BUDGET 2012 - HIGHLIGHTS

Overview

In a very difficult fiscal environment, with an overall objective of raising income rather than distributing benefits, the Budget contained more positives than negatives.

The positive statement on the retention of the 12.5% Corporate Tax rate along with the enhanced R&D credit and the start-up exemption are positive both for jobs and for inward investment.

From a property perspective, the stamp duty reduction, the CGT exemption and the statement on upwards only rent reviews are all welcome.

The Budget has provided certainty to low income families with no change to headline rates, bands or allowances.

Investors and high earners have had a mixed budget with tax increases on unearned income and further effective restriction of allowances. However, it is positive that no further interest relief restriction was introduced.

For family business, it was also a relatively good day, and while the CGT and CAT rates have increased, of greater significance is the fact that Business Property Relief and Agricultural Relief remain untouched.

The retail sector will probably see it as a bad day with the 2% VAT increase and also the elimination of a statutory basis for rent reductions.

However, as we all know, the "devil is in the detail" and we must wait until the publication of the Finance Bill in early 2012 to assess the real impact of Budget 2012.

Budgetary Environment

Mr Michael Noonan, TD, delivered Phase 2 of Budget 2012 this afternoon. Yesterday's announcement by Mr Brendan Howlin, TD, introduced €2.2billion of spending savings for 2012 while today's announcement by the Minister outlined €1.6billion of tax savings for 2012. €600m of these tax savings have already effectively been introduced in 2011 but the impact of a full year's savings in 2012 will generate an additional €600m. Therefore, the Minister's task was to source an additional new €1billion.

The budget announcement was framed against 2.5% growth in nominal GDP in 2012. GDP growth is a primary driver of tax revenue and the validity of the Minister's assumption will be critical in realising an additional €1billion. The Minister reaffirmed his commitment to reducing the general Government deficit to 8.6% for 2012 in line with our commitments to the EU/IMF.

International Attractiveness

Once again, the Minister reaffirmed the Government's commitment to maintaining the Corporate Tax rate of 12.5% and made a specific commitment to the multinational sector that this rate would continue for the future. This is a very welcome announcement, both from the viewpoint of the multinational and the domestic sector, given the importance of both of these sectors as employment providers.

A further welcome announcement was the

Mary Gara
Office: 01 662 9476
Mobile: 087 923 2076
Email: mgara@gararyan.ie

Michael Ryan
Office: 01 662 9476
Mobile: 087 618 7114
Email: mryan@gararyan.ie

26 Herbert Place
Dublin 2

introduction of a Foreign Earnings Deduction ("FED") scheme. A FED was in place several years ago but was abolished at the start of the boom years. Full details of the proposed FED are not yet available but it appears that it will apply to individuals spending 60 days a year developing markets for Ireland in the so-called BRICS countries.

The Minister signalled his intention to introduce a package of measures, to be announced in the Finance Bill, to support the continued success of the funds, corporate treasury, international insurance and aircraft leasing sectors.

Domestic business

The Minister made a welcome announcement in relation to tax relief for R&D expenditure which will essentially allow tax relief in respect of the first €100,000 of such expenditure by way of a tax credit. In certain instances this may prove more attractive than the incremental basis which is currently in place. The Minister also outlined that companies will have an option available to them to reward key employees involved in R&D development.

The corporate tax exemption for new start-up companies is to be extended for a further 3 years commencing in 2012.

Finally, the employment and investment incentive scheme ("EIIS") (which will replace the old BES scheme) has received EU approval and is operational since 25 November last. Again, this is a welcome development as a means of sourcing start-up capital.

Yesterday's announcement of a reduction in the redundancy rebate payment from 60% to 15% of the statutory redundancy payout is a negative development and something which will act as a clear disincentive to companies seeking to create employment.

The Minister has also extended the qualifying period for tax relief for investment in certain renewable energy projects from 31 December 2011 to 31 December 2014.

Property

The Minister announced various measures designed to stimulate the property sector, while also seeking to increase the tax contribution by so-called "high earners".

Against a backdrop where the development and construction sector has contracted from approximately 20% to 5% of GDP, the reduction in the rate of stamp duty on transfers of commercial property from 6% to 2% with effect from 7 December 2011 is to be welcomed. The rates of stamp duty applying to transfers of residential property remain unchanged at 1% on transactions up to and including €1m and 2% thereafter.

While the budget statement announces an increase in the general rate of Capital Gains Tax ("CGT"), a relief is being introduced in respect of properties acquired from 7 December 2011 to 31 December 2013. Where a property is bought during that period and is held for at least 7 years, any future capital gain arising on the disposal of that property will be relieved from CGT.

Turning to the legacy property tax reliefs, the Minister had both good and bad news. As a positive development, the Minister announced that the measures as proposed in Budget 2011 would not be implemented. He indicated that the Government accepted that those provisions could have led to severe financial difficulties for many smaller investors. The Minister has

Mary Gara
Office: 01 662 9476
Mobile: 087 923 2076
Email: mgara@gararyan.ie

Michael Ryan
Office: 01 662 9476
Mobile: 087 618 7114
Email: mryan@gararyan.ie

26 Herbert Place
Dublin 2

announced that individuals with annual gross income under €100,000 will be able to claim property tax reliefs without further restriction. For individuals with annual gross income in excess of €100,000, they will be subject to the €80,000 high earners restriction as currently in place. However, any income sheltered will be subject to a property relief surcharge at 5%.

In real terms, this does not represent a significant change for those with annual gross income under €100,000. The introduction of yet another charge on individuals with annual gross income over €100,000 is a retrograde step and represents a further increase in the effective rate of tax for such individuals.

Finally, in relation to the termination of property reliefs, the Minister announced that the Section 23 type reliefs will not be subject to a guillotine provision.

For non-Section 23 reliefs, the guillotine will apply on 1 January 2015 where the tax life has ended prior to that date. Otherwise the guillotine will apply at the end of the tax life.

On a non-taxation matter, the Minister took the opportunity to announce that NAMA will have a role in future in the approval of rent reductions where it can be shown that rents are in excess of current market levels and that the viability of the tenant's business is threatened. NAMA has published a policy guidance note on this matter. This announcement by the Minister effectively marks the end of the road as regards the introduction of legislation to retrospectively introduce changes to leases containing upward only rent reviews.

Mortgage Interest Relief

The Minister announced a number of changes in relation to mortgage interest relief which can be summarised as follows:-

- Properties bought between 2004 and 2008 will have the rate of mortgage interest relief increased to 30% for First Time Buyers;
- The Minister reaffirmed the announcement made by the previous Government that no mortgage interest relief would be available for house purchasers acquiring a property from 1 January 2013. Additionally, mortgage relief is to be abolished in full from 2018;
- As a transitional measure, relief will be available to those purchasing a house in 2012. In the context of First Time Buyers, interest relief at a rate of 25% will be available while in the context of non-First Time Buyers, relief at a rate of 15% will be provided.

Again, these announcements are to be welcomed and coupled with the continuation of the 1% rate in stamp duty, should provide some level of stimulus to the residential market in 2012.

Investors

While it is to be welcomed that the Minister announced no increases in tax rates, no narrowing of tax bands and no reduction in personal credits for 2012, further tax increases on non-earned income were announced.

The Minister increased DIRT from 27% to 30%. He also announced corresponding increases in life assurance and fund based products. He proposed extending the PRSI system to cover rental, investment and other income from 2013 for employees. This aligns employed PRSI

Mary Gara
Office: 01 662 9476
Mobile: 087 923 2076
Email: mgara@gararyan.ie

Michael Ryan
Office: 01 662 9476
Mobile: 087 618 7114
Email: mryan@gararyan.ie

26 Herbert Place
Dublin 2

contributors to those who are self-employed.
The impact of these changes is to increase the rate of tax on investment income. Once again, this change can be seen as an attempt to encourage spending rather than saving which is understandable against a backdrop of an economy where the savings rate is running at 14%.

Capital Taxes

As was well signalled in advance of Budget day, the rates of both Capital Gains Tax and Capital Acquisitions Tax will increase from 25% to 30% from 7 December 2011. In addition, the tax-free threshold for Capital Acquisitions Tax purposes in respect of benefits passing from a parent to a child has been reduced to €250,000.

VAT

The 21% rate of VAT will increase to 23% with effect from 1 January 2012. The Minister argued that such an increase was preferable to an increase in Income Tax, although such an increase is likely to present a further significant challenge to an already hard pressed retail sector.

Pensions

Over the last number of years, the pensions industry has represented a significant source of revenue for the Exchequer in terms of the introduction of a tax charge on pension funds. There was further bad news in the Budget statement with the announcement that the notional distribution in respect of ARFs is to be increased to 6% with effect from 2012 for ARFs valued at over €2m. Similar provisions have also been introduced for "vested" PRSAs, removing the anomaly that existed up until now.

The Minister also announced that the transfer on death of an ARF to a child aged over 21 is to be increased from 20% to 30%.

On a positive note, the Minister retained tax relief for pension contributions at the marginal rate. In addition, there was no change in relation to the level of tax free lump sum available on retirement or the €2.3million pension cap.

Farming

The Minister announced a number of measures to reduce the tax costs involved in the transfer of family farms to the next generation.

These include 50% stock relief for registered farm partnerships to 31 December 2015, and full retirement relief on transfers to family members for individuals aged between 55 and 66. The detail of these provisions are to be included in the Finance Bill. The overall objective is to incentivise the transfer of farms to the next generation at an earlier stage.

Mary Gara
Office: 01 662 9476
Mobile: 087 923 2076
Email: mgara@gararyan.ie

Michael Ryan
Office: 01 662 9476
Mobile: 087 618 7114
Email: mryan@gararyan.ie

26 Herbert Place
Dublin 2