

High-Income Individuals' Restriction Tax Year 2010 onwards

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1 Introduction

Finance Acts 2006 and 2007 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. Changes introduced by Finance Act 2010, with effect from 1 January 2010, ensured that individuals who are fully subject to the restriction pay an effective rate of income tax of approximately 30 per cent.

This manual provides guidance on the application of the restriction for the tax year 2010 and subsequent years.

2 How does the restriction work?

The high-income individuals’ restriction (HIIR) works by limiting the total amount of specified reliefs that can be used by a high-income individual to a maximum amount each year. The maximum amount is set by reference to a specific figure or to a maximum percentage of income for the year.

Relief that is disallowed for a tax year is added-back to the individual’s taxable income for the year to give a **recalculated taxable income** figure. The recalculated taxable income amount is then taxed in accordance with normal income tax rates and the individual is entitled to normal tax credits against the tax due. [Paragraph 5](#) explains how the restriction is calculated while [Paragraph 6](#) explains how the restriction applies to jointly assessed married couples / civil partners. [Paragraph 9](#) outlines how the restriction works in situations involving exempt income.

3 To whom does the restriction apply?

For the tax year 2010 and subsequent years, the restriction applies to an individual where all the following three criteria apply:

- the adjusted income of an individual for the tax year is equal to or greater than an “income threshold amount”, which is usually €125,000 but is less if the individual had combined ring-fenced income and adjusted income in the tax year less than €400,000;
- the aggregate of specified reliefs used by the individual for the tax year is equal to or greater than a “relief threshold amount”, which is set at **€80,000**; and
- the aggregate of specified reliefs used by an individual for the tax year is greater than **20 per cent** of the individual’s adjusted income.

[Appendix 1](#) explains how “adjusted income” and “income threshold amount” are calculated.

[Appendix 2](#) explains the term “ring-fenced income”.

In addition to the HIR, there is a USC property relief surcharge which may apply to individuals affected by the HIR. This is dealt with in Tax and Duty Manual [Part 18D-00-01](#). The USC property relief surcharge applies to reliefs used **before** the application of the HIR.

4 What specified reliefs are covered by the restriction?

Reliefs covered by the restriction are known as “specified reliefs” and include:

- The various sectoral and area-based property tax incentives – for example, accelerated capital allowances for nursing homes/private hospitals¹, industrial/commercial buildings in urban, rural and town renewal areas and reliefs in relation to the cost of construction / refurbishment / conversion of rented residential accommodation located in such areas;
- Certain exemptions relating to, for example, artists’ income²;
- Certain investment incentive reliefs³;
- Relief for interest paid on loans used to acquire an interest in a partnership⁴.

A full list of the reliefs and exemptions covered by the restriction is set out in Schedule 25B TCA and shown in [Appendix 3](#).

Normal business-related expenses, deductions for capital allowances on plant and machinery (other than those claimed by passive traders on plant and machinery that they lease to manufacturing trades since 15 October 2013), genuine business-related trading losses, and genuine losses from a rental activity that do not arise from the use of specified reliefs are not affected by the restriction. Personal tax credits are also not affected.

5 How is the restriction calculated?

The restriction is calculated by using the formula $T + (S - Y)$ to determine the amount of recalculated taxable income. The amount calculated using the formula is then taxed in accordance with normal income tax rates and the individual is entitled to normal tax credits against the tax due.

¹ Accelerated capital allowances for nursing homes and private hospitals are no longer available

² An upper limit of €50,000 was applied to the artists’ exemption with effect from the tax year 2015. Previously an upper limit of €40,000 applied from 01 January 2011.

³ Reliefs such as Employment and Investment Incentive (EII) relief, where the investment was made on or before 15 October 2013 (but not seed capital scheme relief),

⁴ Relief is not available for loans made after 15 October 2013 unless the loan replaces an existing qualifying loan and the replacement loan does not exceed the balance and term of the existing loan, but the restrictions introduced by the Finance (No 2) Act 2013 also apply to any new loan. For qualifying loans made before 15 October 2013, relief is phased out over the tax years 2014 to 2016. No relief is available for the tax year 2017 and subsequent tax years.

The elements of the formula are as follows:

- T** = is the individual's taxable income (before the restriction),
- S** = is the aggregate amount of specified reliefs used in the year, and
- Y** = is the greater of €80,000 (the relief threshold amount) and 20 per cent of the individual's adjusted income for the year.

Examples are given in [Appendix 4](#).

6 How is the restriction applied to jointly assessed couples?

Under joint assessment, the income of the non-assessable spouse / civil partner is charged and assessed to tax as income of the assessable spouse / civil partner (section 1017 / section 1031C TCA refers). The income of both spouses / civil partners is joined at the total income stage, which means deductions from total income are usually allowable against the income of both spouses / civil partners.

When determining whether the restriction applies to a jointly assessed couple, each spouse / civil partner must be looked at separately. Items which are deductions from total income (those listed in Part 1 of the Table to section 458 TCA) and which would ordinarily be available as a deduction from the joint total income of a couple should be first offset against the total income of the spouse / civil partner to whom the deduction 'belongs' and then any excess offset against the other spouse / civil partner. The restriction will apply to each individual spouse / civil partner only where the three criteria listed in [Paragraph 3](#) apply to that spouse / civil partner.

Following determination of the recalculated taxable income of a spouse / civil partner to whom the restriction applies, that amount is then added to the taxable income of the other spouse / civil partner (or the recalculated taxable income of the other spouse / civil partner where the restriction applies to the other spouse / civil partner). The combined amount is then taxed in accordance with normal income tax rates and the couple is entitled to normal tax credits against the tax due.

In joint assessment cases, section 15 TCA provides for an increase in the amount of income chargeable to income tax at the standard rate where each spouse / civil partner is in receipt of income. This increase is set at the lower "specified income" of the spouses or civil partners, subject to a maximum amount of €26,300 for the year of assessment 2019 and subsequent years of assessment. Specified income is defined in section 15 TCA by reference to total income.

Where the HIR applies, the entitlement under section 15 TCA to an additional amount chargeable at the standard rate may be calculated by reference to the recalculated taxable income of the spouse / civil partner in question where this is more beneficial than calculation by reference to total income.

Examples are given in [Appendix 5](#).

7 Treatment of excess relief arising because of the restriction

The total amount of relief that is not allowed in a year because of the restriction is known as “**excess relief**”.

Section 485F TCA provides that the amount of the excess relief can be carried forward to the following year (or years) and used as a deduction from the individual’s total income in arriving at his or her taxable income for that year(s). However, any other relief to which the individual is entitled, including other specified reliefs for the particular year, is given in priority to the excess relief carried forward.

Reliefs carried forward as excess relief lose their individual character in that they are pooled together in a single amount. The pooled amount is then treated as a separate tax relief in its own right. As it is deducted from total income in the year in which it is used, it reduces the amount of taxable income in that year before the calculation of any restriction that might apply. However, it is treated as a specified relief in the year in which it is used in deciding whether the restriction applies in that year.

7.1 Excess relief carried forward in joint assessment cases

Excess relief carried forward is a deduction from total income and is listed in the table to Section 458 TCA. Therefore, it is covered by the provisions of section 485FA (vi) TCA. This means that, as with other deductions from total income, relief can be claimed by either or both spouses / civil partners in joint assessment cases.

Where a spouse / civil partner claims an amount of excess relief carried forward as deductible from her / his total income, that amount is deductible from the total income of both spouses / civil partners. Any unused relief from the spouse / civil partner who was subject to the HIR will be transferred to her / his spouse / civil partner.

8 Interaction between HIR and claw back of rented residential (previously “section 23 type”) relief in death cases

Tax and Duty Manual [Part 04-08-08](#) deals with offsets of Case V losses and excess capital allowances between spouses / civil partners. It sets out Revenue’s practice on the imposition of a claw back of rented residential “section 23 type” relief on the death of a spouse / civil partner and in other limited circumstances.

Rented residential relief under various property incentive schemes is a “specified relief” for the purposes of the HIR. The amount of such relief used by an individual in a tax year must be taken into account when calculating any restriction that is to

apply for the year. This rule equally applies where an individual dies in a tax year in which s/he is subject to the restriction.

Tax and Duty Manual [Part 10-11-01](#) states that where a rented residential “section 23 type” property passes to a surviving spouse / civil partner and a claw back of the rented residential relief applies to the deceased spouse / civil partner, Revenue will allow a set-off of the rented residential relief deduction due to the surviving spouse / civil partner against the amount assessable on the deceased in the year of death for the property involved. The maximum set-off allowed is equivalent to the amount of the rent deemed to have been received by the deceased as a result of the claw back. (More details are available in Tax and Duty Manual 10-11-01).

Therefore, where a surviving spouse / civil partner elects to set some of the relief, to which s/he is entitled, against rental income on which a deceased spouse / civil partner is assessable because of a clawback of relief, the amount of relief so set off must be taken into account in calculating the amount of “specified reliefs” for the purpose of the HIR used by the deceased spouse / civil partner. It will not be used to calculate the amount of specified reliefs used by the surviving spouse / civil partner.

Revenue allows a “further option” in cases of potential clawback of relief for a deceased spouse / civil partner, whereby a surviving spouse / civil partner can make an election that no claw back of rented residential relief will be applied in the case of the deceased spouse / civil partner, and any unused balance of rented residential relief will transfer to the surviving spouse / civil partner, where such relief has not been used in full by the deceased spouse / civil partner in relation to rental income received up to date of death. Further details can be found in TDM 10-11-01.

Where an election is made in accordance with this “further option”, the rented residential relief, if any, used by the deceased spouse / civil partner in the year of death will be taken into account when calculating specified reliefs used by the deceased spouse / civil partner in that year. Likewise, rented residential relief, if any, used by the surviving spouse / civil partner in the year her / his spouse / civil partner dies, and in later years, should be taken into account in calculating specified reliefs used by the surviving spouse / civil partner in each year.

Where a restriction of reliefs applies to a deceased spouse / civil partner in the year of her / his death, any excess relief which arises because of the application of the restriction, including any such excess relief which arises because of the restriction of rented residential relief, does not transfer to the surviving spouse / civil partner.

9 Exempt income and the HIR

Prior to 2007, certain income, such as artists’ income and patent royalties, was not chargeable to tax because of various exempting provisions. However, following the introduction of the HIR, the amount of the exemption used each year (subject to the limitation on the artists’ exemption introduced from the tax year 2011 and amended

in 2015, and the abolition of the patent royalty exemption from 24 November 2010) must be taken into account in deciding whether the restriction applies.

Therefore, an individual whose only income is exempt income is subject to the restriction for the year 2010 and subsequent years where the amount of the exempt income is €125,000 or more. While the relief threshold amount is €80,000, the restriction does not apply unless adjusted income is €125,000 or more.

Where an individual has income other than exempt income and his or her adjusted income is €125,000 or more, the restriction will generally apply where the aggregate of the exempt income and any other specified reliefs used is €80,000 or more. However, where the aggregate of the exempt income and any other specified reliefs used does not exceed 20 per cent of the individual's adjusted income for the year, the restriction will not apply.

Examples are shown in [Appendix 6](#).

Relief carried forward as excess relief (see [paragraph 7](#)) may arise because of the application of the restriction in an exempt income situation e.g. where artists' exemption is claimed. In such a situation, it will only be possible to use the excess relief if the individual has non-exempt income which is taxable in the year to which the excess relief is carried forward. Where the taxpayer only has exempt income in the year, no relief is possible, and the excess relief can only be carried forward. It should be noted that excess relief cannot be set against recalculated taxable income.

10 Double tax relief

For any tax return submitted after the passing of Finance (No. 2) Act 2013 (18 December 2013), the Irish effective tax rate for individuals affected by the HIIR should be calculated using the formula:

$$\frac{\text{Irish tax}}{\text{Adjusted income}} \quad \begin{array}{l} \text{(after application of the HIIR)} \\ \text{(as determined for the HIIR)} \end{array}$$

An example of how this formula is applied is set out in [Appendix 7](#).

11 Pay Related Social Insurance and Universal Social Charge

The focus of the restriction is on the recalculation of taxable income and does not affect the calculation of PRSI and USC. In the year that a restriction applies, these calculations are based on the original income assessable. Where excess relief is carried forward for deduction from total income in that year, the excess relief is not deductible in calculating PRSI or USC for that year.

12 Tax returns requirement

Where an individual is subject to the restriction, he or she is required to submit a self-assessment income tax return (Form 11) by the return filing date for the relevant tax year. Additionally, a Form RR1 setting out details of the calculation of the restriction must be submitted with the Form 11.

Details required on the Form RR1 include the aggregate of specified reliefs used by the individual for the particular year, the amount of the individual's taxable income before the application of the restriction and the amount of the individual's recalculated taxable income after the application of the restriction.

In the case of a married couple / civil partners where joint assessment applies, a single Form RR1 should be completed giving details of the application of the restriction to each spouse / civil partner (as applicable).

Appendix 1 – Key terms

Adjusted Income

Adjusted income is calculated by adding the total amount of the specified reliefs actually used by an individual for a tax year to his or her taxable income for that year and then deducting any ring-fenced income of the individual for the year. The formula **(T + S) – R** is used where:

- T** = the individual's taxable income (before the restriction)
- S** = the aggregate amount of specified reliefs used in the year, and
- R** = the amount of the individual's ring-fenced income for the year

Example 1

Mr. A has taxable income of €100,000 (**T**) in 2020, having been reduced by €200,000 of specified reliefs (**S**). He has no ring-fenced income (**R**) so his adjusted income **(T + S) – R** is €300,000.

Example 2

Ms. B has taxable income of €90,000 (**T**) in 2020, having been reduced by €100,000 of section 23-type relief (**S**). She has ring-fenced income (bank deposit interest) of €70,000 (**R**), which is included in her taxable income figure of €90,000. Her adjusted income **(T + S) – R** is €120,000.

Income Threshold Amount

In deciding whether the restriction is applicable, the income threshold amount is, in general, **€125,000** but is less if the individual had ring-fenced income (e.g. deposit interest) and adjusted income for the tax year is less than €400,000. In that scenario, income threshold amount is calculated by using the formula:

$$\text{€125,000} \times \frac{\mathbf{A}}{\mathbf{B}}$$

where:

- A** = is the individual's adjusted income for the year, and
- B** = is the sum of **T + S** (same meaning as in adjusted income above)

Example 3

Using the figures relating to Ms. B in **Example 2** above, her income threshold amount for 2020 is as follows:

$$\text{€125,000} \times \frac{\text{€120,000}}{\text{€190,000}} = \text{€78,947.}$$

The restriction applies to Ms. B for the year 2020 as her adjusted income (€120,000) is greater than her income threshold amount of €78,947 and specified reliefs used (€100,000) is greater than €80,000 (the relief threshold amount).

Appendix 2 – Ring-fenced income

Ring-fenced income is income that is normally liable to tax at a specific rate, which is lower than the higher rate of income tax, regardless of the amount received or the marginal rate of tax at which the individual is liable. Ring-fenced income is defined in section 485C TCA and as of 1 January 2020 includes the following:

- Irish deposit interest (as referred to in section 261(c)(i)(II) of the TCA) from which Deposit Interest Retention Tax (DIRT) is deducted;
- Irish deposit interest received gross (as referred to in section 261B TCA) by virtue of a declaration made by an individual that he or she was either over 65 or was permanently incapacitated; and
- Deposit interest received gross (as referred to in section 267M TCA) which arises in an EU Member State other than Ireland and which is liable to tax at a rate equal to the DIRT rate.

Appendix 3 – List of specified reliefs

List of specified reliefs for the purposes of section 485C TCA as listed in Schedule 25B TCA

Ref	Section	Description
1	140	Dividends and distributions out of exempt income from stallion fees, stud greyhound services fees and occupation of certain woodlands
3	142	Dividends and distributions out of exempted income from certain mining operations
4	143	Dividends and distributions out of relieved income from certain mining operations
5	195	Exemption of certain earnings of writers, composers and artists
12	253	Relief for interest paid on loans used to acquire an interest in a partnership
13	272	Writing-down allowances in respect of capital expenditure on:
		<ul style="list-style-type: none"> ▪ Hotels written-off at 15% rate (S268(1)(d)) ▪ Nursing homes (Sec. 268(1)(g)) including residential units attached to nursing homes (Sec. 268(1)(g) by virtue of S268(3B)) ▪ Convalescent homes (S268(1)(i)) ▪ Private hospitals (S268(1)(j)) ▪ Sports injury clinics (S268(1)(k)) ▪ Mental health centres (S268(1)(l)) ▪ Specialist palliative care units (S268(1)(m)) ▪ Aviation services facilities (section 268(1)(n)) ▪ Holiday camps written-off at 15% rate and holiday cottages (S268(3))
14	273	Acceleration of writing-down allowances in respect of certain expenditure on certain industrial buildings or structures
15	274	Balancing allowances in respect of capital expenditure on the buildings listed at Ref. No. 13 above.
15A	304(4)	Income tax: allowances and charges in taxing a trade, etc.
15B	305(1)	Income tax: manner of granting, and effect of, allowances made by means of discharge or repayment of tax
15C	284 (subject to section 485C(1B))	Wear & tear allowances on plant and machinery claimed by a passive trader when leasing the plant and machinery to a manufacturing trade [since 15 October 2013] .

Ref	Section	Description
15D	288 (subject to section 485C(1B))	Balancing allowances on plant and machinery claimed by a passive trader when leasing the plant and machinery to a manufacturing trade.
16	323	Customs House Docks Area: capital allowances in relation to the construction of certain commercial premises
17	324	Customs House Docks Area: double rent allowance in respect of rent paid for certain business premises
18	331	Temple Bar Area: accelerated capital allowances in relation to construction or refurbishment of certain industrial buildings or structures
19	332	Temple Bar Area: capital allowances in relation to construction or refurbishment of certain commercial premises
20	333	Temple Bar Area: double rent allowance in respect of rent paid for certain business premises
21	341	Urban Renewal Scheme and Designated Streets Scheme: accelerated capital allowances for construction/refurbishment of certain industrial buildings or structures
22	342	Urban Renewal Scheme and Designated Streets Scheme: capital allowances in relation to construction/refurbishment of certain commercial premises
23	343	Enterprise Areas: capital allowances in relation to construction/refurbishment of certain buildings or structures
24	344	Multi-storey car parks: capital allowances in relation to construction or refurbishment
25	345	Urban Renewal Scheme, Enterprise Areas and Multi-storey car parks: double rent allowance in respect of rent paid for certain business premises
26	352	Qualifying Resort Areas: accelerated capital allowances in relation to construction or refurbishment of certain industrial buildings or structures
27	353	Qualifying Resort Areas: capital allowances in relation to construction or refurbishment of certain commercial premises
28	354	Qualifying Resort Areas: double rent allowance in respect of rent paid for certain business premises
29	372C	Qualifying Areas: accelerated capital allowances in relation to construction or refurbishment of certain industrial buildings or structures
30	372D	Qualifying Areas and Living-Over-the-Shop Scheme: capital allowances in relation to construction or refurbishment of certain commercial premises
31	372M	Qualifying Rural Areas: accelerated capital allowances in relation to construction or refurbishment of certain industrial buildings or structures

Ref	Section	Description
32	372N	Qualifying Rural Areas: capital allowances in relation to construction or refurbishment of certain commercial premises
33	372V	Park-and-Ride Facilities: capital allowances in relation to construction or refurbishment
34	372W	Park-and-Ride Scheme: capital allowances in relation to construction or refurbishment of certain commercial premises
35	372AC	Town Renewal Areas: accelerated capital allowances in relation to construction or refurbishment of certain industrial buildings or structures
36	372AD	Town Renewal Areas: capital allowances in relation to construction or refurbishment of certain commercial premises
36A	372AX	Mid-Shannon Corridor Tourism Infrastructure Investment Scheme: accelerated capital allowances in relation to construction/refurbishment of certain registered holiday camps
36B	372AY	Mid-Shannon Corridor Tourism Infrastructure Investment Scheme: capital allowances in relation to construction or refurbishment of certain tourism infrastructure facilities
37	372AP	Relief for Lessors of rented residential property – various schemes
38	372AU (1)	Relief for Lessors of rented residential property: Saver for relief due, and for clawback of relief given, under old schemes
38A	372AAC	Living City Initiative: capital allowances in relation to the conversion or refurbishment of certain commercial premises
38B	372AAB	Owner Occupier Relief: allowances to owner-occupiers in respect of qualifying expenditure incurred on the conversion and refurbishment of Georgian houses
38C	372AAD	Rented Residential Relief: capital allowances to lessors in respect of eligible expenditure incurred on the conversion and refurbishment of relevant houses
39	381	Right to repayment of tax by reference to losses in so far as it is referable to any double rent relief
40	381	Right to repayment of tax by reference to losses as extended by S392 (option to treat capital allowances as creating or augmenting a loss) in so far as it is referable to any capital allowances that are specified reliefs
41	382	Right to carry forward losses to future years in so far as it is referable to any other specified relief
42	383	Relief under Case IV for losses in so far as it is referable to any other specified relief
43	384	Relief under Case V for losses in so far as it is referable to any other specified relief
44	385	Terminal loss in so far as it is referable to any other specified relief
46	482	Relief for expenditure on significant buildings and gardens

Ref	Section	Description
47	485F	Carry-forward of excess relief
48A	823A	Deduction for income earned in certain foreign states for the tax years 2012 and subsequent years up to and including 2022
49	843	Capital allowances for buildings used for third level education purposes
50	843A	Capital allowances for buildings used for certain child-care purposes
50A	843B	Capital allowances for buildings used for the purposes of providing childcare services or a fitness centre to employees. [This provision was originally inserted by section 12 Finance Act 2017, subsequently repealed and replaced by section 19 Finance Act 2018 and came into effect on 1 January 2019.]
51	847A	Donations to certain sports bodies
53	Para. 11 of Sch. 32	Urban Renewal Scheme, 1986: capital allowances in relation to certain commercial premises in designated areas other than Customs House Docks Area
54	Para. 13 of Sch. 32	Urban Renewal Scheme, 1986: double rent allowance in relation to certain premises in designated areas other than Customs House Docks Area

The following specified reliefs were deleted from Schedule 26B TCA in Finance Act 2020 as they are no longer available.

Ref No	Specified Relief
2.	Section 141 (exemption of distributions out of patent royalty income).
6.	Section 231 (exemption of profits or gains from stallion fees).
7.	
8.	Section 233 (exemption of profits from stud greyhound service fees).
9.	Section 234 (exemption of certain income from patent royalties).
10.	Section 248 (relief for interest paid on loans used to acquire an interest in a company).
11.	Section 248 (relief for interest paid on loans used to acquire an interest in a company) as extended by section 250 (extension of relief under section 248 to certain individuals in relation to loans applied in acquiring interest in certain companies).
45.	Section 481 (relief for investment in films).
48	Section 489(3) (BES relief)

Appendix 4 – Worked examples

Example 4

Mr. A has taxable income of €100,000 (**T**) in 2020 having been reduced by €200,000 of specified relief (**S**). He has no ring-fenced income, so his adjusted income is €300,000 (see **Example 1 in Appendix 1**).

The restriction applies for 2020 as Mr. A's adjusted income is greater than €125,000 and his use of specified reliefs is greater than €80,000. His recalculated taxable income for 2020, using the formula **T + (S – Y)**, is €220,000 as follows:

$$\text{T (€100,000) + S (€200,000) - Y (€80,000) - this is greater than 20 per cent of his adjusted income.}$$

Therefore, Mr. A's taxable income for 2020 is increased from €100,000 to €220,000. The additional amount taxable (that is, €120,000) is carried forward as "excess relief" to the year 2019 under section 485F TCA. It will be a specified relief only to the extent that it is used in 2019 (or subsequent years).

Example 5

Ms. B has taxable income of €90,000 (**T**) in 2020 having been reduced by €100,000 of specified reliefs (**S**). She has ring-fenced income of €70,000, which is included in her taxable income figure of €90,000. Her adjusted income is €120,000 but her income threshold amount is only €78,947 (see **Examples 2 and 3 in Appendix 1**).

The restriction applies for 2020 as Ms. B's adjusted income is greater than her income threshold amount and her use of specified reliefs is greater than €80,000. Her recalculated taxable income for 2020, using the formula **T + (S – Y)**, is:

$$\text{T (€90,000) + S (€100,000) - Y (80,000) = €110,000}$$

Ms. B's taxable income for 2020 is increased from €90,000 to €110,000. The additional amount taxable (that is, €20,000) is carried forward as "excess relief" to the year 2019 under section 485F TCA. It will be a specified relief only to the extent that it is used in 2019 (or subsequent years).

Appendix 5 – Worked example: joint assessment

Example 6

A married couple, Mr and Mrs D, are taxed under joint assessment and in 2020 have the following income and deductions:

	Mr D - €	Mrs D - €
Case I/II	650,000	720,000
Deposit Interest	10,000	10,000
Capital allowances (plant & machinery)	(15,000)	(15,000)
Capital allowances (town renewal scheme)	(430,000)	n/a
Rental income	nil	100,000
Other specified reliefs	(30,000)	(40,000)
Capital allowances (rented hotel)	n/a	(320,000) ¹
Taxable Income	185,000	675,000
Joint Taxable Income	860,000	

Mr. D: Mr. D's town renewal capital allowances are in respect of a commercial property used for his profession and are set against the income from that profession. His taxable income for 2020 is €185,000. His specified reliefs are €460,000 (i.e. town renewal capital allowances and other specified reliefs of €30,000, as above). His adjusted income using the formula $(T + S) - R$ is €635,000 (see below).

The restriction applies to Mr. D for 2020. His adjusted income is greater than the income threshold amount of €125,000 and his use of specified reliefs (that is €460,000) is greater than the relief threshold amount of €80,000 and greater than 20% of his adjusted income (20% of €635,000 = €127,000). Calculation of the restriction, which results in recalculated taxable income of €518,000, is as follows:

Adjusted Income	€	Recalculated Taxable Income	€
T - Taxable Income	185,000	T - Taxable Income	185,000
S - Specified Reliefs	460,000	S - Specified Reliefs	460,000
R - Ring fenced Income	(10,000)	Y – €80,000 or, if greater, 20% of Adjusted Income	(127,000)
Adjusted Income	635,000		
20% of Adj. Income	127,000	Recalculated Taxable Income	518,000

¹ Only €100,000 of this amount can be used (allowable against rental income only – section 409B TCA)

Therefore, Mr. D's taxable income for 2020 is increased from €185,000 to €518,000. The additional amount taxable (€333,000) is carried forward as "excess relief" to the year 2021 under section 485F TCA. It will be a specified relief to the extent that it is used in 2021 (or subsequent years).

Mrs. D: Mrs. D's capital allowances of €320,000 in respect of the hotel are ring-fenced against the rental income of €100,000 with the balance of €220,000 carried forward to 2021 as excess capital allowances. Therefore, her taxable income for 2017 is €675,000. Her adjusted income using the formula **(T + S) – R** is €805,000 (see below).

Although Mrs. D has reliefs of €360,000 available in 2020 in relation to her investments, she can use only €140,000 of those reliefs because of other restrictions in the Tax Acts i.e. apart from the HIR.

The restriction does not apply to Mrs. D for 2020. While her adjusted income is greater than the income threshold amount of €125,000 and her use of specified reliefs (i.e. €140,000) is greater than the relief threshold amount of €80,000, her use of specified reliefs is less than 20 per cent of her adjusted income (20% of €805,000 = €161,000).

Adjusted Income	€	Recalculated Taxable Income	€
T - Taxable Income	675,000	T - Taxable Income	
S - Specified Reliefs	140,000	S - Specified Reliefs	
R - Ring fenced Income	<u>(10,000)</u>	Y – €80,000 or, if greater, 20% of Adjusted Income	
Adjusted Income	805,000		
20% of Adj. Income	161,000	Recalculated Taxable Income	no change

Her taxable income for the year remains at €675,000.

Combined position for 2020

The position for Mr. and Mrs. D for 2020 is that their combined taxable income following the application of the restriction is increased from €860,000 to €1,193,000, being a combination of recalculated taxable income of €518,000 for Mr. D and original taxable income of €675,000 for Mrs. D.

Appendix 6 – Worked examples – carry forward of excess relief

Example 7

In 2020 Ms E had total income of €300,000, including €120,000 of artist's income (€50,000 of this is exempt). She had €80,000 of specified reliefs carried forward from 2017 and had no ring-fenced income.

Stand-alone basis 2020: If the €50,000 exemption is the only relief used by Ms. E in the tax year 2020, then she is not subject to the restriction as the use of specified reliefs is less than the relief threshold amount of €80,000. In that situation her taxable income will be €250,000 (that is, income of €300,000 less €50,000 exemption). However, as she has excess relief carried forward from 2019, this relief must be taken into account in calculating the restriction.

The restriction applies for 2020. Adjusted income of €300,000 (see below) is greater than the income threshold amount of €125,000. The use of specified reliefs of €130,000 (artist's exemption of €50,000 and section 485F relief carried forward of €80,000) is greater than the relief threshold amount of €80,000 and greater than 20 per cent of the adjusted income. Calculation of the restriction, which results in recalculated taxable income of €220,000, is as follows:

Adjusted Income	€	Recalculated Taxable Income	€
T - Taxable Income	170,000	T - Taxable Income	170,000
S - Specified Reliefs	130,000	S - Specified Reliefs	130,000
R - Ring fenced Income	(nil)	Y – €80,000 or, if greater, 20% of Adjusted Income	(80,000)
Adjusted Income	300,000		
20% of Adj. Income	60,000	Recalculated Taxable Income	220,000

Therefore, Ms. E's taxable income for 2020 is increased from €170,000 to €220,000. The additional amount taxable (€50,000) is carried forward as "excess relief" to the year 2021 under section 485F TCA. It will be a specified relief only to the extent that it is used in 2021 (or subsequent years).

Example 8

Mr. F has artist's income of €240,000 in 2020, of which €50,000 is exempt. He also has other income of €325,000 of which €45,000 is ring-fenced income. He also has €75,000 of income from exempt distributions from the occupation of woodland in 2020 and has €5,000 excess relief forward from 2019 under section 485F.

Mr. F's taxable income for 2020 is €510,000, as follows:

Exempt Income	€	Calculation of Taxable Income	€
Artists Income	50,000	Artists Income	190,000
Distributions from occupation of woodland	75,000	Other Income	325,000
	Less		
		Section 485F relief (forward from 2017)	(5,000)
		Taxable Income	510,000

The restriction applies for 2020.

The total specified reliefs used are €130,000 (€50,000 artists exemption + €75,000 distributions from woodland + €5,000 excess relief). Adjusted income is €595,000 (see below) and is greater than the Income Threshold Amount of €125,000. The use of specified reliefs (€130,000) is greater than the relief threshold amount of €80,000 and greater than 20 per cent of the adjusted income (i.e. €119,000).

Calculation of the restriction, which results in recalculated taxable income of €521,000 for 2020, is as follows:

Adjusted Income	€	Recalculated Taxable Income	€
T - Taxable Income	510,000	T - Taxable Income	510,000
S - Specified Reliefs	130,000	S - Specified Reliefs	130,000
R - Ring fenced Income	(45,000)	Y – €80,000 or, if greater, 20% of Adjusted Income	(119,000)
Adjusted Income	595,000		
20% of Adj. Income	119,000	Recalculated Taxable Income	521,000

Therefore, Mr. F's taxable income for 2020 is increased from €510,000 to €521,000. The additional amount taxable (€11,000) is carried forward as "excess relief" to the year 2021 under section 485F TCA. It will be a specified relief only to the extent that it is used in 2021 (or subsequent years).

Appendix 7 – Worked example: double tax relief

Example 11

The following example shows how double tax relief is calculated, in accordance with Finance (No. 2) Act 2013, for a jointly assessed couple where one spouse is subject to the HIR and the other is not.

The relevant information for each spouse for 2020 is:

Mrs H:

- Foreign investment income of €90,000 which suffered foreign tax of €30,000.
- Deposit interest subject to DIRT €5,000
- Trading profits €200,000
- Specified reliefs carried forward from prior years of €200,000

Mr H:

- Foreign investment income of €10,000 which suffered foreign tax of €2,000
- Employment income of €50,000

Step 1 – calculate Irish Effective Rate using the new formula:

Calculate taxable / recalculated taxable income

	Mrs. H	Mr. H	Joint
	€	€	€
Case III	90,000	10,000	100,000
Case IV	5,000		5,000
Case I	200,000		200,000
Schedule E		50,000	50,000
Total income	295,000	60,000	355,000
S.485F carry forward	(200,000)		(200,000)
Taxable income	95,000	60,000	155,000
Recalculated taxable income ^{Note 1.1}	215,000	60,000	275,000

Work out Income Tax Payable

First €43,550 @ 20%	8,710
Additional lower rate band - €25,550 @ 20%	5,110
Deposit Interest (€5,000) @ 33%	1,650
Balance (€200,900) @ 40%	80,360
Total	96,030
Less non-refundable tax credits	(3,300)
DIRT	(1,650)
Income tax payable	90,880

Work out Irish effective rate of tax

	Mrs. H	Mr. H
Share of tax ^{Note 1.2}	75,520	15,360
Irish effective rate of tax ^{Note 1.3}	26.04%	25.60%

Note 1.1 High Income Individuals' Restriction

Adjusted Income	€	Recalculated Taxable Income	€
T - Taxable Income	95,000	T - Taxable Income	95,000
S - Specified Reliefs	200,000	S - Specified Reliefs	200,000
R - Ring fenced Income	(5,000)	Y – €80,000 or, if greater, 20% of	(80,000)
Adjusted Income	290,000	Adjusted Income	
20% of Adj. Income	58,000	Recalculated Taxable Income	215,000

Note 1.2

Share of tax is calculated as: $\text{Total tax} \times \frac{\text{Share of Total income}}{\text{Total income}}$

Note 1.3

Irish effective rate for Mrs H is calculated using the new formula of:

$$\frac{\text{Mrs H's Share of tax}}{\text{Adjusted Income}}$$

Irish effective rate of tax for Mr H, who is not subject to the HIIIR, is calculated as:

$$\frac{\text{Mr H's Share of tax}}{\text{Mr H's Total Income}}$$

Step 2 – re-gross foreign income using the new effective rate and calculate tax payable**Calculate taxable / recalculated taxable income**

	Mrs. H	Mr. H	Joint
	€	€	€
Case III ^{Note 2.1}	81,126	10,000	91,126
Case IV	5,000		5,000
Case I	200,000		200,000
Schedule E	-	50,000	50,000
Total income	286,126	60,000	346,126
S.485F carry forward	(200,000)		(200,000)
Taxable income	86,126	60,000	146,126
Recalculated taxable income ^{Note 2.2}	206,126	60,000	266,126

Work out Income Tax Payable

First €43,550 @ 20%			8,710
Additional lower rate band - €25,550 @ 20%			5,110
Deposit Interest €5,000 @ 33%			1,650
Balance (€192,025) @ 40%			76,810
Total			92,280
Less non-refundable tax credits			(3,300)
Less DIRT			(1,650)
Less Foreign tax credit ^{Note 2.1}	(21,126)	(2,000)	(23,126)
Income tax payable			64,204

Note 2.1 Double Tax Relief

	Mrs. H	Mr. H
Gross foreign income	90,000	10,000
Foreign Tax	30,000	2,000
Irish effective rate (From Step 1)	26.04%	25.60%
Foreign rate	33.33%	20.00%
Lower rate	26.04%	20.00%
Gross up	81,126	10,000
Credit	21,126	2,000

Note 2.2 High Income Individuals' Restriction

Adjusted Income	€	Recalculated Taxable Income	€
T - Taxable Income	86,126	T - Taxable Income	86,126
S - Specified Reliefs	200,000	S - Specified Reliefs	200,000
R - Ring fenced Income	(5,000)	Y – €80,000 or, if greater, 20% of	(80,000)
Adjusted Income	281,126	Adjusted Income	
20% of Adj. Income	56,225	Recalculated Taxable Income	206,126