TAX

COVID-19 Practical Considerations: Warehousing of certain tax liabilities

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Existing Measures

Over recent months, the Irish government has taken a number of steps to support business affected by the COVID-19 crisis. These include measures to reduce the cash flow impact of tax payments such as:

- Cessation of debt enforcement and relaxation of interest on late payments of VAT and PAYE for SMEs;
- Businesses other than SMEs experiencing difficulties in making their tax payments can contact Revenue to make arrangements for deferred payments including phased payment arrangements with relaxation of interest charges in certain cases;
- Early payment of 2020 Research & Development tax credit installments ;
- Prioritising the approval and processing of repayments and refunds, primarily VAT repayments and PSWT refunds;

However interest on late payment of taxes remains generally applicable and uncertainty with regard to the continued Revenue forbearance in relation to unpaid taxes is a significant issue for businesses.

Warehousing of Tax Debts

On 2 May 2020, Minister for Finance and Public Expenditure and Reform, Paschal Donohoe, TD, announced a number of additional supports to businesses affected by the COVID-19 restrictions including the warehousing of tax liabilities for a period of twelve months for businesses that have had to close or have been significantly impacted by the restrictions. During this time there will be no debt enforcement action taken by Revenue and no interest charge accruing in respect of the warehoused debt. The scheme will apply to businesses in all sectors of the economy who have been negatively impacted by COVID-19.

In normal circumstances, Revenue would work closely with businesses to put in place arrangements, appropriate to the circumstances and viability of each business, to secure payment of tax debts over a reasonable timeframe. However, Minister Paschal Donohoe, TD, acknowledged that, in the current circumstances, businesses that have had to close or have been significantly impacted by the restrictions will not be able to enter into arrangements to clear the COVID-19 related tax debt, pay their normal trade and other non-Revenue creditors, make any necessary changes to their businesses to deal with the new trading arrangements in the context of social distancing and build up their stock etc.

Revenue has confirmed that, for businesses qualifying under the scheme, COVID-19 related VAT and PAYE/PRSI (“Payroll Tax”), due from 1 March 2020 to the date when sectoral restrictions are lifted, will be warehoused for a period of twelve months and no interest will accrue on the tax debts during the twelve month period. Under normal rules interest on late payment of VAT and Payroll Tax is applied at a rate of 10% per annum.

Prior to the expiry of the warehousing period, the business will be expected to engage with Revenue to reach an agreement on an exit strategy suited to the specific business needs and the need for continued viability. Businesses will then qualify for a reduced interest rate of 3% on outstanding debts. For continued qualification by businesses for these arrangements, it will be a prerequisite that the businesses remain compliant with all their tax return filing obligations.

There is currently no indication from the Revenue statement that corporation tax or income tax debts due in respect of affected trades will be similarly warehoused.

Revenue Guidance & Legislation

Revenue Guidance is expected to provide further details in respect of the scheme and the necessary legislative amendments will be brought forward in Finance Bill 2020. Businesses will be keen to understand the detailed rules of this scheme and, in particular, the qualifying conditions to access the scheme.

We hope that the guidance will clarify some very important points for business:

- What are the tests to determine whether a business has been significantly impacted by the restrictions? Will the same test be applied as for the Wage Subsidy scheme which would reduce the complexity of having more than one set of tests?
- Interest on late payment of VAT and Payroll Tax is charged at a significant rate of 10% and is non-deductible. Businesses will need certainty in relation to whether Revenue will accept that any business is significantly impacted by the restrictions so they are not exposed to the 10% interest rate.
- Whether there will be any general reduction in the rates applicable to late payment of taxes? Businesses would welcome a reduction in interest on overdue tax to the State's borrowing costs plus a margin of say 0.5%. This approach would benefit the economy as a whole and reduce complexity.

If you would like further information on this matter please contact a member of our tax team.

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