

## **[15.2A.2] High Income Individuals' Restriction**

### **- income chargeable to tax at the standard rate in joint assessment cases**

#### **1. Introduction**

Chapter 2A of Part 15 of the Taxes Consolidation Act 1997 (TCA 1997) and associated Schedules 25B and 25C introduced, with effect from 1 January 2007, a measure to limit the use of certain tax reliefs and exemptions by high-income individuals [see Tax Instruction 15.2A.1]. This instruction clarifies the position on the entitlement of couples on joint assessment to have an additional amount of income charged to tax at the standard rate where the restriction applies.

#### **2. Entitlement to Additional Amount at the Standard Rate**

In joint assessment cases, section 15 of the TCA 1997 provides for an increase in the amount of income chargeable to tax at the standard rate. The increase is set at the lower "specified income" of the spouses, subject to a maximum amount of €25,000 in 2007 or €26,400 in 2008. Specified income is defined in section 15 by reference to total income.

Paragraph 6.1 of Tax Instruction 15.2A.1 advised that entitlement to the increase in the amount of income chargeable to tax at the standard rate was not affected by the restriction, even though the spouse on whose income the extended rate-band is based may have an increased amount of (recalculated) taxable income.

Following representations received in a case where a spouse's recalculated taxable income was greater than the spouse's total income (on which entitlement to the additional amount at the standard rate is normally based), Revenue has reconsidered the position previously expressed in Tax Instruction 15.2A.1.

With effect from 2007, Revenue will allow entitlement, under section 15, to the additional amount at the standard rate to be calculated by reference to recalculated taxable income where this is more beneficial than calculation by reference to total income.

Tax Instruction 15.2A.1 has been amended accordingly and cross-referenced with this Instruction.

#### **3. Applicable date and action to be taken by taxpayers/agents**

The revised treatment outlined in paragraph 2 above applies with effect from 2007 i.e. since the introduction of the high earners' restriction.

Where a taxpayer or his or her tax representative considers that this revised treatment is applicable, then direct contact should be made with the Revenue office dealing with the taxpayer's affairs if a tax return has already been made for the year 2007 or 2008. Alternatively, where a tax return has yet to be submitted for either of these years, Revenue attention should be brought to this matter when submitting the return. This can be done by way of an accompanying note with a manual return or by way of the expression of doubt facility in ROS in the case of ROS returns.

#### **4. Action to be taken in Revenue Offices**

Where a claim is made in accordance with paragraph 3 above to have an increased amount of income chargeable to tax at the standard rate, the District should determine the additional amount due at that rate, if any, and should calculate any credit due to the taxpayer as a result. The taxpayer and his or her representative should be advised of the credit due and a repayment or offset dealt with as necessary.

Districts should ensure that the granting of the credit does not give rise to a repayment of tax that has not been paid (e.g. either directly or through the PAYE system) as the credit itself is not refundable.

Repayment of tax arising should be made with interest where this would be due under normal rules. The provisions of section 865 should also be applied as normal.

#### **5. Position for 2009**

The assessing programme in relation to the year 2009 is being amended to reflect the revised treatment for that year.