

# Corporation Tax

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## CORPORATION TAX

### Charge to tax

An Irish resident company is chargeable to corporation tax on its worldwide profits and capital gains (s 21).

Corporation tax is charged for each financial year, i.e., calendar year.

Assessments are made by reference to an accounting period, and where an accounting period straddles two financial years, the profit is apportioned accordingly, to be charged at the appropriate rates (s 26).

Corporation tax is charged on the full amount of profits arising in the accounting period, whether or not such profits are received in the Republic of Ireland (ROI). Only legitimate deductions may be made (s 27).

### Residence

A company is resident where it is centrally managed and controlled.

A non-resident company is chargeable to corporation tax on:

- (a) any income arising through an ROI-located branch or agency (s 25),
- (b) any chargeable gains derived from land, mineral rights, or assets used for the branch or agency.

An Irish registered company is automatically treated as ROI resident for tax purposes (s 23A). This rule does not apply in the case of a company:

- (a) that is ultimately controlled by persons resident in an EU State or tax treaty country, or
- (b) regarded as non-resident under the terms of an Irish tax treaty.

### Corporation tax rates

#### **Start-up companies**

A start-up trading company can get a three year exemption which reduces its corporation tax charge (up to €40,000 per annum) to nil.

There is marginal relief if the charge is between €40,000 and €60,000. In theory, this means a start-up company can earn annual net profits of €320,000 (€40,000 divided by 12.5%) and pay no tax.

However, the relief is linked to the amount of employer's PRSI paid by the claimant company, subject to a maximum of €5,000 per employee, and an overall limit of €40,000. The relief does not apply to trades carried on by associated companies.

This relief expires on 31.12.2018.

# Corporation Tax

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## Standard rate

The standard rate of corporation tax (s 21) is **12.5%**.

Foreign dividends paid from trading profits are taxed at 12.5%. If the dividend is not paid from trading profits, it is taxed at 12.5% provided:

(a) 75% or more of the paying company's profits are trading profits, or derived from trading profits arising in EU States or treaty countries.

(b) 75% or more of the recipient's assets, on a consolidated basis, must consist of trading assets.

Where the recipient company owns not more than 5% of a paying company based in an EU State or treaty country, the dividend is also taxed at 12.5%.

Excess foreign tax credits in respect of dividends taxed at 12.5% are not available for set-off against dividends taxed at 25% (but not vice versa).

## Knowledge Development Box (KDB)

The KDB rate of corporation tax on profits from patented inventions and copyrighted software (qualifying assets) is **6.25%** (s 769I).

## Higher rates

The following types of income are taxed at **25%** (s 21A):

(a) untaxed interest and income from foreign property (Case III income),

(b) miscellaneous income not taxed under any other heading (Case IV income),

(c) rental income (Case V income), and

(d) income from mining activities, petroleum activities, and dealing in land.

Reliefs

The other main reliefs from corporation tax are:

(a) charges, i.e., interest, annual payments and royalty payments (s 243),

(b) interest on money borrowed to invest in another company (s 247), but such relief is denied in the case of lending between connected companies if there is a mismatch between interest lent and claimed,

(c) investment in films (s 481),

(d) investment in renewable energy (s 486B), and

(e) expenditure on "pure" research and development (s 766) - this amounts to a 25% tax credit against corporation tax liability and can lead to a repayment of up to 33% of unused tax credit not fully used in the first accounting period.

# Corporation Tax

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## Losses

### **Trading loss**

#### CARRY BACK

A trading loss can be offset against profits of any kind in the current accounting period. If not so used, a trading loss can be offset against profits of a preceding accounting period of equal length. A claim must be made within two years of the end of the accounting period in which the loss occurs (s 396(9)).

A loss in the final year of trading (a terminal loss) can be offset against profits of the three immediately preceding years (s 397). This may give rise to a repayment of tax.

#### CARRY FORWARD

An unused trading loss may be carried forward for offset against trading profits of the next and later accounting periods (s 396).

A Case III loss can be offset against Case III income of the current period. If not so used, any excess can be carried forward for offset against Case III income of the next and later accounting periods. The same treatment applies to Case IV losses.

#### VALUE BASIS RELIEF

A 12.5% trading loss may be offset against a 25% taxed profit, but only on a value basis.

### **Rental loss**

A Case V loss can be offset against Case V income of the current period. If not so used, any excess can be carried forward for offset against Case V income of the next and later accounting periods (s 399).

### **Capital loss**

A capital loss can be offset against chargeable gains of the current period. If not so used, any excess can be carried forward for offset against chargeable gains of the next and later accounting periods.

### **Group relief**

A group member company may surrender an unused trading loss to a company within the same 75% group (s 420).

A company that takes over a trade previously carried on by another company may claim the predecessor's unrelieved losses (s 400) if the trade continues, but "loss-buying", i.e., acquiring the accumulated losses of a ceased business, is disallowed (s 401).

# Corporation Tax

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Self assessment

## **Preliminary tax**

A company with a tax charge below €200,000 may pay preliminary tax based on its previous year's liability.

A company with a tax charge above €200,000, must pay in two instalments:

- (a) the first is payable on the 21<sup>st</sup> of the sixth month of the accounting period (e.g., 21 June for a calendar year period),
- (b) the second is payable on the 21<sup>st</sup> of the eleventh month of the period (21 November for a calendar year period).

Where a company pays and files electronically, the 21<sup>st</sup> becomes the 23<sup>rd</sup>.

The preliminary tax payment must equal 90% of the ultimate liability.

Any remaining balance must be paid on or before the return filing date (s 958(3)).

## **Filing of return**

A company must file a corporation tax return on or before the return filing date, i.e., the last day of the ninth month after the end of the accounting period (s 951).

## **Close company surcharge**

A surcharge of:

- (a) 20% applies where a closely held company does not distribute investment or rental income to its shareholders (s 440), and
- (b) 15% applies where a closely held professional service company does not distribute its income to its shareholders (s 441).

Revenue powers

See Administration, Anti-avoidance, Information, Audit and Collection under INCOME TAX: Revenue powers.

Appeals

A taxpayer aggrieved by an assessment to income tax or corporation tax may appeal within 30 days of the notice of assessment. The appeal may be settled before the appeal hearing by agreement between the inspector and the appellant or by withdrawal of the appeal (s 933).

The Appeal Commissioners must hear the evidence and order that the assessment be reduced, stand good, or be increased (s 934). They may summon and examine witnesses (s 939), and they may determine liability in cases of default (s 940).

The taxpayer may request that the appeal decision be reheard by a Circuit Court judge (s 942). If dissatisfied on a point of law, he may request the Appeal Commissioners to state a case for the opinion of the High Court (s 943).