

Corporate Tax: Opportunities and Compliance

It is important to continually review your company's activities to determine if they would qualify for any tax reliefs and to ensure that compliance tax obligations are satisfied. Even more so at this particularly busy time of the year for corporate tax filings.

Two key reliefs in the Irish tax system are the Knowledge Development Box and the Research and Development Tax Credit.

KNOWLEDGE DEVELOPMENT BOX

The Knowledge Development Box (KDB) taxes profits from qualifying intellectual property ("IP") at a 6.25 percent rate of corporation tax. A company may qualify for KDB if it creates a usable qualifying asset from qualifying Research and Development activities that earns income. The qualifying assets are normally patented and copyrighted software.

The Knowledge Development Box (Certification of Inventions) Act 2017 which was commenced in May of this year provides that certain IP and non-registered patents of small and medium sized companies can qualify for the KDB. To be eligible



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Paul Dillon reviews some of the key tax opportunities and topical compliance issues for corporates

for relief, the company must apply to the Controller of Patents, Designs and Trade Marks for a Knowledge Development Box Certificate (a "Certificate"). This will in theory allow smaller companies avail of the relief on IP held without having to formally go through the cost of registering a patent.

RESEARCH AND DEVELOPMENT TAX CREDIT

The Research and Development Tax Credit allows a credit of 25 percent against a company's corporation tax liability. The credit is based on qualifying research and development expenditure

incurred by a company either in Ireland or the European Economic Area (EEA). The company must be within the charge to Irish corporation tax and the expenditure must not qualify for a tax deduction in any other country. It is important that companies have the relevant documentation and procedures in place for claiming the credit.

There is a time limit of 12 months of the end of the accounting period in which the company incurs the expenditure to claim the Research and Development Tax Credit. The claim should normally be made on the form CT1 which covers the period for which the expenditure was incurred. Where a company has offset current and previous years' corporation tax liabilities, it can apply for a credit payable in instalments.

Companies should review activities periodically to determine whether they qualify for the Knowledge Development Box or Research and Development Credit.

CLOSE COMPANY SURCHARGE

The close company surcharge is an additional layer of tax levied

on passive income such as rental, interest and certain dividend income of companies. It is levied at a rate of 20% on the net distributable estate and investment income and it is in addition to the 25% corporation tax that applies to passive income.

In order to avoid a surcharge, dividends need to be paid by the company to the shareholders within 18 months of year end and a dividend declaration needs to be filed with Revenue. A dividend in respect of 31 December 2016 needs to be made by 30 June 2018 to avoid the surcharge.

Companies should review previous periods to ensure that relevant dividends are paid to avoid the surcharge or alternatively to pay the surcharge with the corporation tax return of the following year.

PENSION CONTRIBUTIONS

Pensions are tax deductible on a paid basis and companies should review pension arrangements before their year-end to see whether there is scope for making additional contributions to executive and employee pension schemes.

CAPITAL EXPENDITURE PROGRAMMES

Companies should review their capital expenditure programmes to ensure that assets that are purchased or created are in use at year end to qualify for capital allowances. Certain expenditure may also qualify as repairs and is deductible for Corporation Tax purposes and a review should be undertaken to split

expenditure between capital and revenue expenditure.

Certain expenditure on intangible assets (patents, copyright, trademarks and know-how) can also qualify for capital allowances either over the accounting life or over 15 years.

Accelerated allowances (up to 100%) are also available for certain energy efficient equipment. A listing of the type of equipment and the associated energy rating is contained on the Revenue website

BONUS ACCRUALS

For bonus accruals to be deductible for corporation tax, the payroll taxes and bonuses must be paid within six months of year end.

SPECIAL ASSIGNEE RELIEF PROGRAMME

For employees who are being seconded to Ireland, the SARP provides for a portion of income to be disregarded for Income Tax for certain employees. The deduction is 30% of income over €75,000. Relief is available for Income Tax only and does not extend to USC and PRSI.

The conditions for SARP Relief are as follows:-

- The Individual arrives in Ireland to take up employment in Ireland
- They have worked outside State for a period of 6 months prior to arrival in Ireland
- They perform duties for 12 months from date of arrival.

- They were not resident for 5 years previously preceding year of arrival in Ireland

Employers need to complete the relevant forms allowing individuals claim the relief.

iXBRL

Certain companies need to file their financial statements in iXBRL format with Revenue.

Companies who are customers of Revenue Large Case Division and companies who do not satisfy all three criteria set out below must file iXBRL financial statements:

1. Total assets without deduction of liabilities are less than €4.4m
2. The company's turnover is less than €8.8 million
3. Company employs less than 50 employees

iXBRL financial statements have an additional three month filing period from the due date of the Form CT1. If the iXBRL accounts are not filed within this time frame, a surcharge will apply. It is important that companies and their agents have the ability to file iXBRL financial statements to meet the filing requirements to avoid late filing surcharges.

SHAREHOLDERS/DIRECTORS LOANS

Such loans lead to adverse tax consequences such as benefit-in-kind for directors and employers on loans and the requirement for the company to pay income tax on certain regressed loans as part of the

company's corporation tax liability. The requirement to pay income tax does not apply where the loans are discharged within 6 months of year end and for certain employees loan which in aggregate are less than €19,050.

A review should be undertaken of loans to ensure that the benefit-in-kind is properly accounted for on the loans. The current specified rates for calculating BIK is 13.5% for normal loans and 4% for home loans. The potential additional requirement to operate income tax on the regressed loans should also be dealt with.

GROUP LOSSES

It is imperative that companies review their activities and overall structure to maximise available relief for losses for corporation tax and capital gains on a group wide basis.

For corporation tax purposes a 75 percent relationship needs to exist between the companies.

There is no ability to group relief capital gain tax losses. If one group company is disposing of an asset on which a capital gain will accrue and another group company has an unutilised capital loss, the

property should be transferred to the company with the capital loss in advance of making the sale in order to utilise the capital loss.

PRELIMINARY TAX PAYMENTS

Large companies i.e. companies with a liability of more than €200,000 in the previous year need to make a first instalment of preliminary tax halfway through the accounting year (normally the 23rd day of the sixth month of the accounting year). In other words for large companies with a March 2018 year end, the first instalment of preliminary tax is due by 23 September.

The first instalment must be no less than:

- 50% of the previous year's CT liability
- 45% of the current year's CT liability

It is important to review the previous year's accounts and tax returns to ascertain whether a company is classified as a large company and needs to make a first instalment of preliminary tax.

The second instalment of preliminary tax is due no later than

23rd day of the eleventh month of an accounting year, for March year end this payment needs to be made on or before 23 February.

For large companies, the second instalment together with the initial instalment needs to be in aggregate 90% of the current year's liability. Accurate figures are therefore required before year end to make the correct preliminary tax payment and avoid interest on underpayments of preliminary tax.

Small companies are companies with tax liabilities less than €200,000 in the previous year, such companies' only need to make one preliminary tax payment and this can be based on either:

- 90% of the current year's liability
- 100% of previous year's liability

Small companies make their preliminary tax on 23rd day of eleventh month, for example if a company has a December year end, this payment is due on or before 23 November.

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