

# Report of the Office of the Revenue Commissioners

## Analysis of High Income Individuals' Restriction 2009

### 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 (known as 'specified reliefs') 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 income<sup>1</sup> exceeding €500,000 (i.e. where the full restriction applied) would pay an effective rate of tax of approximately 20 per cent on a combination of adjusted income and ring-fenced income. As previously reported, that objective was achieved in 2007 and 2008.

This report relates to the use of specified reliefs by high-income individuals in 2009. All other high income individuals are subject to the normal tax rules and details of the tax paid by such individuals are available from the annual Statistical Reports published on the Revenue website [www.revenue.ie](http://www.revenue.ie).

Analysis of the application of the high income individuals' restriction for 2009 shows that the objective of achieving an effective rate of tax of approximately 20 per cent for individuals with an adjusted income exceeding €500,000 was again achieved. Where adjusted income was less than €500,000, a tapering approach ensured that there was a graduated application of the restriction, with the effective rate of tax increasing towards 20 per cent as adjusted income increased towards €500,000.

A brief summary of how the restriction operated for the years 2007 to 2009, and the specified tax reliefs covered by the restriction, is included in **Annex 1**.

The 2010 Finance Act introduced further restrictions on the use of specified reliefs. However, the changes are not relevant to this report, which is in respect of 2009, as they did not come into effect until the 2010 tax year. Full details of the changes made are included in a comprehensive guidance document that is available on the Revenue website at:

<http://www.revenue.ie/en/practitioner/tech-guide/high-income-individuals-restriction.pdf>

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<sup>1</sup> *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" (e.g. DIRT) which is normally liable to tax at specific rates regardless of the amounts involved or the marginal rate of tax at which the individual is liable.

## 2. Results for 2009

The results for 2009 indicate that the overall number of individuals who were subject to the restriction was 452 and that the additional tax yield was €38.86m. The figure for additional tax is slightly down on that arising in 2008 when the amount was 39.68m.

A breakdown of the 2009 results showing the effect of the restriction in its third year of operation is 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 183 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 **20.05 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 €32.21m, representing a 149% increase on the tax that would otherwise have been paid if the restriction had not applied. 10 individuals with adjusted income of €500,000 or more, who would not otherwise have paid tax in 2009, were brought into the tax net for that year.

**Table 1B (Annex 2)** summarises the distribution of the effective tax rates, in bands of 5%, for the 183 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% (144 cases) and 20% to 25% (39 cases).

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

**Table 2A (Annex 2)** shows that the 269 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 **12.32 per cent** on the combination of adjusted income and ring-fenced income. The additional tax involved was €6.65m, representing a 112% increase on the tax that would otherwise have been paid if the restriction had not applied. An additional 23 individuals with adjusted income of up to €500,000, who would not otherwise have paid tax in 2009, 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 269 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. The relatively high number of 19 in the range 20% to 25% is due to the increase in 2009 in rates of tax in respect of ring-fenced income e.g. DIRT.

### 3. Comparison with results for 2008 and 2007

A comparison of the figures for 2009 with the figures for 2008 and 2007 is set out below.

	Number of Individuals			Extra Tax			Effective Rates		Effective Rates	
				€m			- before restriction		- after restriction	
Year	Over 500K	Up to 500K	Total	Over 500K	Up to 500K	Total	Over 500K	Up to 500K	Over 500K	Up to 500K
2009	183	269	452	32.21	6.65	38.86	8.06	5.82	20.05	12.32
2008	189	234	423	33.12	6.56	39.68	7.89	7.50	19.86	13.82
2007	214	225	439	34.15	5.84	39.99	8.79	7.24	20.08	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.

July 2011

## **ANNEX 1**

### **Operation of the restriction in the tax years 2007 to 2009**

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

The overall objective was to ensure that individuals with an adjusted income exceeding €500,000 would pay an effective rate of tax of approximately 20 per cent on a combination of adjusted income and ring-fenced income. A graduated application of the restriction below an adjusted income level of €500,000 would ensure that the effective rate of tax increased towards 20 per cent as adjusted income increased towards €500,000.

In summary, the restriction applied only where:

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

In general, the “threshold amount” was €250,000 but a lower threshold could apply where the individual had ring-fenced income.

In the case of a married couple, application of the restriction to each spouse is determined separately. Therefore, the restriction applied to each individual spouse only where the three circumstances mentioned above applied to that spouse for the tax year involved.

### **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 by the restriction.

## ANNEX 2

**Table 1A: 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	42	38	1,518,113	4,756,135	3,238,022	6.10	19.11
650,001 800,000	38	36	2,522,508	5,507,967	2,985,459	8.90	19.44
800,001 1,000,000	28	27	1,895,281	5,230,821	3,335,540	7.14	19.70
1,000,001 1,500,000	44	42	4,533,516	11,517,068	6,983,552	7.90	20.07
1,500,001 2,000,000	11	10	1,135,035	3,766,255	2,631,220	6.04	20.04
Over 2,000,000	20	20	10,047,069	23,088,614	13,041,545	8.92	20.49
<b>Totals</b>	<b>183</b>	<b>173</b>	<b>21,651,522</b>	<b>53,866,860</b>	<b>32,215,338</b>	<b>8.06</b>	<b>20.05</b>

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

<i>Effective Rate</i>	<b>No of cases</b>	<b>% of cases in Table</b>
0% < 5%	0	0%
5% < 10%	0	0%
10% < 15%	0	0%
15% < 20%	144	78.69%
20% < 25%	39	21.31%
25% < 30%	0	0%
30% < 35%	0	0%
35% < 40%	0	0%
> 40%	0	0%
<b>Totals</b>	<b>183</b>	<b>100%</b>

**Table 2A: 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 %
<b>Under 250,000</b>	31	31	1,585,706	1,851,278	265,572	13.60	15.88
<b>250,001 300,000</b>	69	58	519,600	1,003,355	483,755	2.52	4.86
<b>300,001 350,000</b>	60	55	884,593	1,830,682	946,089	4.30	8.90
<b>350,001 425,000</b>	66	60	1,403,470	4,032,838	2,629,368	5.08	14.60
<b>425,001 500,000</b>	43	42	1,559,955	3,885,253	2,325,298	7.14	17.78
<b>Totals</b>	<b>269</b>	<b>246</b>	<b>5,953,324</b>	<b>12,603,406</b>	<b>6,650,082</b>	<b>5.82</b>	<b>12.32</b>

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

<i>Effective Rate</i>	<b>No of cases</b>	<b>% of cases in Table</b>
0% < 5%	74	27.51%
5% < 10%	59	21.93%
10% < 15%	54	20.08%
15% < 20%	63	23.42%
20% < 25%	19	7.06%
25% < 30%	0	0%
30% < 35%	0	0%
35% < 40%	0	0%
> 40%	0	0%
<b>Totals</b>	<b>269</b>	<b>100%</b>

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

<b>Ref Number</b>	<b>Specified Relief</b>	<b>Number of Cases</b>	<b>Amount of Relief used in 2009 by those affected by the restriction.</b>
<b>1</b>	Sect 140 – dividends and distributions out of exempt income from stallion fees, stud greyhounds and woodlands.	14	2,563,941
<b>2/3/4</b>	Sect 141, 142 and 143– dividends and distributions out of exempt patent income and out of exempt income from certain mines and other mining operations.	57	47,842,176
<b>5</b>	Sect 195 – Exempt income, profits or gains of artists, writers or composers.	33	25,678,197
<b>6</b>	Sect 231 – Exempt stallion fees.	-	-
<b>7</b>	Sect 232 – Exempt woodland income.	-	-
<b>8</b>	Sect 233 – Exempt stud greyhound fees.	-	-
<b>9</b>	Sect 234 – Exempt patent royalty income.	28	13,620,692
<b>10</b>	Sect 248 – relief for interest paid on loans to acquire an interest in a company.	32	7,078,466
<b>11</b>	Sect 248 – relief for interest paid on loans to acquire an interest in a company as extended by sect 250.	26	3,780,328
<b>12</b>	Sect 253 – relief for interest paid on loans to acquire an interest in a partnership.	11	489,128
<b>13</b>	Sect 272 – writing down allowances in respect of capital expenditure on:		
	• hotels and holiday camps/cottages	167	56,889,908
	• nursing homes, residential units attached to nursing homes and convalescent homes	23	5,863,075
	• hospitals, sports injury clinics and mental health centres	21	5,651,576
<b>14</b>	Sect 273 – acceleration of writing down allowances in respect of certain expenditure on certain industrial buildings or structures	12	2,068,911
<b>15</b>	Sect 274 – balancing allowances in respect of capital expenditure on:		
	• hotels and holiday camps/cottages	31	7,725,554
	• nursing homes, residential units attached to nursing homes and convalescent homes	3	1,546,186
	• hospitals, sports injury clinics and mental health centres	15	2,962,295
<b>15A</b>	Sect 304(4) – Carry forward of capital allowances in trading situations which are unused in a particular year.	8	2,223,860
<b>15B</b>	Sect 305(1) – Set off and carry forward of capital allowances in rental situations.	20	7,839,586
<b>16/17</b>	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	989,449

<b>Ref Number</b>	<b>Specified Relief</b>	<b>Number of Cases</b>	<b>Amount of Relief used in 2009 by those affected by the restriction.</b>
<b>18/19/20</b>	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	2	45,234
<b>21</b>	Sect 341 – Urban Renewal Scheme: capital allowances for industrial buildings.	10	1,659,856
<b>22</b>	Sect 342 – Urban Renewal Scheme: capital allowances for commercial buildings	18	2,692,345
<b>23</b>	Sect 343 – Enterprise Area: capital allowances for certain buildings.	13	1,482,158
<b>24</b>	Sect 344 – Multi Story Car Park capital allowances	16	602,271
<b>25</b>	Sect 345 - Urban Renewal, Enterprise Area, Multi Story Car Park: double rent allowance in respect of rent paid for certain business premises	12	2,729,746
<b>26</b>	Sect 352 – Qualifying Resort Area: capital allowances for certain industrial buildings	6	264,698
<b>27</b>	Sect 353 – Qualifying Resort Area: capital allowances for certain commercial buildings	6	28,734
<b>28</b>	Sect 354 – Qualifying Resort Area: double rent allowance in respect of rent paid for certain business premises	2	128,297
<b>29</b>	Sect 372C – Qualifying (Urban) Areas: capital allowances for certain industrial buildings	36	10,339,417
<b>30</b>	Sect 372D – Qualifying (Urban) Area and Living over the shop scheme: capital allowances for certain commercial buildings	10	2,339,283
<b>31/32</b>	Sect 372M and Sect 372N – Qualifying Rural Areas: capital allowances for certain industrial and commercial buildings	7	1,122,277
<b>33/34</b>	Sect 372V and 372W – Park and Ride Scheme: Capital allowances for Park and Ride Facilities and for certain commercial buildings	-	-
<b>35</b>	Sect 372AC – Town Renewal Area: capital allowances for certain industrial buildings	8	309,933
<b>36</b>	Sect 372AD – Town Renewal Area: capital allowances for certain commercial buildings	10	1,363,420
<b>36A/36B</b>	Sect 372AX and 372AY – Mid Shannon Corridor Tourism Scheme: capital allowances for certain registered holiday camps and tourism infrastructure facilities	-	-
<b>37/38</b>	Sect 372AP and Sect 372AU(1) – Relief for lessors of residential premises (including old schemes)	18	7,344,463
<b>39</b>	Sect 381 – Repayment of tax due to losses	4	582,355
<b>40</b>	Sect 381 – Repayment of tax due to losses, as extended by Sect 392	2	21,167
<b>41</b>	Sect 382 – Carry forward of losses to future years	4	513,872
<b>42/43</b>	Sect 383 and Sect 384 – Relief under Case IV and Case V for losses	39	16,347,999

<b>Ref Number</b>	<b>Specified Relief</b>	<b>Number of Cases</b>	<b>Amount of Relief used in 2009 by those affected by the restriction.</b>
<b>44</b>	Sect 385 – Terminal loss relief	-	-
<b>45</b>	Sect 481 – Relief for investment in Films	2	100,000
<b>46</b>	Sect 482 – Relief for investment on significant buildings and gardens	9	4,283,058
<b>47</b>	Sect 485F – Carry forward of excess relief	119	44,634,822
<b>48</b>	Sect 489(3) – BES relief	8	830,605
<b>49</b>	Sect 843 – Capital allowances for buildings used for third level education purposes	5	491,633
<b>50</b>	Sect 843A – Capital allowances for certain child-care facilities	20	3,162,339
<b>51</b>	Sect 847A – Donations to certain sports bodies	5	192,350
<b>52</b>	Sect 848A – Donations to approved bodies	105	2,443,673
<b>53</b>	Paragraph 11 of Schedule 32, Urban Renewal Scheme 1986: Capital allowances for certain commercial premises in designated areas	6	1,105,130
<b>54</b>	Paragraph 13 of Schedule 32, Urban Renewal Scheme 1986: Double rent allowances in relation to certain premises in designated areas	2	472,879