Roundtable: new rules affecting aircraft leasing, interest deductibility, and new ‘qualifying finance companies’

The panel looks at the new concept of ‘qualifying finance companies’ introduced in the Finance Act as are changes to rules, and Revenue practice that have implications for Ireland’s aircraft leasing sector. The Irish domestic tax concept of ‘trading’ and how it could interact with new territorial tax elements being introduced to the Irish tax code are examined, as are model elements of the UK’s participation exemption. The portfolio dividend exemption and the taxation of Irish investors also features, as does the changes to Revenue’s Tax Debt Warehousing scheme announced by Minister Michael McGrath in February, which will have an impact on the c.58,000 companies still availing of the scheme.

Aircraft Leasing

The Finance (No.2) Act 2023 contained a number changes that aim to give clarity around areas including capital allowances and the calculation of profits for both lessors and lessees. Can you outline the changes and the implications for aircraft leasing companies operating from Ireland?

Marine Opperman, Manager, Corporation Tax, Deloitte: Finance (No.2) Act 2023 contains a number of changes to the corporation tax treatment of leases, which are relevant not only to leasing companies but also to other trading companies that lease assets in a capacity as lessee. With respect to the implications for aircraft leasing companies operating from Ireland specifically, there are broadly three main categories of changes to be aware of that could impact the calculation of taxable profits:

Marine Opperman

The first requires some context: A large driver for some of the changes to existing law through Finance (No.2) Act 2023 follows confirmation from Irish Revenue that they were essentially terminating all of their historic leasing practices at the end of 2023. Where these practices were not codified in law, Finance (No.2) Act 2023 was expected to codify practices to be retained. A significant implication flowing from this is how lessors determine their trading status for the purposes of qualifying for the Case I 12.5% corporate tax rate. Moving away from historic practices may be of particular significance for single aircraft owning entities (SAOEs) and finance companies in aircraft leasing groups. While the newly updated Tax and Duty manual on leasing (effective from 1 January 2024) does not specifically preclude such entities from being considered trading, general case law principles should be applied to the specific facts and circumstances to determine if trading status can be supported. Therefore, lessors should review their existing asset owning and financing deployment structures (including existing cash pooling and internal financing structures) to determine if trading status can be supported or if amendments are required. In this regard, the new Qualifying Financing Company regime introduced should be borne in mind as a further alternative for structuring the flow of cash and finance within a leasing group.

The March Roundtable Panel consisted of:
Marine Opperman, Manager, Corporation Tax, Deloitte; Ted O’Byrne, Tax Consultant, Maples Group; Angela Fleming, Partner & Head of Financial Services Tax, BDO; Lorna Fox, Manager, Corporation Tax, Deloitte; Collette Kenny, Director, Corporation Tax, Deloitte; Emma Greene, Assistant Manager, Corporation Tax, Deloitte; Peter McGeoghegan, Director, Financial Services Tax, Grant Thornton; Lorna Bent, Director, Private Clients, Deloitte; Jim Kelly, Director, Tax, Grant Thornton; Lee Kavanagh, Assistant Manager, Financial Services Tax, BDO; Sarah Parker, Manager, Private Clients, Deloitte.

Secondly, changes have been made to S.403 TCA 1997 which apply from 1 January 2024. S.403 TCA 1997 provides, broadly, that capital allowances on leased plant and machinery may only be set off against certain categories of income and profits (known as the “leasing ring fence”). Finance (No.2) Act 2023 expands the scope of items included in the ring fence by adding certain financing and other activities (“lease adjacent activities”) and by introducing the concept of a new and wider “leasing business group”. These generally are welcome expansions and are relevant also to the design of a revised internal financing / cash pooling structure in aircraft leasing groups in the post 2023 environment. It should be noted that the new S.403 TCA 1997 also brings about additional CT1 disclosure requirements.

“Lessors should review their existing asset owning and financing deployment structures (including existing cash pooling and internal financing structures) to determine if trading status can be supported or if amendments are required.”

Lastly, Finance (No.2) Act 2023 aims to codify a number of changes around the taxation of finance leases with several changes to, amongst others, S.76D and S.299 TCA 1997. Historically, under generally prevailing practice lessors earning income from assets leased out via finance leases where the lessor did not claim capital allowances on the asset were subject to tax only on the accounting interest margin charged to the profit and loss account. The amended legislation now codifies that practice but adds a number of additional requirements (including additional disclosure requirements in the CT1) that apply from 1 January 2024, some of which are onerous. Finance lessors would be well advised to take note of these important changes and their impact not just on new leases, but also existing finance leases.

Finance (No.2) Act 2023 includes also other changes which could impact the calculation of taxable profits for Irish aircraft lessors not discussed above and therefore lessors should review these changes with their tax advisors as soon as possible.

Ted O’Byrne, Tax Consultant, Maples Group: This article highlights recent Irish tax changes relevant to the aviation leasing industry. The Irish aviation leasing industry has grown to the point that an Irish-leased aircraft takes off from a runway around the world every two seconds. Ireland’s attractiveness to investors can be attributed to a competitive tax regime, a comprehensive double tax treaty network as well as its skilled workforce within the financial services sector. Any tax changes are significant and will impact this complex ecosystem.

Ted O’Byrne

The first change to highlight is not entirely legislative. It is a change in Irish Revenue practice. Traditionally, Irish aviation lessors would seek to obtain the benefits of Ireland’s 12.5% trading tax rate. Trading presupposes there is some activity conducted in Ireland and a trading model involves employees, office space and key economic decisions and actions being located in Ireland. However, one of the features of aviation, is the use of “special purpose vehicles” which would only undertake a small number of functions. There are companies which may hold a single aircraft on lease, or which would be used to provide funding to other group companies. Such structures are common to facilitate bank lending and isolate risk. Historically, Irish Revenue would accept that each such entity was trading, provided it was part of an active trading group. However there has been a gradual change in approach from Irish Revenue. The trading status of such entities must now be much more closely scrutinised with the role of entity, it’s resources and activity levels being judged on a standalone basis. If there is not sufficient activity then the entity will not be trading. It will be taxed under Ireland’s less favourable corporate tax rules for passive income and taxed at 25%.

Entities which are just involved in a single lease should consider their treatment. In particular, if the active management of the lease is outsourced to a third party, such as an Irish based servicer, there is a need to clearly demonstrate that this servicer is under the control of the board, and that the board has a high level of involvement in the activities.

Where an entity is used as a group finance company, there appears to be a clear intention to remove trading status from such entities if they do not have sufficient activity. The most recent Irish Finance Act (Finance (No.2) Act 2023 (the “Act”)) introduces a new concept of a “Qualifying Financing Company”. This provides for specific tax treatment (and therefore certainty) for companies engaged in intra-group financing. However, interest deductibility limited to third party debt and a number of other conditions must be met. This has led to significant restructuring requirements for groups which had relied on tax advice which was based on the old practice-based approach.

The Act introduces other legislative changes. Firstly, in relation to finance leases, there has been a change which impacts historic treatment. Previously, Irish Revenue allowed finance lessors to be taxed on their finance margin, rather than their gross revenue, where the lessee claims capital allowances (tax depreciation) on the aircraft. The Act puts this treatment on a statutory footing. The Act introduces additional changes relating to spreading of revenue evenly over the life of the lease irrespective of the accounting treatment. All of these changes could impact existing groups and structures and require some level of review as they will likely be questioned as part of an annual audit for 2024.

The major alternative to trading structures is the Irish “section 110 regime”, which is so called because of section 110 of the Irish Taxes Consolidation Act 1997 which it operated under. Although the treatment of section 110 companies is currently part of the general review of the taxation of Irish investment products, the model has remained unaffected by the recent changes for aviation lessors. While subject to its own specific anti-avoidance provisions, it remains a viable option for lessors who do not have substance.

The Act also introduced new Irish withholding tax measures on payments of dividends, royalties and interest payments to zero tax jurisdictions or EU non-cooperative jurisdictions where those payments are made to associated entities. This has particular relevance for aviation structures where an ultimate holding company can be based in such a jurisdiction.

Finally, the Act has also transposed the EU Global Minimum Tax rules into Irish domestic law. This may have implications for some of the larger leasing structures as it applies to entities and groups with more than EUR750 million of annual revenues. This can result in the imposition of a minimum tax rate of 15% on certain groups.

Overall, lessors should be consulting with their advisors on these changes and where appropriate, considering the potential impact and where appropriate, restructuring to mitigate unwanted effects. Ireland remains an excellent jurisdiction within which to base aircraft leasing platforms, however, it has taken steps to legislate for initiatives such as the Global Minimum Tax and to remove certain historic practices in an effort to sustain the regime for the coming decades.

“The trading status of such entities must now be much more closely scrutinised with the role of entity, it’s resources and activity levels being judged on a standalone basis. If there is not sufficient activity then the entity will not be trading.”

Finally, and by way of note, the implementation of the Pillar Two minimum effective rate from 2024 is another development that will have to be carefully considered by those companies falling within the scope of Pillar Two. In particular, those companies claiming the PDE will need to consider how such dividends are assessed and treated under the Pillar Two rules.

Interest deductibility rules

The concept of a ‘qualifying financing company’ has been introduced in the Finance (No.2) Act 2023, signed into law on 18th December 2023. Can you outline what a ‘qualifying financing company’ is and the implications for entities potentially affected as being in scope, and their interest deductibility? In your view, what would be the most impactful changes that could be made to simplify Ireland’s rules around interest deductibility?

Angela Fleming, Partner & Head of Financial Services Tax, BDO: Section 40 of the Finance (No. 2) Act 2023 introduced a new Section 76E of the Taxes

Consolidation Act 1997 ("TCA 1997").

This new section provides for the introduction of the concept of a "qualifying financing company". In short summary, a qualifying financing company is one which obtains third-party finance and advances this finance to a subsidiary for a qualifying business purpose. Like all good tax legislation, there are a number of qualifying conditions that need to be met, and the section is subject to strict anti-avoidance rules.


Angela Fleming

In order for a company to qualify as a "qualifying financing company" the following conditions must be met:

- The financing company holds a direct ownership of 75% or more of the ordinary share capital of one or more qualifying subsidiaries, or an intermediate holding company,
- The financing company borrows money for the purpose of on-lending that money by way of the making of qualifying loans to one or more (direct or indirect) qualifying subsidiaries, and
- Apart from (a) and (b) above, the financing company does not carry on any other activities (other than ancillary activities).

A "qualifying subsidiary" means a trading company which is tax resident in an EU, EEA or tax treaty country. In order for a loan to be qualifying it must be on arm's length terms and used by the qualifying subsidiary for trading purposes.

"While the introduction of these new rules for qualifying financing companies is a very welcome development, we are hopeful that it merely represents a first step in the simplification and modernisation of Ireland's interest deductibility rules."

Section 840A TCA 1997 is an anti-avoidance provision that denies a trading deduction for interest payable on intra-group borrowings to purchase assets from a connected company. The Finance (No. 2) Act 2023 also amends section 840A so that it does not apply to interest payable to a qualifying financing company.

In his Budget Day speech, the Minister for Finance announced his commitment to engaging with stakeholders in the period ahead on Ireland's current regime for interest deductibility, noting its complexity. More recently, the Minister for Finance indicated that while the review will commence this year, it will require a significant body of work over potentially a multi-year timeframe.

While the introduction of these new rules for qualifying financing companies is a very welcome development, we are hopeful that it merely represents a first step in the simplification and modernisation of Ireland's interest deductibility rules.

Lorna Fox, Manager, Corporation Tax, Deloitte: Finance (No.2) Act 2023 introduced a welcomed opportunity for non-trading financing companies to benefit from an interest deduction under Case III or Case IV principles.

"The new rules introduced for these qualifying financing companies is a step in the right direction, however, the conditions that need to be satisfied need to be relaxed to broaden the application of the relief to more companies."

For the purposes of this new legislation, a qualifying financing company is defined as a company that holds at least 75% of the ordinary share capital of a qualifying subsidiary and borrows money for the purpose of on-lending that money to a qualifying subsidiary as a relevant loan. Broadly, a qualifying subsidiary is a company carrying on a trade and is resident in an EU, EEA state or DTA country. A relevant loan means a loan which is entered into by way of a bargain made at arm's length, advanced by a qualifying financing company to a qualifying subsidiary. The loan must also be used wholly and exclusively for trade purposes and not for the redemption or subscription of shares or any other payment relating to shares or the capital structure of any company.

For companies in scope, they will be entitled to deduct the amount of external interest paid by that company, to the extent the external loan matches the relevant loan when computing profits chargeable under Case III or Case IV. There are additional considerations required whereby the loan is repaid or replaced, as well as strict anti-avoidance provisions.


Lorna Fox

During the Budget 2024 speech, the Minister announced that a review of the current interest deductibility rules will take place. Ireland has a complex regime (even more so now with the interest limitation rules) so modernising it will be important to see. The new rules introduced for these qualifying financing companies is a step in the right direction, however, the conditions that need to be satisfied need to be relaxed to broaden the application of the relief to more companies.

Territorial Tax Regime

In its response to the Department of Finance's Consultation on the introduction of a participation exemption(s) to the Irish corporation tax system the American Chamber of Commerce Ireland (AmCham) writes that it 'believes it would be unwise to use the Irish domestic tax concept of 'trading' to frame access to the exemption'. Can you explain the concept of 'trading' in relation to the Irish tax code (which AmCham describes as 'a concept which is largely unique to the Irish tax code relative to Ireland's OECD counterparts') and what impact would its use have for the effectiveness of Ireland's move towards a territorial tax regime?

Collette Kenny, Director, Corporation Tax, Deloitte: In Ireland, for a company to avail of a 12.5% corporation tax rate, it must be carrying on a trade. Capital Gains Tax participation exemption also has a trading requirement in Ireland.


Collette Kenny

Whether or not a company is considered to be carrying on a trade is a question of fact. Irish tax legislation does not define the terms "trade" or "trading" (though it does state in section 3 TCA 1997 that "trade" includes every trade, manufacture, adventure or concern in the nature of trade). The term is quite broad and there is a significant body of case law and revenue practice which is relied upon when determining whether or not a company is trading. There is also guidance as to what constitutes "trading" from a set of rules known as the Badges of Trade.

"The inclusion of a 'trading' requirement would complicate the new regime, leading to uncertainty for businesses which would be against the key objectives and reasoning for an introduction of a territorial regime."

In some cases, it is not clear whether a company would be regarded as trading for tax purposes and the analysis of trading versus non-trading activities, in particular to avail of participation exemption, can be complex. In addition, this concept of "trading" can be unfamiliar to taxpayers outside of Ireland and the UK.

From a competitiveness perspective, Ireland's move to a territorial regime needs to be at a minimum aligned with other jurisdictions so that they are not at a disadvantage. The inclusion of a 'trading' requirement would complicate the new regime, leading to uncertainty for businesses which would be against the key objectives and reasoning for an introduction of a territorial regime.

Participation Exemption - UK model

A number of respondents to the consultation highlighted the UK's legislative framework for participation exemptions and foreign branch profits exemptions, which was implemented in 2009, as a good model from which to develop Ireland's legislation. Please discuss, with reference to elements that could be adopted and as well as areas the prospective Irish regime should/will need to deviate from the UK's model.

Emma Greene, Assistant Manager, Corporation Tax, Deloitte: A move to a full territorial regime for dividends and branch profits would be a positive change to Ireland's tax code, enhancing Ireland's attractiveness as a location for companies and moving Ireland more in line with other EU Member States. Currently the double tax regime is complicated and outdated and work is actively progressing developing a participation exemption for dividends, with a further public consultation expected to be launched in the next six weeks. The proposed participation exemption regime for distributions should be broad, simple, and optional in light of additional complexities as a result of Pillar Two.


Emma Greene

Similar to the UK foreign rules, Irish resident companies should have the option to elect under an exemption regime or maintain the current double tax credit regime. Schedule 24 TCA 1997 should be retained with certain simplifications around broadening the categories of income on which relief may be obtained and changes to the measures for pooling and carrying forward unrelieved foreign tax. Taxpayers wishing to elect for an exemption regime could do so possibly through indicating such on their annual Form CT1.

"Similar to the UK foreign rules, Irish resident companies should have the option to elect under an exemption regime or maintain the current double tax credit regime."

Where an election is made, the profits and losses of an Irish company's permanent establishments or dividend income would be exempt from Irish corporation tax, as allowed for under the UK regime.

To simplify the process, the election should not be permanent but rather applying to a specific accounting period. The election process needs to be simple and not subject to time restrictions. This would allow the taxpayer to amend their corporation tax return within the provisions of Section 959V TCA 1997.

An election on a company-by-company basis, rather than a group basis, should apply to the Irish regime, as is the case in the UK, so that an election in a group company will not impact the group overall.

The UK foreign branch exemption regime provides a blueprint on which Ireland can build its dividend participation and foreign branch exemption with necessary modifications. It is important that the rules allow flexibility for taxpayers.

Portfolio Dividend Exemption

What is the Portfolio Dividend Exemption (PDE) and how does it work?

Peter McGeoghegan, Director, Financial Services Tax, Grant Thornton: Broadly, Section 21B TCA 1997 provides a tax exemption for dividends from certain portfolio investments. A portfolio investor does not own, directly or indirectly, more than 5 per cent of the dividend-paying company.


Peter McGeoghegan

It is a relief which has helped to attract and retain financial trading business in Ireland and is important to the banking and insurance sectors. In practice, it is one of very few relieving provisions relevant to financial/securities trading businesses operating in Ireland and has allowed several banks, insurance companies and other financial institutions to create or enhance their operations in Ireland.

"It is our view that the PDE should be retained and the introduction of a participation exemption should not impact the current PDE."

Dividends from portfolio investments that would otherwise be included as trading receipts of a trade (and taxable at 12.5%) are given the same treatment as franked investment income i.e. such dividends are exempt from Irish corporation tax.

The PDE was recently considered as part of the Department of Finance's consultation on the Introduction of a Participation Exemption to Irish Corporation Tax. This consultation closed at the end of last year and was undertaken as part of Ireland's intention to introduce a participation exemption for foreign-sourced dividends and ongoing consideration of the potential merits of introducing a foreign branch exemption.

As part of the consultation, the Department of Finance sought responses on certain aspects of the PDE which included, for example, whether the PDE should be retained following the introduction of a participation exemption.

It is our view that the PDE should be retained and the introduction of a participation exemption should not impact the current PDE. In particular, it's removal could result in double taxation for certain businesses in the financial services industry. The PDE also reduces additional cost and provides administrative ease for those sectors which rely on the exemption. As noted earlier, it is also a relief that has helped attract and retain financial market participants to Ireland.

Taxation of investment in Ireland

In its mid term update on its Funds Sector Review, the Department of Finance said of the 140 responses submitted by private individuals, a considerable number were concerned exclusively with taxation. More specifically, many submissions by private individuals referred to the taxation regime for Exchange Traded Funds (ETFs). The Department said the submissions convey a general perception that the taxation of investment products, and of ETFs in particular, is a major barrier to increasing retail investor participation in Ireland. It added these views were also reflected in the submissions received from industry participants and the Central Bank which highlighted the apparent disconnect between Ireland's role as a global hub for the funds industry and the low levels of domestic household investment into investment funds. Can you discuss the taxation of investments in Ireland and why they are perceived as 'a major barrier' in increasing retail investor participation?

Lorna Bent, Director, Private Clients, Deloitte: The taxation of investments in Ireland is complex and can be difficult for private individuals to navigate. Different types of investments are subject to different taxes such as income tax, capital gains tax, dividend withholding tax, and exit tax. The return on certain Irish domiciled funds are taxed through the operation of exit tax at source on income and gains with no requirement to report the income / gains on the income tax return, while other Irish and foreign fund investments must be self-assessed by the investor. Investments in ETFs, in particular, have become more and more popular, private individuals can now even invest in ETFs via Revolut. However, Irish investors may not be aware of the unfavourable tax treatment that can apply to ETFs as follows;


Lorna Bent

> **"Investments in ETFs, in particular, have become more and more popular, private individuals can now even invest in ETFs via Revolut. However, Irish investors may not be aware of the unfavourable tax treatment that can apply to ETFs."**

- gains on disposals of units in Irish / EU ETFs are subject to 41% exit tax as opposed to capital gains tax at 33%;
- income payments from Irish / EU ETFs are subject to 41% exit tax (albeit no USC or PRSI applies);
- there is no loss relief for investments in Irish / EU ETFs;
- for Irish resident but non-Irish domiciled individuals, the favourable remittance basis of tax does not apply to gains on disposals of EU ETFs;
- a deemed exit event occurs on the holding of an ETF investment every 8 years and on death of the investor;
- investing in ETFs makes the investor a chargeable person for income tax purposes i.e. the investor must file an annual Form 11.

Furthermore, while previously Revenue accepted that US ETFs should be taxed under general principles, Revenue removed this accepted practice with effect from 1 January 2022.

Therefore, a private individual must consider the legal and regulatory nature of each investment fund to assess the correct tax treatment. Overall, this can discourage domestic household investment into investment funds.

Tax Debt Warehousing

In early February the Minister for Finance announced changes to the Tax Debt Warehousing scheme. Can you outline these changes, the Revenue Commissioners' renewed approach and the implications for companies that have availed, or continue to avail, of the scheme?

Jim Kelly, Director, Tax, Grant Thornton: Debt Warehousing was introduced in response to the Covid-19 crisis and allowed businesses to defer the payment of certain taxes –principally Employer PAYE and VAT – interest-free until 31 December 2022 (or 30 April 2023 for those eligible for the extended deadline). A 3% rate of interest applied thereafter and businesses had a 1 May 2024 deadline to either repay the debt or enter into a Phased Payment Arrangement (PPA) to clear the debt.


Jim Kelly

On 5 February 2024 the Minister for Finance announced a number of key changes: The interest on outstanding warehoused liabilities was reduced from 3% to 0%; and Businesses who had already paid interest at 3% would be able to claim a refund of that interest.

> **"Overall, with €1.7bn warehoused by 57,500 businesses, these changes are to be welcomed as an acknowledgement of the unique challenges faced by firms with such debt..."**

Minister McGrath also noted Revenue's commitment to a flexible approach to PPAs including:

- The level of initial down-payment, if any, required when commencing the PPA;
- Possible extension of the duration of the payment arrangement beyond the typical 3-5 year period on a case by case basis; and
- The availability of payment breaks/ deferrals if temporary cash flow difficulties arise during the PPA term.

Overall, with €1.7bn warehoused by 57,500 businesses, these changes are to be welcomed as an acknowledgement of the unique challenges faced by firms with such debt and the need for Government to support viable businesses.

However, to avail of the flexible approach outlined, businesses must file current tax returns on time, meet current tax liabilities as they fall due and engage with Revenue to initiate a PPA prior to 1 May 2024. Revenue will be writing to businesses that have not engaged but tax agents will not be copied on final reminders so cases within the scheme need to ensure they engage by the deadline.

Failure to do so could result in warehousing being revoked, the application of 10% interest rates and the immediate enforcement of all outstanding debt, including interest.

Lee Kavanagh, Assistant Manager, Financial Services Tax, BDO: On 5 February 2024, the Minister for Finance announced significant changes to the Tax Debt Warehousing Scheme. The Tax Debt Warehousing Scheme was originally introduced to allow businesses who experienced trading difficulties during the Covid-19 pandemic to defer paying certain PAYE and VAT liabilities until they were in a better position financially. Originally, the scheme allowed for businesses to defer these liabilities on an interest-free basis for a certain period of time, and thereafter at a reduced 3% interest rate. More than €3 billion of debt belonging to more than 105,000 businesses has been deferred during the lifetime of the Debt Warehousing Scheme.


Lee Kavanagh

The key change announced on 5 February in relation to the scheme was that the Government were reducing the interest rate applicable on the warehoused debt from 3% to 0%. They have also confirmed that they will issue refunds of any interest at 3% that had already been paid by businesses on their warehoused debt. Ahead of legislation to effect the changes to the Debt Warehousing Scheme, Revenue confirmed that they will operate the 0% interest rate on an administrative basis pending the legislative change.

It is important to note that although the interest rate on the warehoused debt has been reduced to 0%, businesses must still engage with Revenue on addressing the warehoused debt by either paying the warehoused debt in full or agreeing a Phased Payment Plan with Revenue in relation to the debt by 1 May 2024. Revenue have signalled that they will take a flexible approach in relation to the repayment of the warehoused debt which will include the possibility to extend the duration of payment plans beyond the typical three-to-five-year period on a case-by-case basis.

> **"Although the interest rate on the warehoused debt has been reduced to 0%, businesses must still engage with Revenue on addressing the warehoused debt..."**

In order to remain in the Debt Warehousing Scheme and benefit from the 0% interest rate, businesses must continue to file their current tax returns and pay current tax liabilities as they fall due. Where a business does not meet these conditions, they will be removed from the Debt Warehousing Scheme and the tax liability for periods which had been warehoused will become payable immediately, may be subject to debt collection enforcement action and will be subject to interest charges of 8% or 10% per annum.

The recently announced changes will provide a welcome boost for the circa 58,000 businesses who remain in the Debt Warehousing Scheme. However, it is critical that businesses continue to satisfy the conditions to qualify for the Scheme in order to avail of the 0% interest rate.

Sarah Parker, Manager, Private Clients, Deloitte: The availability of the debt warehousing scheme for qualifying taxpayers has allowed many taxpayers to pay their outstanding tax liabilities subject to reduced interest. An amendment to the scheme, as announced in February 2023 by the Minister for Finance, has reduced the interest payable on such debts to 0%.

On the establishment of the scheme, where a taxpayer met the conditions to avail of debt warehousing, Revenue set out 3 periods, which had varying interest rates. These rates were as follows:

Period 1 – A 0% interest rate applied to tax liabilities warehoused during the period. The commencement date of period 1 varies dependent on the tax type of the warehoused debt however the earliest period ran from 1 January 2020 – 31 December 2021*.


Sarah Parker

Period 2 – An interest rate of 0% applied on tax liabilities paid or arising during this period which were debt warehoused in either period 1 or 2. This period ran from 1 January 2022 – 31 December 2022*.

Period 3 – This period ran from 1 January 2023* until such date that the warehoused debt was paid in full to Revenue. Where a repayment of a debt relating to period 1, 2 or 3, has been paid during period 3 (i.e. between 1 January 2023 – present) with an interest rate of 3% applied, it is this rate has now decreased to 0%. Revenue are operating this new interest rate on an administrative basis pending legislative change. Where a taxpayer previously discharged an interest payment during period 3, Revenue will arrange to issue a refund to the taxpayer of this amount. No action is required by the taxpayer to claim this refund.

> **"Where a taxpayer previously discharged an interest payment during period 3, Revenue will arrange to issue a refund to the taxpayer of this amount. No action is required by the taxpayer to claim this refund."**

The deadline of 1 May 2024 for engaging with Revenue to discuss repayment of warehoused debt, as extended in October 2022 remains and in this regard, taxpayers with unpaid warehoused debt must discharge the debt in full or engage with Revenue to agree a payment arrangement prior to 1 May 2024. Payment arrangements with Revenue can result in taxpayers receiving a period of up to 5 years to repay their debts. Where a payment arrangement for warehoused debt had already been agreed with Revenue and an interest rate applied, this interest rate will be updated to 0%.

*These periods could be extended where a taxpayer had additional undisclosed liabilities arising and met the necessary steps to avail of an extension.