

Report of the Office of the Revenue Commissioners

Analysis of High Income Individuals' Restriction 2008

1. General

The 2006 and 2007 Finance Acts introduced, with effect from 1 January 2007, measures to limit the use of certain tax reliefs and exemptions by high-income individuals. Such individuals, by means of the cumulative use of various tax incentive reliefs, had in previous years substantially reduced their tax liabilities.

The overall objective was to ensure that, from 2007, individuals with an adjusted income¹ exceeding €500,000 (i.e. where the full restriction applied) would pay an effective rate of approximately 20 per cent on a combination of adjusted income and ring-fenced income. That objective was achieved in 2007 and has also been achieved in 2008. Where adjusted income is less than €500,000, a tapering approach ensures that there is a graduated introduction of the restriction, with the effective rate of tax increasing towards 20 per cent as adjusted income increases towards €500,000.

The 2010 Finance Act introduced further restrictions in this area, which are not relevant to this report as they do not come into effect until the tax year 2010.

Further details of the operation of the restriction for the years referred to in this report and the specified tax reliefs covered by the restriction are set out in **Annex 1**.

2. Results for 2008

The results for 2008 indicate that the overall number of individuals who were subject to the restriction in 2008 was 423 and that the additional tax yield for 2008 was €39.68m. These figures are only marginally down on 2007 when the overall number of individuals affected was 439 and the additional yield was €39.99m. for that year.

A breakdown of the 2008 results showing the effect of the restriction for the second year of its operation are set out in tabular form in **Annex 2**. These results are based on actual returns received.

Cases where full restriction applies – Adjusted Income of €500,000 or more

Table 1A (Annex 2) shows that the 189 high-income individuals with an adjusted income of €500,000 or more (i.e. where the full restriction applies) paid an **average** effective tax rate of **19.86% per cent** on the combination of adjusted income and ring-fenced income.

This meets the objective set out for the measure. The additional tax involved was €33.126m, representing a 152% increase on the tax that would otherwise have been paid if the restriction had not applied. An important outcome of the restriction is that 35 individuals with adjusted income of €500,000 or more, who would not otherwise have paid tax in 2008, were brought into the tax net for that year.

¹ *Adjusted income* is the taxable income of an individual before the restriction is applied, to which is added the amount of income sheltered in the year through the use of the specified reliefs. It excludes "ring-fenced income" which is already chargeable to tax at a rate of 20% or more on a final liability basis (e.g. where an individual has income from deposit interest).

Table 1B (Annex 2) summarises the distribution of the effective tax rates, in bands of 5%, for the 189 cases with adjusted income of €500,000 or more. It shows that all of the high-income individuals within this category fall into the effective rate bands of 15% to 20% (157 cases) and 20% to 25% (32 cases).

Cases where restriction partly applies – Adjusted Income of up to €500,000

Table 2A (Annex 2) shows that the 234 high-income individuals with an adjusted income of up to €500,000 (i.e. where the restriction applies on a graduated basis) paid an **average effective tax rate of 13.82% per cent** on the combination of adjusted income and ring-fenced income. The additional tax involved was €6.559m, representing an 84% increase on the tax that would otherwise have been paid if the restriction had not applied. 65 individuals with adjusted income of up to €500,000, who would not otherwise have paid tax in 2008, were brought into the tax net for that year.

Table 2B (Annex 2) summarises the distribution of the effective tax rates, in bands of 5%, for the 234 cases with adjusted income of up to €500,000. The spread reflects the graduated nature of the application of the restriction for cases in this category.

3. Comparison with results for 2007

A comparison of the figures for 2008 with the figures for 2007 is set out below.

	Total Number of		Extra Tax		Effective Rates		Effective Rates	
	Individuals		€m		- before restriction		- after restriction	
Year	2008	2007	2008	2007	2008	2007	2008	2007
Over 500K	189	214	33.12	34.15	7.89	8.79	19.86	20.08
up to 500k	234	225	6.56	5.84	7.50	7.24	13.82	13.63

4. Schedule of declared use of Reliefs

Table 3 (Annex 2), in relation to each specified relief, shows:

- the overall number of individuals subject to the restriction, who declared that they used the relief, and
- the total combined amount of the relief declared as used by those individuals.

ANNEX 1

Operation of the restriction in 2008

The restriction works by limiting the total amount of “specified reliefs” that a high-income individual can use to reduce his or her tax liability in any one tax year.

In summary, the restriction applies only where:

- the adjusted income of an individual is equal to or greater than a “threshold amount”,
- the aggregate of specified reliefs used by the individual is equal to or greater than the “threshold amount”, and
- the aggregate of specified reliefs used by an individual is greater than 50 per cent of the individual’s adjusted income.

In general, the “threshold amount” is €250,000 but a lower threshold can apply where the individual has ring-fenced income.

In the case of a married couple, application of the restriction to each spouse is determined separately. Therefore, the restriction will apply to each individual spouse only where these three circumstances apply to that spouse.

Specified Reliefs

Broadly speaking, the reliefs that are restricted include:

- the various sectoral and area-based property tax incentives,
- certain exemptions e.g. relating to artists’ income, patent royalties etc.,
- certain investment incentive reliefs such as BES relief and film relief,
- relief for interest paid on loans used to acquire an interest in a company or in a partnership.

Normal business-related expenses, deductions for capital allowances on plant and machinery, genuine business-related trading losses, and genuine losses from a rental activity that do not arise from the use of specified reliefs are not restricted. In addition, personal tax credits are not affected.

ANNEX 2

Table 1A: Ranges of Adjusted Income - cases with Adjusted Income of €500,000 or more

Adjusted Income Range	Number of Cases	Number of Cases and Tax Before Restriction		Tax After Restriction	Additional Tax After Application of Restriction	Average Effective Rate Before Application of Restriction	Average Effective Rate After Application of Restriction
		No.	Amount €	Amount €	Amount €	Rate %	Rate %
500,001 650,000	54	40	2,299,689	6,439,218	4,139,529	6.81	19.08
650,001 800,000	34	30	2,145,630	5,173,146	3,027,516	8.03	19.37
800,001 1,000,000	29	25	2,523,766	6,038,006	3,514,239	8.21	19.64
1,000,001 1,500,000	38	32	3,797,967	9,548,765	5,750,798	7.79	19.59
1,500,001 2,000,000	11	9	590,089	4,304,578	3,714,489	2.74	20.00
Over 2,000,000	23	18	10,468,219	23,448,331	12,980,112	9.08	20.34
Totals	189	154	21,825,360	54,952,044	33,126,683	7.89	19.86

Table 1B: Effective Tax Rates - cases with Adjusted Income of €500,000 or more

<i>Effective Rate</i>	No of cases	% of cases in Table
0% < 5%	0	0%
5% < 10%	0	0%
10% < 15%	0	0%
15% < 20%	157	83.07%
20% < 25%	32	16.93%
25% < 30%	0	0%
30% < 35%	0	0%
35% < 40%	0	0%
> 40%	0	0%
<i>Totals</i>	<i>189</i>	<i>100%</i>

Table 2A: Ranges of Adjusted Income - cases with Adjusted Income of up to €500,000

Adjusted Income Range	Number of Cases	Number of Cases and Tax Before Restriction		Tax After Restriction	Additional Tax After Application of Restriction	Average Effective Rate Before Application of Restriction	Average Effective Rate After Application of Restriction
		No.	Amount €	Amount €	Amount €	Rate %	Rate %
Under 250,000	27	25	2,680,984	3,331,879	650,896	14.21	17.66
250,001 300,000	56	35	299,566	724,058	424,492	1.81	4.38
300,001 350,000	49	38	1,063,164	2,156,858	1,093,694	5.61	11.38
350,001 425,000	59	37	1,500,209	3,728,309	2,228,100	5.92	14.72
425,001 500,000	43	34	2,262,716	4,425,305	2,162,589	9.28	18.16
Totals	234	169	7,806,639	14,366,409	6,559,771	7.50	13.82

Table 2B: Effective Tax Rates - cases with Adjusted Income of up to €500,000

<i>Effective Rate</i>	No of cases	% of cases in Table
0% < 5%	54	23.08%
5% < 10%	34	14.53%
10% < 15%	55	23.50%
15% < 20%	90	38.46%
20% < 25%	1	0.43%
25% < 30%	0	0%
30% < 35%	0	0%
35% < 40%	0	0%
> 40%	0	0%
<i>Totals</i>	234	100%

Table 3 - Schedule of declared use of different reliefs (for publication purposes, some categories have been amalgamated)

Ref Number	Specified Relief	Number of Cases	Amount of Relief used in 2008 by those affected by the restriction.
1	Sect 140 – dividends and distributions out of exempt income from stallion fees, stud greyhounds and woodlands.	10	3,369,515
2	Sect 141 – dividends and distributions out of exempt patent income.	43	35,996,842
3/4	Sect 142 and 143– dividends and distributions out of exempt income from certain mines and other mining operations.	-	-
5	Sect 195 – Exempt income, profits or gains of artists, writers or composers.	32	20,918,115
6	Sect 231 – Exempt stallion fees.	4	673,690
7	Sect 232 – Exempt woodland income.	5	178,567
8	Sect 233 – Exempt stud greyhound fees.	-	-
9	Sect 234 – Exempt patent royalty income.	25	10,454,810
10	Sect 248 – relief for interest paid on loans to acquire an interest in a company.	36	15,057,233
11	Sect 248 – relief for interest paid on loans to acquire an interest in a company as extended by sect 250.	37	11,453,837
12	Sect 253 – relief for interest paid on loans to acquire an interest in a partnership.	15	2,450,673
13	Sect 272 – writing down allowances in respect of capital expenditure on:		
	• hotels and holiday camps	148	58,432,107
	• nursing homes, residential units attached to nursing homes and convalescent homes	20	3,685,123
	• hospitals, sports injury clinics and mental health centres	18	4,570,180
14	Sect 273 – acceleration of writing down allowances in respect of certain expenditure on certain industrial buildings or structures	12	897,646
15	Sect 274 – balancing allowances in respect of capital expenditure on:		
	• hotels and holiday camps	33	12,062,989
	• nursing homes, residential units attached to nursing homes and convalescent homes	11	1,492,423
	• hospitals, sports injury clinics and mental health centres	6	1,681,322
15A	Sect 304(4) – Carry forward of capital allowances in trading situations which are unused in a particular year.	7	3,965,822
15B	Sect 305(1) – Set off and carry forward of capital allowances in rental situations.	32	18,171,965
16/17	Sect 323 and 324 – Custom House Docks Area: capital allowances for commercial premises and double rent allowance in respect of rent paid for certain business premises	5	1,069,089

Ref Number	Specified Relief	Number of Cases	Amount of Relief used in 2008 by those affected by the restriction.
18/19/20	Sect 331, 332 and 333 – Temple Bar Area: capital allowances for industrial buildings, commercial premises and double rent allowance in respect of rent paid for certain business premises	4	814,073
21	Sect 341 – Urban Renewal Scheme: capital allowances for industrial buildings.	4	1,769,357
22	Sect 342 – Urban Renewal Scheme: capital allowances for commercial buildings	19	8,942,967
23	Sect 343 – Enterprise Area: capital allowances for certain buildings.	13	871,524
24	Sect 344 – Multi Story Car Park capital allowances	12	807,605
25	Sect 345 - Urban Renewal, Enterprise Area, Multi Story Car Park: double rent allowance in respect of rent paid for certain business premises	16	2,696,832
26	Sect 352 – Qualifying Resort Area: capital allowances for certain industrial buildings	3	73,092
27	Sect 353 – Qualifying Resort Area: capital allowances for certain commercial buildings	8	1,004,892
28	Sect 354 – Qualifying Resort Area: double rent allowance in respect of rent paid for certain business premises	2	368,849
29	Sect 372C – Qualifying (Urban) Areas: capital allowances for certain industrial buildings	35	7,937,458
30	Sect 372D – Qualifying (Urban) Area and Living over the shop scheme: capital allowances for certain commercial buildings	13	6,344,490
31/32	Sect 372M and Sect 372N – Qualifying Rural Areas: capital allowances for certain industrial and commercial buildings	8	848,159
33/34	Sect 372V and 372W – Park and Ride Scheme: Capital allowances for Park and Ride Facilities and for certain commercial buildings	-	-
35	Sect 372AC – Town Renewal Area: capital allowances for certain industrial buildings	4	151,987
36	Sect 372AD – Town Renewal Area: capital allowances for certain commercial buildings	3	668,557
36A/36B	Sect 372AX and 372AY – Mid Shannon Corridor Tourism Scheme: capital allowances for certain registered holiday camps and tourism infrastructure facilities	-	-
37	Sect 372AP – Relief for lessors of residential premises	25	9,236,156
38	Sect 372AU(1) – Relief for lessors of residential premises: old schemes	-	-
39	Sect 381 – Repayment of tax due to losses	7	2,186,332
40	Sect 381 – Repayment of tax due to losses, as extended by Sect 392	2	1,950,127
41	Sect 382 – Carry forward of losses to future years	3	918,068
42/43	Sect 383 and Sect 384 – Relief under Case	39	13,219,083

Ref Number	Specified Relief	Number of Cases	Amount of Relief used in 2008 by those affected by the restriction.
	IV and Case V for losses		
44	Sect 385 – Terminal loss relief	-	-
45	Sect 481 – Relief for investment in Films	1	25,400
46	Sect 482 – Relief for investment on significant buildings and gardens	13	4,823,677
47	Sect 485F – Carry forward of excess relief	105	29,269,718
48	Sect 489(3) – BES relief	20	2,104,235
49	Sect 843 – Capital allowances for buildings used for third level education purposes	8	1,589,669
50	Sect 843A – Capital allowances for certain child-care facilities	14	2,130,739
51	Sect 847A – Donations to certain sports bodies	5	86,015
52	Sect 848A – Donations to approved bodies	99	3,744,309
53	Paragraph 11 of Schedule 32, Urban Renewal Scheme 1986: Capital allowances for certain commercial premises in designated areas	4	683,930
54	Paragraph 13 of Schedule 32, Urban Renewal Scheme 1986: Double rent allowances in relation to certain premises in designated areas	4	563,819