



**Irish Tax
Institute**

Leaders in Tax

**‘Impact Assessment of Legacy Property
Reliefs, Department of Finance
Consultation Paper’**

Irish Tax Institute Response

29 July 2011

**On the ‘Impact Assessment of Legacy Property Reliefs
Department of Finance Consultation Paper’
Irish Tax Institute Response**

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Tax Consultation June 2011
Department of Finance
Government Buildings
Upper Merrion Street
Dublin 2

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1. Irish Tax Institute

The Irish Tax Institute is the leading representative and educational body for Ireland's Registered Tax Consultants and is the only professional body exclusively dedicated to tax. Our members provide tax expertise to thousands of businesses, multinationals and individuals in Ireland and internationally. In addition many hold senior roles within professional service firms, global companies, Government, Revenue and state bodies.

The Institute is the leading provider of tax qualifications in Ireland, educating the finest minds in tax and business for over thirty years. Our AITI Registered Tax Consultant qualification is the gold standard in tax education and is renowned for its professional rigour and depth. The Institute also continues to promote the highest standards throughout the careers of Registered Tax Consultants through our expert-led professional development programme.

A respected body on tax policy and administration, the Institute engages at the most senior levels across Government, business and state organisations. Representing the views and expertise of our members, we play an important role in the fiscal and tax administrative discussions and decisions in Ireland and in the EU.

2. Executive Summary

The Institute acknowledges the very challenging economic circumstances that face the State and the fact that Government is weighing up difficult policy decisions in framing Budget 2012.

A restriction/elimination of "legacy property reliefs" is one such measure under consideration and the "National Recovery Plan 2011-2014" estimated that savings of €400m could be achieved if such property reliefs were curtailed.

An Economic Impact Assessment is now being undertaken to consider the impact of restricting or eliminating these reliefs and a Consultation Paper has been published as the first stage of this Impact Assessment.

The Institute has several key comments to make on this Consultation:

1. We welcome the Impact Assessment that is taking place.
2. We believe that this assessment must be founded on accurate data because the decisions being made could have such significant implications for thousands of investors, for the wider economy and for Exchequer returns.

3. We think it is essential for data on cumulative reliefs actually claimed to end 2010 to be collected through ROS (Revenue's Online Service) as part of the 2010 income tax compliance program.
4. We also believe that the impact of the specified reliefs restriction is already achieving significant annual savings on property reliefs for the Exchequer, particularly since 2010. Restricting or eliminating the reliefs is unlikely to result in significant additional savings.

Appendices I and II provide summary data on a sample of those with property reliefs impacted by the current limitation on relief claims, noting both their total tax and levies liabilities for 2009 and 2010 and the extent to which their reliefs for 2009 and 2010 are already being deferred.

The increase in tax they will pay for 2010 over 2009 varies from 18% to 650%, depending on their circumstances. This makes it almost impossible to estimate what the impact of the specified reliefs restriction will be in 2010. We do not believe that any final decision should be made on restricting or eliminating the reliefs until the data from the 2010 returns with details of the specified reliefs restriction and the additional information on cumulative claims has been gathered.

5. Notwithstanding that accurate data is not available to assess the potential savings between 2011 and 2014, the Institute finds it very difficult to accept that savings in the order of €400m are achievable on the restriction/elimination of legacy reliefs, when you take into account:
 - The deteriorating market conditions for property investors, impacting the tax due and collectible from them.
 - The fact that significant savings on these reliefs have already been achieved through the specified reliefs restriction and there is limited scope for further savings.
 - The multiplier effect on the wider economy, in terms of lost economic activity.

3. Introduction

The proposals contained in Budget 2011 for curtailing "legacy property reliefs" would have an immediate impact on investors and underlying businesses if they are implemented as proposed.

Such a radical change to our tax policy would have wide ranging implications:

1. The economic impact for the Exchequer of withdrawing the reliefs, both in terms of the cost and savings achievable.
2. The social impact that arises for communities where facilities funded by property reliefs are affected.
3. The impact on investors of withdrawing reliefs which those investors had a legitimate expectation of relying on without erosion or withdrawal.
4. The impact for the Exchequer of any long term reputational risks both at home and internationally.

5. The potential for changes in investor behaviour and the take-up of future incentives (e.g. Research and Development relief, the Special Assignment Relief Programme, the new Enterprise Investment Incentive Scheme).

The Institute welcomes the impact assessment that is now being undertaken, to ensure that these matters are considered more fully before any final decision is taken on the future availability of property reliefs.

4. The Methodology of the Impact Assessment

We note from the Executive Summary that this consultation paper is the first stage in the process of the Impact Assessment. Indeed paragraph 3 of the paper sets out the full scope of the exercise:

“The impact assessment will enable the department to better understand the benefits that may accrue to the exchequer in terms of additional tax yield as well as consequences for investor groups and the wider economy arising from possible changes to the treatment of property based legacy reliefs”

This establishes three clear but related objectives, which we will consider separately below:

1. The benefits that may accrue to the Exchequer in terms of additional tax yields.
2. The consequences for the wider economy.
3. The consequences for investor groups.

These three objectives are equally important in the overall impact assessment, but not all are dealt with in the current Consultation Paper. The data available to the Department and the modelling used, assist in the assessment of 1. and 3. above i.e. the savings available to the Exchequer and the impact on investor groups – albeit that the Institute believes further information is required to complete both these elements of the exercise (see below). Although the Consultation Paper acknowledges that there could also be a dead weight loss in terms of loss of activity for the wider economy i.e. 2. above, this part of the assessment is not included in the Paper. We understand that this exercise will follow before any decision is made.

4.1. The Benefits that may accrue to the Exchequer

Ascertaining the true savings that can be achieved from curtailing property reliefs is a difficult exercise which has been made substantially more difficult by the introduction of the “specified reliefs” restriction which limits certain relief claims for those with income and reliefs in excess of certain thresholds.

To accurately assess the additional tax yields that might accrue to the exchequer if the reliefs were further curtailed, the following information would be required.

	€Bn	
Total cost of potential claims to the exchequer	1.95	(Note 1)
Total cost of claims already made	<u>(X)</u>	(Note 2)
Total potential cost of claims outstanding	Y	
The proportion of claims outstanding that will not actually be claimed in practice	<u>(Z)</u>	(Note 3)
Total cost of actual claims outstanding	<u>A</u>	
Net present value of claims outstanding	<u>Z</u>	(Note 4)

Note 1 Source: Department of Finance analysis of Revenue data - Table 2 to the Consultation Paper.

The experience of our members is that taxpayers have not always fully understood what was required to be reported in the income tax return for the cost of claims and therefore this cost data may be overstated.

Note 2 Given the wide ranging implications that would arise from any curtailment of reliefs, all steps possible should be taken by Government to collect actual data from taxpayers in completing this assessment in a manner that minimises compliance costs.

Information on the cost of relief claims made to date by taxpayers does not seem to be currently available to the Department. This information will be a matter of historical fact and ideally it should be collected before any important long term decisions are made on property reliefs. While we accept that this data is unlikely to be available before Budget 2012, we believe that the impact of the specified reliefs restriction, illustrates that the tax savings which could be achieved for 2012 beyond the existing specified reliefs regime, fall far short of the €400m originally estimated over the period of the National Recovery Plan. Revenue statistics for 2009 have shown that the tax yield increased by €38m due to the restriction on relief claims in that year. This yield is likely to increase significantly in relation to 2010, due to the further restriction introduced in Finance Act 2010, reducing the cost to the Exchequer even further.¹ Therefore it would be better to gather the

¹ Revenue – Information Report on the restriction of reliefs measure for the 2009 tax year.

necessary information from taxpayers and make an informed decision based on actual data, given the difficulties of estimating the amounts of tax involved in this exercise. We therefore recommend that no decision on this matter is taken before the necessary information is available and analysed.

Note 3 The discount required for claims that will never materialise should reflect the possible closure of businesses in the affected sectors. Data on business closure levels should be available from the industry sectors to assist the Department in estimating this impact.

Another factor to consider is the average age profile of investors. As many investors are aged 50+, the number of remaining years when they will be paying tax is limited and in fact, many of these investors may never be in a position to avail of their full allowances. In one example we received from a member, the taxpayer in question was 70 years of age and had €900,000 of unclaimed allowances, of which he is only entitled to claim a maximum of €80,000 per annum under the current restrictions.

Note 4 The net present value of claims outstanding will be significantly reduced by the specified reliefs restriction, as noted above. The effect of the changes to the restriction for 2010 and future years is not fully known at this point, because the income tax returns are not due until mid November 2011. However, the figures set out in Appendix I demonstrate the extent to which reliefs are being deferred to future years.

4.2 Establishing the Consequences for the Wider Economy

As well as establishing the savings that are potentially available to the State as a result of direct increased taxation from the investor group, it is critical to establish the broader consequences for the State of such a fundamental change in tax policy. The main consequences are:

- The loss of economic activity (referred to as deadweight loss) and
- The potential impact on the markets and on debt default.

4.2.1 Loss of economic activity

A loss of economic activity will occur with both capital allowances and section 23 projects (rented residential properties) if the property reliefs are curtailed.

Capital allowances projects

Capital allowances projects have proved to be an important mechanism for delivering services and attracting private sector investment into target areas. These schemes have assisted in the development of national infrastructure in strategically important sectors of the productive economy (i.e. tourism, housing, etc.) and have funded programmes in the areas of health and education which have benefited society as a whole (i.e. student accommodation, nursing home stock, etc.)

The facilities are also viable businesses which support thousands of jobs across the country, many in areas where there is high (and growing) unemployment. The development of the facilities and the jobs they provide have yielded and continue to yield significant tax revenue for the Exchequer through PAYE, VAT, stamp duty, service charges etc. It is important that any impact assessment carried out would recognize these taxes collected to date. The Institute

welcomes Minister Noonan's comments to this effect in the Dáil on 26 January 2011 (as Opposition spokesperson) during the Committee Stage of Finance Bill 2011:

“We should not dump on the concept of tax breaks as a lever of public policy because they can encourage investors to meet economic and social needs.”

Our case studies at Appendix III show the tax and jobs at stake for a number of illustrative projects.

Capital allowances projects are generally larger scale complex projects, with differing commercial arrangements. The impact of any curtailment of reliefs on the investors and promoter will depend on the arrangements in place. In many projects, the promoter/operator bears all the commercial risk due to contractual commitments e.g. the inclusion of indemnities for loss of tax relief which underpinned the original sale. The crystallisation of such indemnities would result in significant costs falling on the operator, thereby impacting their cash flow position and their ability to keep the business running.

These schemes have also tended to have high take-up rates and there is a real risk of reputational damage and associated behavioral change (i.e. lack of confidence in and support for future tax incentive measures introduced by Government). This would clearly inhibit the effectiveness of public policy interventions in the future.

Section 23 projects

Many of these tax based projects were located in areas that were being regenerated and not considered prime. They would not have offered attractive rental or capital returns and the incentives therefore played a key role in transforming these areas into attractive locations to live and work.

Those who bought Section 23 properties, now face a number of new and unbudgeted for costs. Interest rates are rising – the European Central Bank has increased the base rate by 0.25% twice since the beginning of 2011 and likely further rises have been signalled. Investors who are forced to restructure debt also face the likelihood of higher interest rates on this new debt due to the margins being applied by the banks on credit risk grounds.

Tax relief for interest has now been restricted to 75% for residential investment properties. Additional charges have also been levied on landlords including the non-principal private residence (NPPR) charge, building energy rating (BER) certificate costs, the Private Residential Tenancies Board (PRTB) registration fees and increased insurance costs. A number of investors are also faced now with the specified reliefs restriction for the first time, resulting in unexpected increases in their tax liabilities.

These specific costs are in addition to the generally very difficult prevailing market for residential property and high levels of negative equity and the combination of these factors is causing particular financial difficulty for many middle-income earners.

These investments were made in many cases by investors who availed of the reliefs in good faith. The changes will result in many of them having to close their businesses and go into liquidation because they will have no prospect of being able to fund the additional tax arising and also fund the borrowings on these properties.

4.2.2 Impact on markets and debt default

The curtailment of property reliefs will undoubtedly lead to an increase in irrecoverable loans for lending financial institutions.

Banks seeking to unwind indebtedness positions in the case of defaults will be focused upon realising values. However there is a risk that markets will ultimately become flooded over the short to medium-term. This will exert further downward pricing pressures which further lower the market floors across multiple sectors. Such sales activity will exert a downward pressure on prices generally; in other words, such a course of action will potentially result in a fire sale or the 'forced sale of an asset at a dislocated price' (Shleifer and Vishny, 2011)².

Such fire sales carry inherent risks which must be factored into the decision-making processes of public policy makers. For instance, where a fire sale produces a sharp reduction in an asset price the assets held by other market participants will inevitably decline in value and this 'self-reinforcing process can lead to downward spirals or cascades in asset prices and net worth of market participants' (Shleifer and Vishny, 2011). This, in turn, is damaging in a number of ways.

1. Firstly, the concept that such fire sales can have adverse consequences for both output and prices 'has been present in the macroeconomics literature since the 1930s' (Shleifer and Vishny, 2011).
2. Secondly, the conclusion of a natural market correction will ultimately allow consumer confidence to be re-built over time. However, a fire sale-related market shock and the accompanying further erosion of prices and net wealth will further slow the process of returning consumer confidence and thereby push back the point of market recovery.

The current fragile state of the property market is well documented. At the time of writing (end July 2011), economic commentators are predicting that further falls are likely in the market. In the year to June 2011, residential property prices at a national level, fell by 12.9%. This compares to a decrease of 12.4% recorded in the twelve months to June 2010. House prices in Dublin are now almost 47% lower than at their peak in early 2007. The fall in the price of residential properties in the rest of Ireland is somewhat lower at almost 39%.³

The number of new repossession actions initiated in the High Court have also increased by almost 60% in one year. 361 new repossession actions were lodged in the first six months of 2011, compared to 229 for the same period last year.

The severe market correction over the past four years can also be observed in the current insolvency rates - 1,570 insolvencies were recorded in 2009 compared to 370 insolvencies in 2007.

When faced with a market situation such as this, it is only reasonable to expect that corrections (or even over-corrections), can and will occur as the market works through the normal recovery process of restoring equilibrium. We should be very slow to interfere with this natural recovery process.

² Fire Sales in Finance and Macroeconomics

³ Central Statistics Office – Residential Property Price Index June 2011

4.3 Establishing the Consequences for Investor Groups

Investors claiming property reliefs are currently being severely impacted by a number of fiscal and economic difficulties which are detailed above. In summary the difficulties arise from a combination of falling rents, higher interest rates, reduced tax relief on interest, higher charges and the impact of the specified reliefs restriction. The impact of the restriction has become particularly pronounced from 2010, with the minimum effective rate of tax for some of those availing of such reliefs now 30% income tax plus 14% PRSI and levies.

The cash position of investors has substantially deteriorated in recent years. Curtailing property reliefs will result in further sharp tax rises for these investors, many of whom have no funds to meet their debt repayments and tax liabilities, as matters stand.

The consultation paper includes an economic model which considers the impact for an individual investor claiming property reliefs. However, we believe it is going to be very difficult to extrapolate the position for an individual investor to different investor groups or indeed for the broader economic impact, because it is our members' experience that many variations in individual investor circumstances arise. For example:

- Investors may or may not be affected by the specified reliefs restriction already, depending on their income levels.
- They may be unable to refinance or reschedule bank repayments.
- A tax adjustment may be required for reliefs already claimed in some circumstances where a property is sold or ceases to be used for qualifying purposes.
- They may be involved in an arrangement where a tax indemnity of some kind exists – these come in many forms and have various implications for both investors and promoters.

5. The Questions Posed by the Consultation Document

A number of questions are posed in the consultation document. Our comments and observations above will have answered a number of the questions raised. However, we summarise those answers here for completion.

Q1. Based on the evidence presented in the paper do interested parties agree that there is merit in limiting the scope of the study to a small number of core or representative schemes?

Feedback from our members suggests that the different schemes have different commercial characteristics and different profiles of investors. Tax policies which are derived from an analysis of a small number of schemes may not be suitable for application across the board and therefore, we would ideally like to see as many different types of schemes studied as possible.

*Q2. Which schemes may be candidates for the focused study and why?
and*

Q3. What issues other than those described therein should be taken into account in determining which schemes to study in greater depth?

As noted above we do not believe that it would be helpful to limit the focus of the study in this way.

Q4. What do parties believe are the economic arguments for restricting or terminating the legacy property reliefs?

On the evidence included herewith, we do not believe that an economic case can be made for restricting or terminating the legacy property reliefs.

Furthermore, there are considerations beyond the pure economic case to be taken into account when dealing with legacy reliefs to which investors have a legitimate expectation. This is a different situation from assessing whether a scheme should be closed to new entrants because it has outlived its economic usefulness. Fairness, certainty and the reputation of our tax policy are of key importance.

Q5. What do parties believe are the economic arguments against restricting or terminating the legacy reliefs? Responses should focus on risks to economic activity rather than individual circumstances.

The Institute does not consider that the savings envisaged in the National Recovery Year Plan of €400m can be realised by curtailing the reliefs along the lines proposed in Budget 2011. We believe that such an action will ultimately increase the cost to the State, based on the multiplier effect and will negatively impact economic output.

We also believe it is unnecessary to take the step of actually curtailing reliefs because the restriction on reliefs is already designed to reduce the benefit of the reliefs available annually.

Q6. Should the Department consider separate treatment of Section 23 and Accelerated Capital Allowances?

We consider that Section 23 allowances should not be treated separately to accelerated allowances. Both types of reliefs were taken up by a variety of investors with different circumstances and income profiles. We do not believe there is a case to be made for affording different treatment to either set of investors.

Q7. What alternative policy proposals would interested parties suggest to minimise the costs to the State?

We note that a number of options have been considered by the Tax Strategy Group advising the Government and in the Dáil. We would make the following observations on these alternatives.

1. Suspending the relief for 4 years:

We note that that the Minister for Finance, Michael Noonan TD at the Committee Stage of Finance Bill 2011 expressed reservations on the proposals to curtail the reliefs. He considered that it would be better to suspend the claims for four years, given the current economic conditions. His view was that this would give taxpayers time to make suitable arrangements with their banks to reschedule loan repayments.

The impact that suspension of reliefs would have on an investor, depends entirely on their own individual circumstances. For some investors, the current financial pressures and lack of access to credit mean that they would be unable to survive a complete suspension of reliefs. However, there may be others who can refinance or reschedule bank repayments and they may prefer suspension as opposed to curtailment.

2. *Extending the tax life to 25 years:*

The Tax Strategy Group considered the option of extending the tax life of the properties to 25 years. This would result in spreading the cost over a longer term than currently, thus reducing the cost in any one year. We believe that the current restriction on reliefs already operates to reduce the annual cost to the Exchequer.

3. *Phasing out the relief over 4 years, i.e. 75% in 2012, 50% in 2013 etc.*

The Tax Strategy Group also considered the option of phasing out relief over 4 years. This would mean that allowances would be reduced to 75% for the first year, 50% for the following year and 25% for the year after - zero thereafter. As envisaged any unused allowances carried forward into 2014 and beyond or allowances for years 2014 on would be lost. We note that this would create similar practical difficulties for investors in funding both their tax liabilities and bank repayments, with a knock on effect on loan default.

“Phasing out” reliefs is also more likely to trigger investors’ ‘Put Option’ over the property in certain deals with the consequent implications for the promoter and the underlying business.

Myself or my colleagues in the Institute are available for further comment or input on this matter if it would be of assistance.

Yours truly

Andrew Cullen

A handwritten signature in black ink that reads "Andrew Cullen". The signature is written in a cursive, slightly slanted style.

President
Irish Tax Institute

Appendix I

Investors impacted by the Specified reliefs Restriction Tax, PRSI and Levy liabilities for 2009 and 2010

	Total Liability 2009	Total Liability 2010	% Increase on 2009
Taxpayer A	207,971	359,182	72
Taxpayer B	43,319	51,160	18
Taxpayer C	50,928	74,610	47
Taxpayer D	40,126	96,049	139
Taxpayer E	11,109	83,347	650

As demonstrated by the table above, taxpayers have been impacted to differing degrees by the 2010 changes to the restriction on specified reliefs.

The extent of the impact depends on a wide variety of underlying reasons.

Appendix II

Case Examples of Use of Allowances arising in 2009 and 2010

	2009 €	2009 €	2010 €	2010 €	Total Unused relating to 2009 and 2010 €
	Allowances due for the year	Allowances claimed	Allowances due for the year	Allowances claimed	
Taxpayer A	817,469	(480,323)	817,469	(162,267)	992,348
Taxpayer B	87,852	(87,852)	87,852	(80,000)	7,852
Taxpayer C	125,109	(125,109)	125,109	(80,000)	45,109
Taxpayer D	296,524	(296,524)	296,524	(160,128)	136,396
Taxpayer E	264,919	(264,919)	264,919	(80,000)	184,919

Examples of Economic Consequences of Government Proposals

Private Hospitals

Example 1:

This example concerns a Private Hospital in Dublin.

The total investment amounted to €80 million as follows:

Promoter equity €25m

Tax investor equity €11m

Tax investor loan €34m

Bank term loan €10m

The impact of the Budget 2011 proposals are as follows:

The operational company and the operators personally have potential exposure on the change of law which, if applied, will essentially result in the bankruptcy of the hospital and the operators. It would therefore likely result in the bank taking control and writing off more debt.

It would result in a loss of tax yield to the Exchequer (i.e. Corporation Tax, PAYE/PRSI, Income Tax, VAT etc).

There are over 160 staff employed and 40 sub-contractors (catering, security etc) and it is assumed those jobs would be at risk if the bank takes control.

Ultimately the measures could result in the closure of the (80+ bed) Private Hospital

Example 2:

This example concerns a Private Hospital in the South West.

The total investment amounted to an estimated €80m spend with bank debt of €65m.

The impact of the Budget 2011 proposals are as follows:

Similar to example 1 above, the operational company and operators personally have potential exposure on the change of law which, if applied, will essentially cause severe financial difficulties for the hospital and the operators.

It would also result in a similar loss of tax receipts (as outlined under example 1) to the Exchequer.

There are over 140 staff employed whose jobs, it is assumed, would be at risk if the bank takes control.

It may ultimately result in the closure of this (65+bed) Private Hospital.

Nursing Homes

Example 1:

This example concerns a Nursing Home in the South West.

The fundraising has just been completed and the development project would have the effect of releasing a total of €2.7m into the local economy.

It is estimated that the programme of capital expenditure would have resulted in the following Exchequer receipts:

VAT	€320k
Employment taxes and levies	€430k
Ancillary tax revenues	<u>€100k</u>
Total revenue lost immediately	<u>€850k</u>

The above is lost from a relatively modest capital spend (of €2.7m) which will not proceed should the Budget 2010 measures be implemented.

In terms of jobs, the capital improvements would underpin the current level of employment (120 employed currently at the facility) and was projected to create up to 10 additional jobs within the facility which will not now materialise should the proposed measures be implemented.

Example 2:

This example concerns a Nursing Home located in the South East.

The facility was built 3 years ago and was funded by a bank loan.

The owners have leased the property to an operating company. The rent matches the loan repayments and it is currently operating at a small surplus. With the loss of the use of capital allowances, the rent will have to increase substantially to fund the loan repayments. The Nursing Home will not be in a position to pay this rent. This will inevitably lead to a default on the loan by the owners.

The Nursing Home has 48 long stay residents and approximately the same number of staff.

Childcare Facilities

Example 1:

This example concerns a crèche in the South East.

Two individuals purchased the childcare facility in 2006 for approximately €1.5m which generated capital allowances of approximately €1.25m.

The proposed changes mean that the investors are unable to utilise the capital allowances. In effect, the investors will have to fund the bank repayments from after-tax income, which is simply not viable.

It would mean that the crèche would have to make €1.25m more than was originally budgeted, while dealing with the current difficult economic environment. The impact of the Budget 2011 proposals will mean that this business will close.

The crèche currently employs 40 people, in respect of whom they paid PAYE/PRSI in 2009 of almost €90,000. The 2010 PAYE/PRSI payments will be higher. Taking into account other taxes, the business contributes over €100,000 to the Exchequer each year.

Example 2:

This example concerns a crèche located in the North West.

The total capital expenditure was €1.6 million (i.e. a total investment of €767,000 together with a loan for the balance of expenditure).

The impact of the Budget proposals would be as follows:

The investors will lose approximately €338,450 in tax relief.

The 22 jobs supported by the crèche are at risk.

Hotel Investments

Example 1:

This example concerns a hotel investment by an individual in the south of Ireland.

The individual concerned has a small company that employs five people, had exports of approximately €2 million in 2010 and is under significant challenge in the present market conditions.

The individual invested in a tax based property scheme involving a hotel in 2006. This was structured by way of an interest only loan, to be bought back by the promoters of the scheme in 2013. The logic behind the investment was to use the allowances against other rental income as there would be no rental profit from the hotel.

Without regard to the Budget 2011 proposals, the following is the current position of the investment:

- The rent on the hotel scheme is negligible and much less than the interest on the loan.
- The original promoters have been liquidated and the scheme has been sold, meaning there is now very little chance of the contracted buy back being executed.
- The best value on the property invested is 25% of the original investment, if a buyer can be found.
- The rents and value of the individual's properties have also fallen dramatically and now no longer meet the loan repayments.
- With the restriction in the amount of interest paid that can be offset against residential rental income to 75% of the interest paid, the individual is already supplementing the rental income from his salary to meet the bank repayments each month.

The Budget 2011 proposals for property related tax incentives will have the following three effects:

- It will increase the tax bill to a level beyond the individual's ability to pay
- It may result in the bank looking for immediate repayment of the interest only loan.
- The above is likely to result in business closure and job losses.

Hotel Investments:

Example 2:

This hotel is located in the West of Ireland.

12 tax-based investors and one operator involved in the project. All are claiming capital allowances.

Total number of employees is 25 full-time and broadly 15 part-time

Annual PAYE/PRSI 266,000

Annual VAT on sales 333,000

Capital allowances:

Total capital allowances 14,455,000

Value of allowances at 41% 5,926,550

Annual value of allowances 888,983

Already lost in that year due to SRR changes 462,583

Net value of allowances per annum after SRR 426,400

Less annual PAYE/VAT lost on closure -599,000

Loss of funds to the Exchequer as a result of implementation of proposals on an annual basis -172,600

Note 1: SRR = specified reliefs restriction

Note 2: Increased social welfare benefits are not factored into the above.

If the proposals are introduced, the operator will be required to compensate the other investors for the reduced value of the allowances. A compensation is already required due to the recent changes to the specified reliefs restriction and the concern is that the business cannot sustain this.

Student Accommodation

Example 1:

The example concerns a Student Village in Dublin. It is an important part of the overall redevelopment of the area.

The total investment amounted to €37 million (giving rise to 80% relief for investors for offset against all Irish rental income). The investors' property portfolios and bank borrowings were contingent on the Section 50 incentives offered by the Government.

The impact of the Budget 2011 proposals are outlined below.

For the Investors:

- Default on bank loans is a reality for all investors.
- There will be a domino-effect default on bank loans for other properties purchased by the investors that were contingent on Section 50 provisions.

The implications for the area:

- If investors default on service charges alone, irrespective of a default on bank loans, the building will be forced to close. This will have a knock-on effect for other businesses in the area.
- The supply of safe and dedicated student accommodation will be reduced by the closure of this 322-bed development aimed at third level students.
- A vacant dedicated student village largely unsuitable for general alternative rental.

Section 23 Type Investments

Example 1: - Publican employing 11 staff in a midlands town.

Turnover in the pub business is down over 25% on 2007 figures.

The amount invested in section 23 property in 2006 was €0.9m.

The loan for this investment is secured on the section 23 property and on the pub premises.

This publican borrowed €0.9m in good faith that the tax reliefs made available through legislation would continue to be available until the tax holding period in the legislation expired.

These reliefs are effectively unavailable from 1 January 2011. If he sells the property he faces a clawback of relief claimed thus far and the relief would be unavailable to a purchaser. As a result of withdrawal of the relief the property is estimated to be worth approx 25% of the original purchase price. The taxpayer cannot claim relief yet he can't sell the property.

Finally, he can't afford to pay additional ongoing tax liabilities amounting to c. €39,000 p.a. while also servicing the bank borrowings.

He will face loan default and potential enforcement of the security by the bank.

Example 2: – Professional services company employing 8 staff.

This business is located in a midlands town and employs 8 people.

Turnover in the financial year ended 31/12/2009 was €420k – down approx 40% on 2007 levels.

The principal invested €0.95m in a holiday home scheme property.

The principal will not be able to fund the significant additional tax liability and his bank commitment in respect of the holiday home investment. The principal sees no way of dealing with both obligations. His business and the jobs he provides would be at risk if the proposals were enacted.