State Aid Transparency Requirements:

Publication of information regarding State aid granted to individual taxpayers

Part 37-00-39

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This manual concerns the publication of information in respect of State aid awards.

Revenue
Cáin agus Custaim na hÉireann
Irish Tax and Customs

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1. State aid transparency requirements

The purpose of this manual is to update taxpayers and tax practitioners on the implications of the European Commission's State aid transparency initiative, which requires Member States to publish details of certain State aid granted after 1 July 2016. These transparency requirements form a key part of the State aid modernisation programme initiated by the European Commission in 2012 to reform State aid control.

Under the transparency requirements, when a Member State grants aid in respect of certain schemes and above a specified threshold, it will publish information regarding the aid granted on either a national website, or on the dedicated European Commission website. This information will include the identity of the beneficiary.

Ten of Ireland's tax relief and rebate schemes are subject to these publication requirements.

2. Tax relief and rebate schemes in scope

Scheme	Commission State aid number	Threshold for publication
Capital Gains Tax Entrepreneur Relief Section 597A of the Taxes Consolidation Act, 1997	SA.40642	€500,000
Employment and Investment Incentive Section 488 of the Taxes Consolidation Act, 1997	SA.43559	€500,000
Relief for Investment in Films Section 481 of the Taxes Consolidation Act, 1997	SA.38959	€500,000
Diesel Rebate Scheme Section 99A of the Finance Act, 1999 (inserted by section 51 of the Finance Act, 2013)	SA.49324	€500,000
Key Employee Engagement Programme Section 128F of the Taxes Consolidation Act, 1997	SA.47947	€500,000
Capital Gains Tax Relief for Farm Restructuring Section 604B of the Taxes Consolidation Act, 1997	SA.40092	€60,000
Stock Relief for Young Trained Farmers Section 667B of the Taxes Consolidation Act, 1997	SA.51928	€60,000
Stamp Duty Relief on Transfers of Land to Young Trained Farmers Section 81AA of the Stamp Duties Consolidation Act, 1999	SA.51927	€60,000
Stamp Duty Relief on Farm Consolidation Section 81C of the Stamp Duties Consolidation Act, 1999	SA. 50909	€60,000
Succession Farm Partnership Credit Section 667D of the Taxes Consolidation Act, 1997	SA. 45951	€60,000

For further information regarding the general operation of these schemes, please refer to the relevant legislation, Tax & Duty Manuals and Revenue's Notes for Guidance.

Publication under the State aid transparency requirements may apply to other schemes in the future, if the relevant EU Regulation or Guidelines so require.

3. Publication deadlines

In general, the deadline for publication is 12 months from the date on which the relevant tax return is due. This is the rule for Capital Gains Tax Entrepreneur Relief, Relief for Investment in Films, Capital Gains Tax Relief for Farm Restructuring, Stock Relief for Young Trained Farmers, Succession Farm Partnership Credit, Stamp Duty Relief on Transfers of Land to Young Trained Farmers and Stamp Duty Relief on Farm Consolidation.

The Diesel Rebate Scheme will be considered on a calendar year basis, with 31 December of the following year being the publication deadline.

For the Employment and Investment Incentive, and in respect of periods from 1 January 2019, the qualifying company must file a form RICT on ROS. The qualifying company must have spent 30% of the qualifying investment on a qualifying purpose before it can file the RICT return. A RICT return for a given year can be updated as the qualifying conditions for individual investments are met. The date the qualifying conditions are met will be the date of granting of the aid. The deadline for publication will be 12 months from the date the qualifying conditions for individual investments are met.

For the Key Employee Engagement Programme, the deadline for publication is 12 months from the date on which the employer is required to give notice to Revenue.

4. Calculation of benefit amount

Where the benefit is a tax relief or rebate, the amount of aid granted is the difference between the tax payable by a taxpayer having claimed the tax relief and the tax that would have been payable had that taxpayer not claimed the relief. In general, the determination of whether the relevant publication threshold is exceeded will be based on each individual aid award.

However, where the European Regulation, Guidance or approval contemplates the benefit being granted over a longer period, tax benefits may be cumulated to determine whether the threshold has been exceeded. Of the aforementioned schemes, this is the case for Stock Relief for Young Trained Farmers, where the tax benefit in the first year of the claim will be cumulated with any tax benefit arising in the three succeeding years. In this instance, the relevant tax return triggering the publication obligation will be the one that pushes the cumulative benefit over the threshold of €60,000.

Note for information: It should also be noted that a lifetime ceiling of €70,000 applies to the amount of aid to be granted, on a cumulative basis, to a young trained farmer under three Agricultural Block Exemption Regulation (ABER)[1] schemes as follows: Stamp Duty Relief on Transfers of Land to Young Trained Farmers (section 81AA of the Stamp Duties Consolidation Act, 1999), Stock Relief for Young Trained Farmers (section 667B of the Taxes Consolidation Act, 1997) and the Succession Farm Partnership Credit (section 667D of the Taxes Consolidation Act, 1997).

The Stamp Duty manual: Transfers of land to young trained farmers, Part 7: section 81AA, which is accessible here, details the interaction of Consanguinity Relief and Stamp Duty Relief on Transfers of Land to Young Trained Farmers and provides detailed examples of the calculation of the amount of State aid for the purposes of the lifetime ceiling of €70,000, applying to a young trained farmer. **Consanguinity Relief does not have to be aggregated with the three ABER reliefs for the purpose of applying the €70,000 ceiling.**

5. Statutory basis for publication

Section 851A of the Taxes Consolidation Act, 1997 provides that all taxpayer information held by Revenue is confidential and may only be disclosed in accordance with the provisions of the section, including as is otherwise provided for by any other statutory provision. The information regarding aid granted under the 10 schemes referred to above will be published in accordance with the following provisions:

- Section 851A (8A) of the Taxes Consolidation Act, 1997, which applies to Relief for Investment in Films. This is in accordance with the European Commission Communication on State aid for films and other audio-visual works, 2013/C 332/01;

- Section 128F (9) of the Taxes Consolidation Act, 1997, which applies to the Key Employee Engagement Programme. This is in accordance with the European Commission approval of the scheme;

- Article 9 and Annex III of Commission Regulation (EU) No. 651/2014[2], which applies to Capital Gains Tax Entrepreneur Relief, Diesel Rebate Scheme and the Employment and Investment Incentive; and

- Article 9 and Annex III of Commission Regulation (EU) No. 702/2014, which applies to Capital Gains Tax Relief for Farm Restructuring, Stock Relief for Young Trained Farmers, Succession Farm Partnership Credit, Stamp Duty Relief on Transfers of Land to Young Trained Farmers and Stamp Duty Relief on Farm Consolidation.

Note for information: Notwithstanding that the Succession Farm Partnership Credit (section 667D of the Taxes Consolidation Act, 1997) is subject to the provisions of

[1] ABER is the commonly used term for Commission Regulation (EU) No 702/2014
[2] Commonly known as General Block Exemption Regulation (GBER)

Article 9 and Annex III of Commission Regulation (EU) No. 702/2014, the issue of publication will not arise as no benefit under that scheme can exceed the publication threshold of €60,000.

6. Further information

If you have any queries regarding the contents of this Tax and Duty Manual, please contact the EU Branch of the International Tax Division.