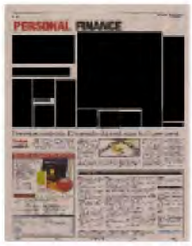
Publication: Sunday Business Post Money & Markets
Date: Sunday, March 21, 2010
Page: 6
Extract: 1 of 2
Circulation: 55.971
Author: David Price
Headline: Government targets high earners



Government targets high earners

The Finance Bill has halved the income level of so-called 'high earners', meaning more people will be affected by the restrictions


GETTY

David Price

The 'high earners restriction' was introduced in 2007, largely in response to media coverage about the low levels of tax being paid by the most wealthy individuals in society, and in particular the fact that some of the very highest earners were paying no tax at all.

The purpose of the legislation was to restrict the amount of tax reliefs and exemptions which could be claimed by individuals with income in excess of €250,000 ('high earners'). The Finance Bill 2010 has reduced the entry level for the restriction to those earning above €125,000. This is perhaps an indication of the real level of deflation which the government believes has occurred over the last three years. Legislation originally intended to target the super wealthy now affects individuals with income of €125,000.

Of course, many of the 'real' super-rich chose to leave the country when the restriction was first brought in, while many of those who remained – the 'notionally' super-rich – are now bankrupt.

Who will be affected?

When the Finance Bill is passed into law, the provision will affect all taxpayers with income levels in excess of €125,000 who are availing of tax incentives of more than €80,000 to reduce their tax bill. What will be restricted will be their ability to utilise those tax incentives to reduce their taxable income.

There is a long list of the 'tax incentives' which are potentially restricted. They include all of the various property incentives, including Section 23 type and urban, rural and resort area capital allowances as well as patent income, artist royalty, woodlands, stallion and greyhound stud fees exemptions, double rent allowances, interest on loans to acquire businesses, BES, film investments and charitable donations.

How does the restriction work?

The effect of the restriction has been to reduce the amount of reliefs or exemptions claimable and thus increase the individual's taxable income. The amount by which use of the reliefs are restricted depends on the amount of income which the individual has and on the split of that income between exempt or relievable income and fully taxable income.

The maximum exemption or relief claimable in 2010 will be the higher figure of €80,000 or 20 per cent of the individual's total income.

Thus, an individual with a €200,000 income who makes a €150,000 BES investment will obtain relief for only €80,000 of the investment, whereas an individual with income of €750,000 or more will get full relief for the same €150,000 BES investment.

Examples

Mary is an author whose entire income is entirely comprised of (previously) tax-exempt book royalties. Assuming her royalty income in 2010 is €225,000 the restriction will make €145,000 of this previously exempt income taxable. So the tax exemption is restricted to €80,000.

To take a slightly more complex example: John's company, which owns a corner shop, pays him a salary of €200,000 in 2010. He also has rental income after expenses of €215,000 in 2010 but has capital allowances from a resort area holiday cottage of €190,000. In earlier years, he would have used this to reduce his taxable rental income to €25,000.

The restriction will operate to 'restrict' John's use of the holiday cottage allowance in 2010 to €83,000 (20 per cent of his total income), thus increasing the taxable amount of his rental income by €107,000 and increasing his tax payable (at 55 per cent) by €58,850.

What can an affected individual do?

As with all tax provisions, proper structuring of one's affairs will assist in reducing the impact of the new provisions. The optimum structure for each individual will depend on their overall circumstances, but the following points should be of interest.

For married couples, each spouse is looked at separately for the purposes of the restriction.

So, if two authors are married and each has income of €120,000 in 2010 comprised entirely of tax-exempt royalties, the restriction will not apply to them, as neither earns above the €125,000 threshold and so their full income of €280,000 will remain tax free.

The other point of note relates to the different treatment the restriction applies to individuals availing of exemptions compared to those availing of reliefs.

'Exemptions' are specified types of income which are received tax-free, such as artists and patent royalties and income from stud fees. 'Reliefs' are tax deductions which may be set against 'ordinary' taxable income.

Where an individual in receipt of exempt income suffers the restriction, the exemption, to the extent restricted, is lost forever. By contrast, where a relief is restricted, the amount not allowed may be carried forward to the following year. This may actually result in some high earners paying less, rather than more, tax.

The carried-forward relief may again be subject to restriction in the following year, but it should, ultimately, be utilisable – assuming the claimant continues to be an earner, whatever about being a high earner.

David Price, Principal of Taxmedic, a tax and accountancy practice located in South Dublin.

Publication: Sunday Business Post Money & Markets
Date: Sunday, March 21, 2010
Page: 6
Extract: 2 of 2
Circulation: 55.971
Author: David Price
Headline: Government targets high earners