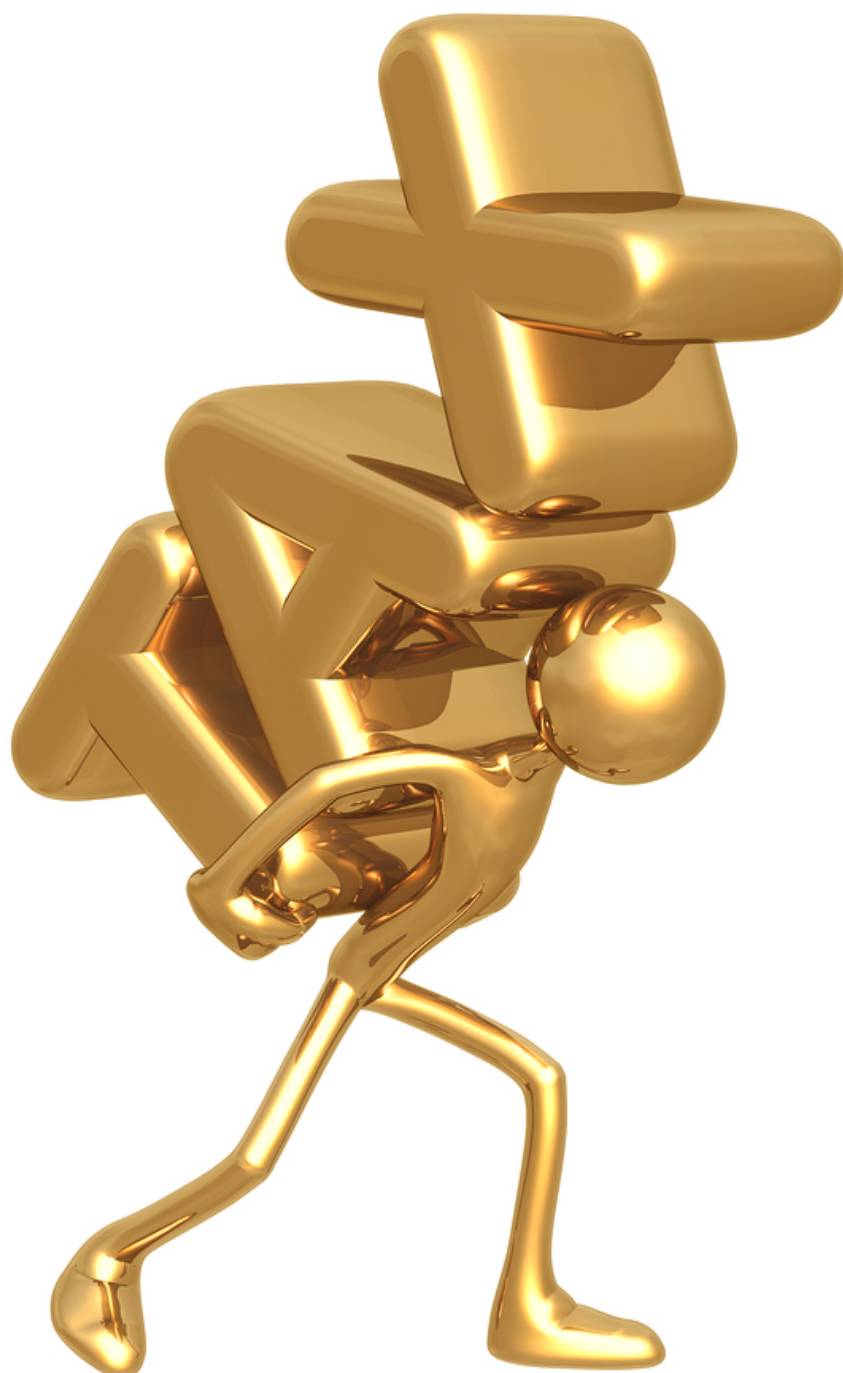


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The Tax Issue

Volume 2

Russell
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Welcome

In the midst of the holiday season, I would like to welcome you to the second edition of our quarterly Tax Issue. In this publication our tax team highlight some recent tax developments and topical issues which may be of interest to you. Please don't hesitate to contact us should you wish to discuss any of the issues addressed.

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Research & Development Credit

A recent survey has found that only 6% of SME clients are claiming R&D tax credits. However many more SME's are actually carrying out R&D activities.

The low uptake is due to a lack of awareness on a number of fronts:

- How much the credit is worth to the business?
- Whether the R&D activities are eligible?
- How to substantiate a claim?

How much is the credit worth to your business?

Put simply, €25 for every €100 spent on R&D activity, subject to certain conditions. The eligible expenses include direct R&D costs and an allocation of overhead. The credit can be used to reduce corporation tax liabilities and from 2009 onwards, a cash refund can be claimed over 3 years, subject to certain conditions.

Is your business eligible?

R&D is not just carried on in a laboratory setting – some or all research and development is carried out in a production or manufacturing environment. If you carry out "shop floor" R&D, your business could be eligible for the credit.

We have submitted R&D credit claims for a significant number of clients since the credit was introduced in 2004 and have had 100% success in securing credits on R&D projects in a diverse range of sectors including Manufacturing, Software, Engineering, Medical devices and Food science .

How to substantiate a claim

Certain documentation must be retained on file to substantiate a claim, including evidence of the scientific or technological advancement sought or uncertainty involved along with the systematic and experimental manner in which the activities were carried on.



Transfer Pricing - Are you ready?

As recently announced in the 2010 Finance Act, from the 1st Jan 2011, Ireland will adopt new transfer pricing rules, based on the existing OECD transfer pricing guidelines.

Transfer pricing applies to 'trading' transactions between associated parties, generally multinational enterprises but may also include domestic activities. The legislation provides that 'arms length' principles must be applied in pricing transactions with associated companies. Typically, it can include pricing for tangible goods and services and royalties for intellectual property.

The new rules apply to groups of companies meeting the following criteria:

- Over 250 employees; and
- Turnover greater than €50m or Assets greater than €43m.

The criteria is applied on a global basis so foreign owned Irish subsidiaries should consider if globally their group meets this criteria.

Companies, falling within the scope of the new rules, should review all existing intercompany transactions, prepare an inventory of arrangements and document the status of these arrangements prior to 1st July 2010. Companies should also consider any planned intercompany transactions and whether they are likely to fall under the scope of the new rules.

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Employers: are you benefiting from the new PRSI Exemption Scheme?

The Employer Job (PRSI) Incentive Scheme has been set up to help employers create jobs and get people back to work.

The new legislation introduced allows that any job created in 2010 which meets the scheme criteria, will be exempt from Employer PRSI for the first 12 months per additional employee.

Under the new scheme, the maximum number of additional staff that can qualify for relief is the greater of 5 employees or 5% of your existing workforce.

For an employee to qualify, the following must be satisfied:

- The employee must have been in receipt of either the jobseekers benefit allowance, one parent family payment or disability allowance for a continuous period of at least 6 months;
- The employer must have been part of the Work Placement Programme (FAS) for at least three months; and
- The job must be
 - New and additional;
 - Be for at least 30 hours per week; and
 - Last for at least six months.

Prior approval is required and can represent a saving of 10.75% where a business is considering an increase in their workforce.

New Irish Domicile Levy

The Finance Act 2010 introduced a new domicile levy payable by Irish Citizens who are not Irish tax resident in a tax year. The levy amounts to €200,000 and applies from 1st January 2010 where the individual has:

- Irish located property (as defined) worth greater than €5m. No deduction is allowed for debts in arriving at the market value of the property;
- Worldwide gross income (as defined) in excess of €1m and
- An Irish income tax liability less than €200,000.

The individual's Irish income tax liability for the year will be allowed as a credit in arriving at the amount of the domicile levy for that year. The tax return and payment is due on 31st October of each year.

Medical Practices using a Company Structure

Although rare in practice to date, the idea of carrying out a medical practice through a company has become topical in response to increasing income tax and health levy rates, the imposition of income levies and changes to the pension regime.

It is generally accepted that doctors and consultants can operate via a company as long as liability for medical negligence is not affected.

Routing certain practice income streams through a company allows doctors and consultants to:

- Preserve a greater proportion of their wealth;
- Avail of enhanced pension planning options;
- Benefit from lower effective corporate rates of taxation; and
- Avail of more flexible tax and succession planning opportunities.

Forming a company has obvious advantages for suitable doctors and consultants depending on their particular circumstances, such as the split between private and GMS income amongst others.

Prior to setting up a company, it is important to consider:

- The income streams which may be in the company to benefit from lower company tax rates; and
- The nature and structure of the company entity through which certain medical practices will be conducted;
- Dealing with professional indemnity insurance providers, health insurers, practice property landlords; and
- Looking out for opportunities that may arise through the incorporation process.



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