Finance Act 2012

Business Incentives

Introduction

A number of business initiatives were passed in Budget 2012 and the proposed legislation has been included in Finance Act 2012 (which was signed on 31 March 2012).

Research and Development (R&D)

An R&D credit will now be available on the first €100,000 of relevant expenditure without reference to a base year (2003). Relief over €100,000 will continue to be referenced to 2003 as base year. The legislation also provides for a change in the definition of expenditure to ensure that the R&D activities are carried on by the company itself.

Where a company claiming R&D credits ceases to trade and another company in the group takes over the trade (and R&D) the successor company can now claim any previously unclaimed R&D credits.

Key R&D Employees' Relief

Key employees may receive income tax relief where they are engaged in R&D work. The employer company must surrender its right to claim the relevant R&D credit. The employee can then claim an income tax deduction, which is capped to ensure that the employee pays a minimum rate of income tax of 23%.

BRICS Foreign Earnings Deduction

Where an individual is carrying out duties of an office or employment in Brazil, Russia, India, China or South Africa and is present for a total of 60 days in any 12 month period (counting only days which form part of a visit of 4 days or more to that country) he can claim an income tax deduction (up to a maximum deduction of €35,000). The 4 day requirement was originally proposed as a 10 day requirement but was reduced to 4 days at Committee Stage of Finance Bill 2012. The deduction will be restricted where a DTA claim is also made.

Special Assignee Relief Programme (SARP)

The Minister introduced SARP to reduce income tax paid by executives relocating to Ireland between 2012 and 2014 (inclusive). Relief will be given to employees assigned to work in Ireland by an employer company located in a state which has a DTA with Ireland. The relief operates by allowing the employee deduct up to €127,500 (30% of €425,000) from his employment remuneration. The employee must have worked outside Ireland for the foreign employer for at least a year, must not have been resident in Ireland in the previous 5 years, and the assignment to Ireland must be for a minimum period of 12 months.

Incidental duties carried on outside of Ireland which relate to the employment are unrestricted (Committee Stage Amendment).

Corporation Tax

An existing exemption to cover certain interest payments has been extended to interest paid on Eurobonds, wholesale debt instruments and similar securities. The exemption applies where interest payments are made to a company resident in a non treaty country, which is controlled by persons resident in a treat country, or which has an ultimate parent which is quoted on a stock exchange in a treaty country.

Dividends received by an Irish resident company from privately held companies located in DTA countries will now be taxed at the 12.5% rate if the country in which the company is located has signed up to the OECD Convention on Mutual Administrative Assistance in Tax Matters. This is a reduction from the standard 25% rate, and the change is effective from 01 January 2012.

Corporation tax relief for start up companies has been extended to the end of 2014.

Caveat: *These notes are intended as a general guide to the Finance Act 2012 changes, and formal tax advice should be obtained before any steps are taken that may have a tax effect.*