Notes for Guidance - Taxes Consolidation Act 1997

Finance Act 2024 edition

PART 18C
Domicile Levy

December 2024

Revenue
Cáin agus Custaim na hÉireann
Irish Tax and Customs

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PART 18C
DOMICILE LEVY

Overview

This Part provides for a levy of €200,000 on Irish-domiciled individuals -

- whose world-wide income exceeds €1m,
- the value of whose Irish-located property is greater than €5m, and
- whose liability to Irish income tax is less than €200,000 in a relevant year.

The amount of the levy is €200,000. Irish income tax paid by an individual will be allowed as a credit against the levy.

The levy is payable on a self-assessment basis on or before 31 October in the year following the valuation date, i.e. 31 December each year.

This Part contains provisions dealing with appeals relating to the value of land and buildings, the making and amending of assessments by the Revenue Commissioners and the right conferred on them to make enquiries and make assessments. In addition, it applies the provisions of ***Chapter 1*** of ***Part 40***, ***Chapter 1*** of ***Part 47*** and ***section 1080***, which relate to appeals, penalties and interest on overdue tax respectively, to the levy.

531AA Interpretation (*Part 18C*)

Summary

This section contains definitions of the various terms used in this Part.

Details

This section contains a large number of definitions of terms used throughout this Part. The more important of these are: ***(1)***

“discretionary trust” means any disposition whereby property is held on trust to apply the income or capital or part of the income or capital of the property for the benefit of any person or persons or any one or more of a number or of a class of persons whether at the discretion of the trustees or any other person and notwithstanding that there may be a power to accumulate all or any part of the income;

“final decision” means any decision against which no appeal lies or against which an appeal lies within a period which has expired without an appeal having been brought;

“Irish property”, in relation to an individual and a valuation date, means all property situate in the State to which the individual is beneficially entitled in possession on the valuation date excluding —

- shares in a company which exists wholly or mainly for the purpose of carrying on a trade or trades,
- shares in a holding company which derive the greater part of their value from subsidiaries which wholly or mainly carry on a trade or trades;

“liability to income tax”, in relation to an individual and a tax year, means the amount of income tax due and payable by the individual for the tax year in accordance with the Tax Acts and in respect of which a final decision has been made;

“relevant individual”, in relation to a tax year, means an individual —

- who is domiciled in the State in a tax year,
- whose world-wide income for the tax year exceeds €1m,
- whose liability to Irish income tax for the tax year is less than €200,000, and
- the market value of whose Irish property on the valuation date in the tax year is in excess of €5m;

“world-wide income”, in relation to an individual, means the individual’s gross income without regard to any reliefs, exemptions or deductions. However, a deduction will be allowed for payments made on foot of legally enforceable arrangements made in the State or in any other jurisdiction under which payments are made by an individual to another individual by virtue of the annulment or dissolution of a marriage or of a separation that is likely to be permanent or where a civil partnership has been dissolved or a relationship between cohabitants ends. A deduction will not be allowed for payments made under maintenance arrangements where permanently separated and, in certain circumstances, divorced couples or couples whose civil partnership has been dissolved or where a relationship between cohabitants ends elect to be assessed jointly for income tax purposes under ***section 1018*** or ***section 1031K***;

“valuation date”, in relation to a tax year, means 31 December in that year.

Subject to ***subsection (3)***, an individual will be deemed to be beneficially entitled in possession on the valuation date to — ***(2)***

- all property situate in the State which the individual has disposed of or transferred to his or her spouse/civil partner or minor children/minor children of his or her civil partner for less than market value on or after 18 February 2010, ***(a)***
- all property situate in the State which the individual has disposed of to a discretionary trust for less than market value on or after 18 February 2010, and ***(b)***
- all property situate in the State which the individual has disposed of or transferred to a foundation for less than market value on or after 18 February 2010. ***(c)***

Subsection (2)(a) will not apply to a maintenance arrangement within the meaning of ***section 1025, 1031J*** or ***1031Q***. ***(3)(a)***

Subsection (2)(b) and ***(c)*** will not apply to a discretionary trust or a foundation, as the case may be, which is shown to the satisfaction of the Revenue Commissioners to have been created exclusively — ***(3)(b)***

- for purposes which, in accordance with the law of the State are charitable, or ***(i)***
- for the benefit of one or more named individuals and for the reason that such individual, or all such individuals, is or are because of age or improvidence or of physical, mental or legal incapacity incapable of managing that individual’s or those individuals’ affairs. ***(ii)***

For the purposes of this Part, where the whole or the greater part of the market value of any share in a company incorporated outside the State that would be a close company if it were incorporated in the State is attributable, directly or indirectly, to property situate in the State, that share will be deemed to be property situate in the State. ***(4)***

No deduction will be made from the market value of property for any debts or encumbrances for the purpose of estimating such market value. ***(5)***

References in this Part to the Revenue Commissioners shall be construed as including references to any of its officers. ***(6)***

531AB Charge to domicile levy

This section provides that, with effect from 1 January 2010, a levy to be known as 'domicile levy' shall be charged, levied and paid annually by every relevant individual. The amount of the levy is €200,000.

531AC Credit for income tax paid

This section provides that a relevant individual's liability to income tax for a tax year will be allowed as a credit in arriving at the amount of domicile levy chargeable for that tax year to the extent that such income tax has been paid at the same time as or before domicile levy for that year has been paid.

531AD Valuation procedures

This section sets out procedures relating to the valuation of property for the purposes of the levy. Any charge to the levy will be based on the market value estimated by the Revenue Commissioners rather than on the market value estimated in a return. The market value of any property may be ascertained by the Revenue Commissioners in such manner as they think fit and they can authorise a suitably qualified person to inspect any property and report to them the value of such property for the purposes of this Part. The person having custody or possession of such property shall permit the person so authorised to inspect it at such reasonable times as the Revenue Commissioners consider necessary. ***(1) & (2)***

Where the Revenue Commissioners require a valuation to be made by a person authorised by them, the costs of such valuation will be defrayed by them. ***(3)***

531AE Appeals regarding value of real property

If a relevant individual is aggrieved by a decision of the Revenue Commissioners as to the market value of any real property, the individual may appeal against the decision in the manner prescribed by section 33 of the Finance (1909-10) Act 1910. The provisions relating to appeals under that section will apply accordingly with any necessary modifications.

531AF Delivery of returns

Summary

This section contains provisions relating to the delivery of returns in respect of the domicile levy. Such returns, together with payment of the levy, should be delivered on or before 31 October in the year after the valuation date (i.e. 31 December each year). Revenue can request an individual who they believe is liable to the levy to deliver a return, by notice in writing, within 30 days of the date of the notice, together with payment of the levy.

Details

This section relates to the delivery of returns in respect of the domicile levy. It provides that such returns should be delivered by a relevant individual in respect of a tax year on or before 31 October in the year after the valuation date (i.e. 31 December each year), together with payment of the levy. ***(1)***

Where the Revenue Commissioners have reason to believe that an individual is liable to the levy for any year, they may by notice in writing request the individual to deliver a full and true return within 30 days of the date of the notice, together with payment of the levy. ***(IA)***

A return under this section must be in such form as the Revenue Commissioners may require, be signed by the relevant individual and include a declaration by the individual who signed the return that the return is, to the best of that individual's knowledge, information and belief, correct and complete. ***(2)***

531AG Opinion of Revenue Commissioners

The Revenue Commissioners may, on an application to the Revenue Commissioners by an individual who is considering the making of a significant investment in the State, give an opinion to an individual as to whether or not he or she would be likely to be regarded as domiciled in, and a citizen of, the State in the tax year in which the application is made. ***(1)***

An application for an opinion shall be in such form and contain such information and particulars as the Revenue Commissioners may require in relation to such an application. There is no obligation on the Revenue Commissioners to give an opinion as to whether the individual would be likely to be domiciled in, and a citizen of, the State. ***(2) & (3)***

531AH Making and amending of assessments by Revenue Commissioners

The Revenue Commissioners may make an assessment or an amending assessment on an individual who they have reason to believe is chargeable to domicile levy on the basis that the individual is a relevant individual where a return has not been delivered to them or they are dissatisfied with the return delivered to them. ***(1)***

The Revenue Commissioners can withdraw an assessment made by them and make an assessment of the amount of domicile levy payable on the basis of a return which, in their opinion, represents reasonable compliance with their requirements and which is delivered to them within 30 days after the date of the assessment made by them. ***(2)***

531AI Right of Revenue Commissioners to make enquiries and amend assessments

The Revenue Commissioners have all such powers as an inspector would have under ***section 959Z*** in relation to making enquiries or taking such actions as he or she considers necessary to satisfy himself or herself as to the accuracy or otherwise of any statement or particular contained in a return delivered for the purposes of income tax. ***(1) & (2)***

531AJ Application of provisions relating to income tax

This section provides that provisions of ***Chapter 1*** of ***Part 47*** and ***section 1080***, which relate to penalties and interest on overdue tax respectively, apply to domicile levy as they apply to income tax.

531AK Care and management

This section provides that domicile levy is under the care and management of the Revenue Commissioners and that ***Part 37***, which contains administrative provisions, applies to domicile levy as it applies to income tax.