017	Tralee closed	(Y)
	2019	All R&D ceases	(no CB)
	2020	Complete pull-out	(CB)

Technical issue with claw back fixed at Committee Stage


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S51 – Royalty withholding taxes

- Background
 - WHT applied to patent royalties and annual payments
 - Treaty clearances may be available
 - Interest and Royalties Directive may be applicable
- No WHT or residual income tax liability if paid by company in course of a trade or business to
 - Company which is resident in a relevant territory and
 - The relevant territory imposes a tax on foreign source royalties
 - Bona fide commercial reasons and no tax avoidance motive
- Eliminates WHT to certain relevant territories & administration cost of obtaining treaty clearances


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S36 – Interest Payments to Non-Residents

- S198(c)(ii)/S246(3)(h) TCA 1997 - exemption from income tax/withholding tax – DTA countries
- New test to qualify for exemption:
 - recipient country "imposes a tax that generally applies to interest receivable in that territory..." or
 - is exempted from charge to income tax under DTA including DTAs negotiated but not yet in force
- Expansion of treaty network – new treaty partners may not tax interest/royalties e.g. Bahrain
- Protection of tax base in Ireland and other treaty partners
- Grandfathering for existing loan agreements

S144 – Revenue powers

- Background - existing third party information powers
- New S907A TCA97
 - Requires written Revenue Commissioner consent
 - Applies to classes of persons
 - Consent of Appeal Commissioners
 - Ex-parte applications
 - Exception for confidential professional advice, claim to legal privilege

New disclosure rules (Committee stage proposals)

New disclosure rules

- New sections 817D – 817R (14 pages)
- Mandatory reporting of yet to be specified transactions that give rise to a tax advantage (widely defined)
- By
 - Promoters (tax advisors and banks)
 - Persons entering into disclosable transactions
- Revenue to produce Regulations (consultation!!)

New disclosure rules

- Revenue Regulations
 - Specified classes of transactions to be disclosed
 - Specified classes of tax advantages
 - Information to be provided to the Revenue
 - Time limits within which information to be provided
 - Specified persons not to be regarded as promoters
 - Form and manner of delivery of information

New disclosure rules

- Classes of transactions covered by Regs
 - where promoter etc. might wish to keep transaction confidential from Revenue
 - where a promoter may obtain contingent fees
 - where standardised documentation prepared for specific transactions that are standardised in form
 - Transactions that give rise to yet to be specified classes of tax advantages

New disclosure rules

- Operate independently of Section 811/ 811A and disclosures are 'without prejudice'.
- Legal professional privilege may be available but
 - Onus shifts to taxpayer to report;
 - Promoter must advise taxpayer of LPP; and
 - Promoter must advise Revenue of LPP.
- Significant fines for non-compliance



New disclosure rules

- Effective dates for promoters
 - Where promoter has specified info and makes marketing contact;
 - Where promoter makes a disclosable transaction available for implementation by others; or
 - Where promoter first becomes aware of part of any disclosable transaction being implemented

on or after the passing of the Act



New disclosure rules

- Effective date for persons entering into transactions
 - Where the whole of a disclosable transaction is undertaken on or after the passing of the Act.
