

STARTING A BUSINESS IN IRELAND

1. Taxation

<http://www.revenue.ie/>

Registering for tax

How do I register for Tax?

You should advise your district office when you start in business. You can do this by filling in one of the following forms:

- [PREM Reg - Employer \(PAYE/PRSI\) Tax Registration Form](#)
- [Registration Form TR1.](#)

These forms are available from any Revenue office, and can be used to register for any or all of the following:

Income Tax
Employer's PAYE/PRSI
Value Added Tax

If you are setting up a company you should fill in [Form TR2](#). This can be used to register for any or all of the following:

Corporation Tax
Employer's PAYE/PRSI
Value Added Tax

Shortly after registration you may receive a visit or you may request a visit from a Revenue official to assist you in operating the tax system. Any difficulties or queries will be dealt with and general assistance will be given to help you comply with your tax obligations. You can request a "New Business Visit" from your local district office.

Starting a Business

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Income Tax

- [When must I make my Tax Return?](#)

When must I make my Tax Return?

Pay and File was introduced in 2002 and brings major advantages and simplifications to the income tax system and streamlines filing and payment obligations for customers and their agents.

The main features in 2005 for self-assessment customers are

31 October 2005

- Return filing date for your 2004 tax return
- Payment date for the following:
 - Preliminary Tax (Income Tax) for 2005
 - Balance of tax for 2004
 - Capital Gains Tax for the initial period 2005 (1 January 2005 - 30 September 2005)

17 November 2005

- Tax Return and payment date for ROS customers who both pay and file on-line.

[Download Pay and File Guide \(PDF 373MB\)](#)

Taxable Profits

- [What expenses can I claim for?](#)
- [What expenses can't I claim for?](#)
- [What about expenses which are partly for business and partly private?](#)

What expenses can I claim for?

You can claim for any business expenses which you have incurred in order to earn your profits. These expenses are normally referred to as revenue expenditure.

Revenue expenditure is your day to day running costs and covers such items as:

- Purchase of goods for resale
- Wages, rent, rates, repairs, lighting and heating etc.
- Running costs of vehicles or machinery used in the business
- Accountancy fees
- Interest paid on any monies borrowed to finance business expenses/items
- Lease payments on vehicles or machinery used in the business

If you are registered for VAT the expenses you claim should be exclusive of VAT.

What expenses can't I claim for?

The general rule is that you cannot claim for any private expenses i.e.

- Any expense, not wholly and exclusively paid for the purposes of the trade or profession
- Any private or domestic expenditure e.g. your own wages, food, clothing (except protective clothing), income tax etc.
- Business entertainment expenditure i.e. the provision of accommodation, food, drink or any other form of hospitality.

You cannot deduct capital expenditure in calculating your taxable profits, however you can claim what are known as capital allowances on certain expenditure.

What about expenses which are partly for business and partly private?

Where expenditure relates to both business and private use, only that part which relates to your business will be allowed. Examples of such expenditure are rent, electricity, telephone charges etc., where the premises involved is used partly for business and partly for private purposes. These expenses will need to be apportioned to exclude the private use.

Basis of Tax Assessments

- [What income will be included in my assessment?](#)
- [What accounting date should I use?](#)

What income will be included in my assessment?

Your assessment to tax for any year is normally based on your actual income earned in the tax year i.e. from 1 January to the following 31 December.

If your income consists of profits from a trade, profession or vocation, and your annual accounts are normally made up to a date other than 31 December your assessment will be based on the profits of your accounting year which ends in the tax year.

What accounting date should I use?

It is up to you to decide the date to which you prepare your accounts. You can prepare your accounts from the date your business started to:

- The following 31 December (i.e. the end of the tax year)
or
- The date which is 12 months after the date on which you started
or
- Some other date appropriate to your business.

Most businesses work out their profits once a year, usually to the same date each year, and this is called your accounting year.

CORPORATION TAX

Who Pays Corporation tax?	Companies resident in the State, with some exceptions, and non-resident companies who trade through a branch or agency.
What is Corporation Tax charged on?	All profits (income and gains), wherever arising, of the companies.
Rates of corporation tax:	<ul style="list-style-type: none">• 12.5%: Trading income (see 'Guidance on Revenue Opinions on the Classification Of Activities as Trading').• 25%: Non-trading income [includes income chargeable under Case III (e.g. discounts, interest, foreign income), Case IV (patent royalties, miscellaneous income) & Case V (rental income from land & buildings in the State) of Schedule D]. Also included at this rate is income from activities which consist of working minerals, petroleum activities & dealing in or developing land, other than construction operations.• 10%: Certain companies have their profits taxed at an effective rate of 10%. This 'manufacturing rate' is in the process of being phased out but remains in existence for some companies until 2010 (and 2005 in the case of certain others).
Basis of Assessment	<ul style="list-style-type: none">• Corporation tax is assessed on the profits of a company's accounting period at the relevant corporation tax rate in force during the accounting period.• Where the rate of corporation tax changes during an accounting period, the profits of that period are apportioned on a time basis and taxed at the appropriate rate for the purpose.
Accounting Period	<ul style="list-style-type: none">• An accounting period for tax purposes is a period of not more than 12 months and is normally the period for which the company makes up its annual accounts.
Company capital gains	<ul style="list-style-type: none">• Capital gains, other than gains from development land, are included in a company's profits for corporation tax purposes and are charged to tax under a formula that normally means that tax is paid at a rate equivalent to the standard rate of income tax.• Gains by companies from disposals of development land are chargeable to capital gains tax and are not, accordingly, included in profits chargeable to corporation tax.
Company Residence	<ul style="list-style-type: none">• A company resident in the state is liable to corporation tax on its worldwide profits, not just its Irish source profits. Whether or not these profits are brought into Ireland is irrelevant for this purpose.• The term 'residence' was not, until recently, defined in law. The general rule was that companies, whose 'central management and control' was exercised in the State, were treated as resident here. This rule or test emerged as a result of judicial decisions set down in case law. Factors to be taken into account in establishing where the company's central management and control lie include, for example, where the important questions of company policy are determined,

where the majority of directors reside, where the negotiation of major contracts is undertaken and where the company's head office is located.

- The changes introduced in Finance Act 1999 ([see Tax Briefing Issue 37](#)) provided that, in general, companies incorporated in the State are resident in the State. There are, however, a number of exceptions to this rule. An Irish incorporated company is not treated as Irish resident for tax purposes if it is a 'relevant company' (see below) and either carries on a trade in the State or is related to a company that carries on a trade in the State ['the trading exemption']. Furthermore, an Irish incorporated company that is regarded as not resident in the State by virtue of a tax treaty is treated as not being resident in the State ['treaty exemption'].

'Relevant Company'

A relevant company is a company that either:

1. is ultimately controlled by persons resident in the EU or in a country with which Ireland has concluded a double taxation treaty or
2. is, or is related to a company the principal class of the shares of which is substantially and regularly traded on one, or more than one, recognized stock exchange in an EU Member State or in a tax treaty country.

N.B.

It is important to note that the changes introduced in Finance Act 1999 did not amend or repeal the existing residency rules laid down in case law. Accordingly, a company whose central management and control is exercised in Ireland (whether it is incorporated in Ireland or not) is still regarded as resident in Ireland for tax purposes.

Cessation of residency

- A company that ceases to be resident in the State is treated as having disposed of all of its assets at their market value when it so ceases.
- This means that any capital gains that arise as a result of this disposal are charged to tax.
- Assets which continue to be used in Ireland by a branch or agency of the company or where the company is ultimately controlled by residents of a tax treaty partner country are not subject to this provision

Paying Corporation Tax & Filing Obligations

The self-assessment system was introduced for companies for accounting period ending on or after 1/10/89. For accounting periods ending on or after 1/1/03, 'Pay & File' also applies ([see Tax Briefing Issues 52, 53 & 56](#)). The obligations of a company with regard to paying corporation tax and filing its return are as follows:

- Compute and pay its preliminary tax liability by the specified dates (see below).
- Lodge its return of income (including audited accounts where the company/group of companies has a turnover of more than €13m, and corporation tax computation) within nine months of the end of the accounting period. If this date is after the 21st of the ninth month the filing date is brought

forward to 21st of the ninth month (21 day rule).

- Pay any balance of tax due when lodging the return i.e. within nine months of the end of the accounting period, subject to the 21 day rule.

Preliminary Corporation Tax
(see [Tax Briefing Issues 48, 49, 53](#))

- A company is obliged to pay to the Collector General the amount of preliminary tax appropriate to the accounting period.
- The total amount of preliminary tax paid must be equal to or greater than 90% of the company's final liability for the accounting period.
- Special provision is made for small companies whose liability does not exceed €50,000 in the preceding chargeable period - see below *.

When is Preliminary Corporation Tax due?

- For accounting periods ending after 31/12/05 preliminary tax is payable in one instalment and this amount is payable not later than the 21st day of the month preceding the end of the accounting period.
- For accounting periods ending prior to 31/12/05 preliminary tax is payable in two instalments; the first one month before the accounting year end subject to the 21 day rule, and the second within six months of the end of the accounting period, again subject to the 21 day rule.
- For a company with an accounting period ending on 31st December accordance the chart below illustrates the relevant dates and the amounts payable.

Accounting period ending	1st instalment payable	2nd instalment payable
31/12/2003	40% on 21/11/03	60% on 21/06/04
31/12/2004	60% on 21/11/04	40% on 21/06/05
31/12/2005	80% on 21/11/05	20% on 21/06/06

- As explained above, for accounting periods ending after 31/12/05 preliminary tax is payable in one amount, one month before the end of the accounting period. In the example above the company must pay 100% of its preliminary tax for the accounting period ended 31/12/06 by 21/11/06.

***Small companies**

A small company is a company whose corporation tax liability in the preceding accounting period does not exceed €50,000. Such a company has the option of basing its first instalment of preliminary tax on the corresponding corporation tax liability for the preceding accounting period.

Balance of Tax

- Under the 'Pay & File' system the balance of tax due is now payable at the same time as the company is due to lodge its return i.e. within nine months of the end of the accounting period, subject to the 21 day rule referred to above.

Corporation Tax Return

- A company must submit a return (Form CT1, Form 46G, a set of audited accounts if the company/group of companies has a turnover of more than €13m, and a corporation tax computation) within nine months of the

- end of the accounting period to which the return relates.
- If the accounting period ends after the twenty-first day of the month, the filing date is brought forward to the 21st of the month.
- For accounting periods ending on or after 1/1/03 the form CT1 will incorporate 'Extracts from Accounts' ([see Tax Briefing Issues 52,53 & 54](#)) pages in place of the requirement to submit full audited accounts of the company. These pages must be completed in all cases where the company (or group of companies) has a turnover of less than €13m. As stated above, a full set of accounts must still be submitted where the turnover exceeds the limit.
- Companies may lodge their returns electronically under the ROS system.
- Returns should now be lodged with the Collector General's Division, PO Box 354, Limerick, unless they are being filed electronically.

Late submission of returns

- If a company fails to submit a return on time, a surcharge will be imposed.
- The surcharge is 5% of the tax due (up to a maximum of €12,6987) in the case of a return lodged within 2 months of the return filing date, and 10% of the tax due (up to a maximum of €63,487) where the return is made more than 2 months after the return filing date.
- In addition to the surcharge, there are restrictions on the use the company can make of certain reliefs and allowances in the event of the return not being lodged on time.

What expenses can a company set against its profits?

- A company is, in general, entitled to deductions in respect of revenue expenditure - wholly and exclusively incurred for the purposes of its trade - against its profits.
- It is not, however, entitled to claim a deduction in respect of business entertainment expenses nor is it entitled to claim a deduction in respect of capital expenditure.
- It may, however, be entitled to capital allowances in respect of certain capital expenditure e.g. plant, machinery, industrial buildings.
- It should be noted that depreciation of capital assets as computed for audited accounts purposes is not an allowable expense against the company's income for the purposes of corporation tax.

What about pre-trading expenditure?

- Expenditure which is wholly and exclusively laid out for the purposes of a company's trade or profession in a 3 year period before commencement is allowed as a deduction in calculating the profits of the company following commencement. ([See Section 82 TCA 1997 & Tax Briefing Issue 27 - August 1997](#)).

Interest and other annual payments

- A company is normally entitled to deduct payments of interest (other than interest treated as a distribution), royalties and other annual payments made by it in

computing its corporation tax liability. In certain circumstances the company may have to deduct income tax from the payments and account for it to Revenue.

Donations

- A company is entitled to claim deduction for donations to an approved body as if it were a trading expense.
- The minimum donation in any year to any one approved body is €250 ([See Tax Briefing Issue 44 June 2001](#)).

Research & Development

- A new 20% tax credit for qualifying research and development expenditure has been introduced for companies engaged in in-house qualifying research and development undertaken within the European Economic Area.
- This credit may be set against a company's corporation tax liability.
- See Revenue's publication '[Revenue Guidelines for Research & Development Tax Credit](#)' for further information.
- The Department of Enterprise, Trade and Employment has made Regulations for the purposes of providing detailed guidance on what activities constitute R&D activities for the purposes of the tax credit.

Dividends & Other Distributions

- Dividends and other distributions (including certain types of interest) are not deductible in computing trading profits.
- Dividends and other distributions made by Irish resident companies are liable to Dividend Withholding Tax ([see Tax Briefing Issues 35, 36 & 41](#)) except where these are made to qualifying non-resident persons or excluded persons.
- Dividends paid by Irish resident companies to other Irish resident companies are not chargeable to corporation tax.

Losses ([See Tax Briefing Issue 51 January 2003](#))

- Prior to Finance Act 2001, in calculating a company's Corporation Tax liability its trading losses for the accounting period could be set against its profits, including chargeable gains, of the same period or of the immediately preceding period (Such losses could not be set, however, against development land gains).
- Likewise, a trading loss of a member of a group of companies could be set against non-development land chargeable gains included in the profits of another member of the group.
- Since Finance Act 2001 trading losses may only be offset against trading income for the same and immediately preceding accounting period on a euro for euro basis. Any unused trading loss may be offset against non-trading income, including chargeable gains, but only on a value basis.
- For example if the company has an unused trading loss of, say, €100,000 and a chargeable gain of €100,000 the company can get relief for the loss at the rate of 12.5% against the liability on the chargeable gain. Tax due on

the chargeable gain is €20,000 and the company can get loss relief of €12,500 leaving a net liability of €7,500.

- Losses of a company on non-development land assets may be offset against chargeable gains - other than development land gains - of that company only, in the current accounting period and any unused balance can be carried forward. Losses on the disposal of development land can, however, be offset against gains arising on other assets.

Inter-group payments

- A member of a group is permitted to make certain payments to another member of a group without deducting tax in certain circumstances.
- To be eligible to make such payments tax free there must be a 51% relationship between the companies i.e. where one company controls at least 51% of shares in the other company (directly/indirectly/via common parent).
- Interest and royalties may be paid gross i.e. without deduction of tax if a group relationship exists.
- Similar relief applies to consortia but there must be a 75% relationship.

Surrendering losses etc. & Group Relief.

What can be surrendered

- Members of a group may surrender current year trading losses, excess charges on income, excess management expenses (in the case of investment companies) and Case V excess capital allowances.

What are the conditions to claim relief

- Group members must be resident in the State or an EU member state for accounting periods ending on/after 1/7/98.
- 2 companies are members of a group if one is a 75% subsidiary of the other or both are 75% subsidiaries of a third company. Note that a company is a 75% subsidiary of another company where not less than 75% of the ordinary share capital is owned directly/indirectly by that company.
- Parent company must be entitled to 75% of profits available for distribution to equity holders (includes loan creditors).
- Parent company must be entitled to 75% of assets available for distribution to equity holders on a winding up.

Who can claim?

- For any accounting period 2 or more group members may make a claim in respect of loss/deficiency of a third member of the group.
- Note that no double allowances may be claimed.

How is relief claimed?

- As a deduction against claimant's total profits for the accounting period.
- Before reduction by any relief from subsequent accounting period and after reduction by any other relief from tax (including charges on income).
- Surrendering company must consent in writing & notify Revenue.

- Claim must be made within 2 years from the end of the surrendering company's accounting period to which the claim relates.
- Relief will be restricted if the tax return is delivered late.
- There is provision for apportionment on a time basis of the surrendering company's losses and the claimant company's profits where the accounting periods do not coincide.

Close Companies

- Most Irish resident companies are what are called 'close' companies.
- A close company is a company that is controlled by 5 or fewer participators or is controlled by an any number of participators who are directors.
- The definition of a close company includes a company where, on distribution of its full income, more than 50% goes to five or fewer participators or participators who are directors.
- A participator is a person having an interest in the income or capital of the company.

Close Company provisions

The close company provisions set out in the Taxes Consolidation Act 1997 have four main implications for a company and its participators/directors.

- Certain benefits-in-kind and expense payments to participators or associates will be treated as distributions.
- Interest in excess of a specified rate paid to directors or their associates will be treated as distributions.
- Loans to participators or their associates must be made under deduction of tax and, if the loan is forgiven, the grossed-up amount is treated as income in the hands of the recipient.
- A surcharge of 20% is payable on the total undistributed investment and rental income of closer company. Close "service" companies are also liable to a surcharge of 15% on one-half of their undistributed trading income.

How to pay your tax

- [What Tax can I pay by Direct Debit?](#)
- [How does Direct Debit work?](#)
- [What are the advantages of paying my tax by Direct Debit?](#)
- [Is there a simple way of making my income tax return?](#)

What Tax can I pay by Direct Debit?

You can pay your Preliminary Tax (Income Tax), VAT, or Employers PAYE/PRSI by way of Direct Debit.

How does Direct Debit work?

To avail of Direct Debit you must complete and sign a mandate which allows for agreed monthly deduction(s) from your bank account, for credit to your tax account(s). You remain in total control of the monthly amount(s) you have agreed to pay and the figure can be amended at any time by

completing a fresh mandate form.

What are the advantages of paying my tax by Direct Debit?

Preliminary Tax (Income Tax)

By paying your Preliminary Tax by Direct Debit you can spread the payment over the calendar year for which the tax is due. This is particularly suitable if you find it difficult to make one lump sum payment in October.

Employer's PAYE/PRSI and VAT

You will only have to fill in one annual return as follows:

- For PAYE/PRSI you will only need to fill in the P35 at the end of the year and you will not have to fill in Forms P30 on a monthly basis
- For VAT you will only need to fill in one annual VAT3 form at the end of the year and you will not have to fill in VAT3s on a bi-monthly basis.

Is there a simple way of making my income tax return?

YES. A new simplified tax return form is available to cater for small unincorporated businesses. The form, [Business Profile \(Form BP1 - click here to download in PDF format\)](#) includes a simplified Income and Expenditure Account and eliminates the need to send in a Profit and Loss Account and Balance Sheet.

Keeping records and Revenue audit

1. [Keeping Books and Records](#)
2. [Revenue Examination of Returns, Books and Records](#)
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Keeping Books and Records

- [Am I obliged to keep records for tax purposes?](#)
- [How long must I keep records?](#)

Am I obliged to keep records for tax purposes?

YES. You must keep full and accurate records of your business from the start. You need to do this whether you send in a simple summary of your profit/loss, prepare the accounts yourself, or, have an accountant do it. It is important for you to remember that the figures which are contained in your accounts, or your summary of profits/losses, or your tax returns, must be correct. The records you keep must be sufficient to enable you to make a proper return of income for tax purposes.

You should bear in mind that you may need to keep accounts for reasons unconnected with tax. For example, your bank may want to see your accounts when considering an application for a business loan.

How long must I keep records?

You must keep your records for a period of six years unless your Inspector of Taxes advises you otherwise.

Revenue Examination of Returns, Books and Records

- [What is a Revenue Audit?](#)

- [How are taxpayers selected for audit?](#)
- [What form will the audit take?](#)

What is a Revenue Audit?

A Revenue audit is a cross-check of the information and figures shown by you in your tax returns against those shown in your business records.

Revenue audit covers the following types of tax returns:

- Income Tax, Corporation Tax or Capital Gains Tax returns
and/or
- The returns submitted in respect of VAT, PAYE/PRSI or Relevant Contracts Tax (RCT).

How are taxpayers selected for audit?

Revenue use three methods of selection. These are:

Screening tax returns:

The vast majority of audit cases are selected in this way. Screening involves examining the returns made by a variety of taxpayers and reviewing their tax compliance history. The figures are then analysed in the light of trends and patterns in the particular business or profession and evaluated against other available information.

Projects on business sectors:

From time to time, projects are conducted to examine tax compliance levels in particular trades or professions. The returns for a large number of taxpayers in a particular sector are screened in detail and a proportion of these are selected for audit.

Random selection:

This is in addition to the first two methods. It means that all taxpayers have a possibility of being audited. Each year, a small proportion of audit cases is selected using this method.

What form will the audit take?

Typically, an audit involves a series of steps, as follows:

- On arrival, the auditor identifies himself or herself to you and explains the purpose of the audit. An indication of the length of time he or she expects to spend on your premises is also given.
- You are given an opportunity to disclose to the auditor any inaccuracies in your tax return
- The auditor will examine your books and records to verify that the figures have been correctly calculated and that the tax returns and/or declarations for the different taxes are correct
- If the auditor finds the returns to be largely correct as is often the case, you will be told so as soon as this becomes clear
- If the auditor finds that adjustments are required, he or she will quantify the adjustments and the additional tax. The details of how the additional tax arises will be discussed with you and you will also be notified in writing
- At the final interview, the auditor will ask for your agreement to the total settlement figure
- Once agreed, the full amount should be paid to the auditor who will issue you with a receipt.

Freedom of Information

What are my rights under the Act?

Under FOI any person is entitled to apply for access to information not routinely available. A person has

1. a right to access other records created on or after the commencement date of FOI i.e. 21 April 1998,
2. a right to access records necessary to the understanding a record created after 21 April 1998,
3. a right to obtain reasons for decisions made by Revenue directly affecting him/herself.
4. a right to correction of personal information relating to him/herself held by Revenue where it is inaccurate, incomplete or misleading and
5. a right to access all records relating to personal information about him/herself held by Revenue irrespective of when the record was created.

Must I invoke these rights to get information?

Not necessarily. Revenue currently makes information routinely available to the public in relation to its functions, activities and schemes. Such information will continue to be made available without the need to use the FOI Act. The FOI Act is designed to allow members of the public access to information held by public bodies which is NOT routinely available. Access to information under the Act is subject to certain exemptions and involves specific procedures and time limits.

Can others get information about my tax affairs?

No. There are provisions to protect personal information from access by third parties and to protect information given in confidence. Where in very exceptional circumstances it is considered that the public interest requires the release of personal information to a third party, the person to whom the information relates must be consulted before any action is taken.

Can I get information about policy?

Yes, save in certain circumstances, e.g. where access to information would compromise law enforcement, security or the finances of the State.

How do I make a request for information?

The procedure is outlined in detail here and in the section 15 reference book.

What time limits apply for processing a request?

In general, Revenue is obliged to :

- acknowledge the request within 2 weeks of its receipt
- notify the requester of the decision within 4 weeks of its receipt.

Should the information requested be held by another public body the request will be directed to that public body within 2 weeks of its receipt and the requester will be notified accordingly.

Is there a fee payable for making a request?

Fees may be charged as follows

- In respect of personal records, no fees will be charged, except where a large number of records is involved.

- For other (non-personal) information, fees may be charged in respect of the time spent in efficiently locating the records. The hourly rate will be prescribed by the Minister for Finance.
- Where photocopies of records are required there will be a charge per page.
- A deposit of 20% of the fee may be payable where such fee is likely to exceed €50.79. Where a deposit is payable the search for the records cannot commence until the deposit has been paid.

All fees chargeable will have regard to the means of the requester and may be waived

- where the cost of collecting and accounting for the fee would exceed the amount of the fee, or
- where the information would be of particular assistance to the understanding of an issue of national importance

What if I can't specify exactly where the records are located but I have some information?

Include all the information you have which might give us some idea of where the records would be located. You should be prepared for an interim letter or phone call if we have difficulty determining the exact location of records. Before submitting your request, a phone call to the office or browsing our home page may provide the information you need.

Can I appeal if my request for information is refused?

Yes, full details of the appeals procedure are outlined in detail in the Section 15 reference book.

What is the role of the Information Commissioner?

A. The Office of the Information Commissioner was established under Section 33 of the Act. It is an independent Office and has powers to review decisions made by a public body including the following

- decisions made on internal review,
- initial decisions on requests made personally by a Head of a public body,
- decisions on charges where the fee in question exceeds €12.70, and
- decisions to extend the time for consideration of request.

The Information Commissioner may not review

- an initial decision taken by a member of staff acting under delegation which has not been the subject of an internal review
- matters subject to a ministerial certificate
- FoI decisions in relation to records relating to his own [Information Commissioners] Office.

Decisions by the Information Commissioner are binding on the parties concerned subject to appeal to the High Court on a point of law.

Application for review by the Information Commissioner must, in general, be made within 6 months of receiving notice of the decision or within such further period as is determined by the Information Commissioner to be reasonable in the circumstances.

Appeals, in writing, may be made to

Office of the Information Commissioner, 18 Lower Leeson Street, Dublin 2.

VAT and your business

- [Who must register for VAT?](#)
- [How do I register for VAT?](#)
- [What rate is VAT charged at?](#)

Who must register for VAT?

You must register for VAT if you are a taxable person and your annual turnover (i.e. the amount of your receipts excluding VAT) exceeds or is likely to exceed the following annual limits

- **€51,000 in respect of the supply of goods**
- **€25,500 in respect of the supply of services**

You may also be obliged to register for VAT if you receive taxable services from abroad or if you are a foreign trader doing business in the State.

If you are involved in buying or selling goods within the EU you will need more detailed information and should refer to the comprehensive [Guide to Value Added Tax](#) which is available from any tax office.

How do I register for VAT?

To register for VAT you must fill in one of the following forms:

- [Registration Form TR1 if an individual or partnership \(download in PDF format\);](#)
- [TR2 if trading as a company \(download in PDF format\).](#)

These forms can be obtained by telephoning the Revenue Forms & Leaflets Service at 1890 30 67 06 or 00353 1 67 44 050 for callers outside the Republic of Ireland or from any district office.

What rate is VAT charged at?

The standard rate of VAT is 21%:

This applies to all goods and services that are not exempt or liable at the zero or reduced rates

Reduced rate of VAT - 13.5%:

This applies to certain fuels, buildings and building services, certain newspapers etc.

Reduced rate of VAT - 4.4%:

This applies to livestock, live greyhounds and the hire of horses.

Zero-rated goods and services:

These include exports, certain food and drink, oral medicine, certain books etc.

Exempted goods and services:

These include financial, medical and educational activities.

If you need further information on the rate at which VAT is charged on goods or services please contact your tax office.

Company Compliance Reporting Obligations

Section 45 of the Companies (Auditing and Accounting) Act 2003 will, when commenced*, impose an obligation on directors of certain companies to prepare statements on their company's compliance with its relevant obligations. Relevant obligations consist of all obligations under the Companies Acts and under tax law, together with obligations under certain other enactments.

For the purposes of assisting in the preparation of such statements, the lists below set out the main compliance obligations of companies under tax law and secondary law made thereunder. In relation to each obligation the list gives a brief description of the obligation and its corresponding section number

in the relevant tax law. References to sections are those sections as amended. The obligations are grouped under various generic headings for ease of reference.

The lists are not exhaustive and are only intended as a general guide to companies' tax compliance obligations. The omission of any provision or obligation from these lists should not be taken as in any way removing any person's obligation to comply with any requirement of tax law contained in any such provision omitted. This includes any obligation contained in any provision dealing with the computation of income or the claiming of any allowance or other relief by way of the making of a claim, election or other action within a specified period.

References to obligations to make returns are references to making full and true returns of income, gains, allowances, etc. calculated in accordance with the law.

In addition to the obligations specified, a company is obliged under a number of provisions to do certain things when so required by notice from the Revenue Commissioners or one of their officers. In the context of directors' obligations under section 45 of the Companies (Auditing & Accounting) Act 2003, directors should have a procedure in place to ensure that there is appropriate internal reporting of any instance where their company is notified of any such requirement.

[Company compliance - Obligations under Corporation Tax and Income Tax Law \(MS Word 77KB\)](#)

[Company compliance - Obligations under Corporation Tax and Income Tax Law \(PDF 111KB\)](#)

[Company compliance - Obligations under VAT Law \(MS Word 33KB\)](#)

[Company compliance - Obligations under VAT Law \(PDF 78 KB\)](#)

[Company compliance - Obligations under Excise Duty Law \(MS Word 72KB\)](#)

[Company compliance - Obligations under Excise Duty Law \(PDF 111KB\)](#)

[Company compliance - Obligations under Stamp Duty Law \(MS Word 37KB\)](#)

[Company compliance - Obligations under Stamp Duty Law \(PDF 85BK\)](#)

*Section 45 is subject to commencement by order of the Minister for Enterprise, Trade and Employment and will come into operation from a date specified in such an order.

For an Individuals:

Moving to Ireland Tax Guide

The purpose of this information is to provide a simple guide to the Irish tax system for people who are moving to Ireland for the first time. It aims to answer many of the questions, which arise, when an individual is considering such a move and also provides information on the tax system, which can be referred to, as and when required. The format of the guide is as follows:

Table of Contents

- [CHAPTER 1](#)
 - Personal Taxation - Getting started - Working for an employer
 - Personal Taxation - Getting Started - Working as a self-employed individual
- [CHAPTER 2](#) Buying/Renting a House/Apartment in Ireland

- [CHAPTER 3](#) Tax Residence
- [CHAPTER 4](#) Remuneration Packages
- [CHAPTER 5](#) Brief overview of the various taxes payable in Ireland
- [APPENDIX 1](#) Sample list of Tax Credits
- [APPENDIX 2](#) List of Revenue Offices and other Useful Addresses

How to use this guide

For your convenience this guide is broken into separate sections, so that you need only concern yourself with matters relating to your own personal circumstances.

Further Information

While the guide aims to cover most of the relevant issues, you may require further information in relation to particular points. A good starting point for further information is our website.

2. Company Registration

<http://www.cro.ie/>

Company

A company is a legal form of business organisation. It is a separate legal entity and, therefore, is separate and distinct from those who run it. The company (and not the individual shareholders) is the appropriate person to be sued in the event that debts are incurred by the company which remain unpaid, despite demand.

There are a number of company types:

Limited company

The shares in a company are owned by its shareholders. If the company is a limited liability company, the shareholders' liability, should the company fail, is limited to the amount, if any, remaining unpaid on the shares held by them. A company is a separate legal entity and, therefore, is separate and distinct from those who run it. Only the company can be sued for its obligations and can sue to enforce its rights.

There are four types of limited company:

- **A private company limited by shares:** The members' liability, if the company is wound up, is limited to the amount, if any, unpaid on the shares they hold. The maximum number of members is 50.
- **A company limited by guarantee not having a share capital:** As this is a public company, there must be a minimum of seven members. The members' liability is limited to the amount they have undertaken to contribute to the assets of the company, in the event it is wound up, not exceeding the amount specified in the memorandum. If a guarantee company does not have a share capital, the members are not required to buy any shares in the company. Many charitable and professional bodies find this form of company to be a suitable vehicle as they wish to secure the benefits of separate legal personality and of limited liability but do not require to raise funds from the members.
- **A company limited by guarantee having a share capital:** As will be a private company if the maximum number of members is 50. The members have liability under two headings; firstly, the amount, if any, that is unpaid on the shares they hold, and secondly, the amount they have undertaken to contribute to the assets of the company, in the event that it is wound up.
- **A public limited company:** This company type must have a minimum of seven members. Their liability is limited to the amount, if any, unpaid on shares held by them. It should be noted that it is unlawful to issue any form of prospectus except in compliance with the Companies Acts 1963-2005. The nominal value of the company's allotted share capital must not be less than €38,092.14, at least 25% of which must be fully paid up before the company commences business or exercises any borrowing powers.

Single member company

A single member company is a private company limited by shares or a guarantee company having a share capital, which is incorporated with one member, or whose membership is reduced to one person. However, the company must have at least two directors and a secretary. The sole member, if he/she so decides, can dispense with the holding of General Meetings, including Annual General Meetings (AGMs). However, certain modifications laid down in the European Communities (Single-Member Private Limited Companies) Regulations 1994, have to be made. Also the accounts and reports that would normally be laid before the AGM of a company still need to be prepared and forwarded to the member.

Unlimited company

In an unlimited company, there is no limit placed on the liability of the members. Recourse may be had by creditors to the shareholders in respect of any liabilities owed by the company which the company has failed to discharge. Such company must have a minimum of two shareholders.

Undertakings for Collective Investment in Transferable Securities (UCITS)

UCITS are public limited companies formed under EU Regulation (European Communities (Undertakings for Collective Investment in Transferable Securities) Regulations 1989 & 1999) and the Companies Acts 1963-2005. The sole object of a UCIT is the collective investment in transferable securities of capital raised from the public that operates on the principle of risk-spreading. The competent authority, which must approve all registrations of UCITS that wish to carry on activities within the State, is the Central Bank of Ireland.

European Economic Interest Groupings (EEIG)

The EEIG is a mechanism through which business within the EU can engage in cross-border commerce. The purpose of an EEIG is to facilitate or develop the economic activities of its members. An EEIG must have a minimum of two, up to a maximum of 20 members, who may be companies or natural persons, from different Member States. The manager of a Grouping may be a natural person or a body corporate.

Limited Partnership

A partnership is where a minimum of two persons conduct business with a view to making a profit. It must consist of at least two persons and there is normally a maximum of 20.

Certain financial partnerships may however have up to 50 members. A partnership can be made up of natural persons and bodies corporate. It is not a separate legal entity - that is to say, a partnership has no legal personality, separate and distinct from the various partners which comprise the partnership

A partnership that adopts a name that does not consist of true names of the partners without any addition must register the name as a [business name](#).

The Limited Partnership Act 1907 facilitates the creation of a partnership in which some members have limited liability for the debts of the firm. Their liability is limited to the extent of their contribution. As with a general partnership, a limited partnership is not a separate legal entity.

A limited partnership must consist of at least one general partner and one limited partner. The partnership should not consist of more than 20 persons or, if carrying on the business of banking, of more than 10 persons.

The general partner(s) is/are liable for all the debts and obligations of the firm. The limited partners contribute a stated amount of capital and are not liable for the debts of the partnership beyond the amount contributed.

A limited partnership must be registered with the CRO and in accordance with the 1907 Act; otherwise the partnership is a general partnership.

Foreign Company

A foreign company which was registered abroad may establish a branch or a place of business in the State.

Any company which is incorporated outside the State and establishes a **branch** in the State must be registered with the CRO under the E.C. (Branch Disclosures) Regulations 1993 (S.I. No. 395 of 1993). The registration must take place within **one month** of the establishment of the branch in the State.

Any company which is incorporated outside this State and establishes a **place of business** in the State must be registered with the CRO under Part XI of the Companies Act 1963. The registration must take place within **one month** of the establishment of a place of business in the State.

The 1993 Branch Disclosures Regulations implemented the European Communities 11th Council Directive concerning disclosure requirements in respect of branches opened in a Member State by certain types of company governed by the law of another State. The Regulations apply to the equivalent of Irish limited liability companies, incorporated in another State, which establish a branch in this State. There are some differences between the requirements imposed on a company from a Member State of the European Union and companies from other countries.

Prior to the introduction of these Regulations, Part XI of the Companies Act 1963 applied to all companies incorporated outside the State that established a place of business in the State. Where the company is a limited company and the place of business is a branch the 1993 Regulations now apply.

It is likely that most places of business established in this jurisdiction by limited liability companies are in fact branches and in those cases the provisions of the Regulations will apply instead of Part XI of the Companies Act 1963. Where a place of business (within the meaning of Part XI of the 1963 Act), which is not a branch, has been established, then Part XI of the 1963 Act will apply.

Places of business that perform operations ancillary or incidental to the company's business are (in general terms) not branches within the meaning of the Directive. Share registration offices would not be branches. Offices which undertake promotional activities for the business of the company (with any resulting business being dealt with by the representatives of the company in the home State) would not be a branch.

This note is merely an explanation of the approach of the Department of Enterprise, Trade and Employment/CRO to the operation of the Regulations implementing the 11th Council Directive and is not intended as advice as to the particular situation of any company.

Accounts

Companies are required to keep proper books of account which give a true and fair view of the company's financial affairs. Companies are also required to disclose details of their accounts at the Annual General Meeting (AGM) and to attach a copy of those accounts to the annual return filed with the CRO. In addition, they are required to observe certain standards in the preparation of accounts, following specimen formats and disclosing certain information by way of notes to the accounts.

The Companies Acts 1963-2005 require directors of all companies to lay the following accounts and reports before the company members at the AGM:

- a profit and loss account (or an income and expenditure account if the company is not trading for profit)
- a balance sheet
- a directors' report
- an auditor's report

The annual accounts and directors' report must be signed on behalf of the directors by two directors. The above-listed documents are required to be annexed to the annual return of a limited company on delivery to the CRO (section 7 Companies (Amendment) Act 1986). ([Small](#) and [medium](#) companies have certain exemptions.) In addition, there must be a certificate, signed by both a director and the secretary, certifying that the accounts and reports are true copies of those laid before or to be laid before the company's AGM.

If a company fails to comply with the requirements of section 7 of the 1986 Act, the annual return will be rejected by the CRO. In addition the company and every officer of the company who is in default will be liable to a fine not exceeding €1,905.

No accounts are required to be annexed to the first annual return which is delivered by a company post-incorporation. This return is required to be made up to the date which is six months after the date of the company's incorporation. Accounts are required to be attached to all subsequent annual returns filed by the company, unless it is a [private unlimited company](#).

Public limited companies and private limited companies prepare annual accounts in accordance with the Companies (Amendment) Act 1986. This Act brought into law the EC Fourth Directive on annual accounts of companies generally.

3. Business Access to State Information and Services

<http://www.basis.ie/>

This website has been developed in order to provide business with a single access point to all Government information and services. Please click on the following link for assistance

[Navigating this website. http://www.basis.ie/](http://www.basis.ie/)

[Starting a Business](#)

Setting Up and Registration
Business Planning ...

[Business Operations and Trade](#)

Marketing and Distribution
Importing and Exporting ...

[Taxation](#)

Registering for Tax
Employee Related Tax ...

[Expanding your Business](#)

Employment
Legal and Regulatory ...

[Funding](#)

Employment Grants and
Incentives
Research and Development
Grants ...

[Premises and Environment](#)

Planning Permission
Building and Planning
Regulations ...

[Returns and Other Obligations](#)

Information Obligations
Taxation Returns ...

[Government Tenders](#)

Procedures and Practice
Procurement Opportunities ...

[Legal and Regulatory](#)

Company Set-Up and
Registration
Company Legal
Requirements ...

[Employment Issues](#)

Recruitment
Skills Development ...

[Innovation and Product Development](#)

Innovation Centres
Business and Marketing
Development ...

[Closing/Selling a Business](#)

Insolvency/Windup
Mergers, Acquisitions and
Competition Legislation ...

4. Civil rights of everyone in Ireland <http://www.oasis.gov.ie/employment/>

Oasis (Online Access to Services, Information and Support) is an [Irish eGovernment](#) website developed by [Comhairle](#). The site provides information on the social and civil rights of everyone in Ireland. Oasis provides you with information you may need at various [stages in your life](#).

<http://www.oasis.gov.ie/employment/>

Pensions

A guide to pension schemes in Ireland is set out here with relevant contact details for further information.

Pension Schemes – The Basics

This document is intended as a basic guide to pensions. The following topics are covered: Benefits on Retirement, Death Benefits, Death After Retirement, Pension Increases, Leaving Services, Preserved Benefits, Vested Rights

What is a pension scheme?

A pension scheme is an arrangement designed to produce income for a person after retirement from work and/or to provide benefits for their dependants on their death before or after retirement. Pensions come from 3 sources:

- State pensions - those provided under the Social Welfare system.
- Personal pensions - designed for the self-employed and for those in non-pensionable employment.
- Occupational pensions - provided through employer sponsored pension schemes.

Only the last kind, occupational pension schemes are within the scope of The Pensions Board. They include additional voluntary contributions (AVCs) that can be made through the employer's main pension scheme, or through a supplementary scheme. An Occupational Pension Scheme is defined in the Pensions Act as a scheme which is approved under the 1972 Finance Act or the 1967 Income Tax Act or whose approval has been applied for to the Revenue Commissioners. The term occupational pension scheme is generally used to distinguish job-related pension schemes from Social Welfare schemes.

Benefits on Retirement

The most common benefit coming from occupational schemes is a pension payable by regular instalments after an individual's retirement. Pensions are paid under the PAYE system and taxed accordingly. Frequently, a portion of pension entitlement can be exchanged at retirement for a lump sum, which is not subject to tax. In the Public Sector, occupational pension schemes provide separate lump sum (or gratuity) and pension benefits.

The rules of schemes generally provide for pensions to be paid from a specified date, generally known as 'normal pensionable age'. This can be any age between 60 and 70 in most occupations, the most common being age 65. Pension scheme rules may also provide for reduced pensions to be paid at an earlier date and may make special provision for early payment if retirement takes place due to ill-health. The rules may also provide for 'late' retirement, i.e. if retirement is deferred beyond the normal pensionable age specified in the rules.

Death Benefits

Occupational pension schemes usually provide for benefits to be paid to the survivors of scheme members in the event of their death before retirement. The most common form of death benefit provided is a lump sum which, within limits set by the Revenue Commissioners, can be paid free of Income Tax. Up to four times final pay plus a refund of employee's contributions with interest may be paid in this manner.

However, pensions payable to dependants and other beneficiaries can also be provided. Trustees, or sometimes the employer, may have discretion to decide who is to receive payment of death benefits. In some schemes, apart from dependants there might also be a broader category of eligible beneficiaries whom the trustees can choose to pay. Members cannot direct the trustees in the way they exercise discretionary powers, but may specify their own wishes, which the trustees would take into account.

Death After Retirement

It is less common to find lump sums payable on death after retirement. The main exception to this is where member's pension is guaranteed payable for a minimum period of up to 5 years. If death takes place within this period, the outstanding instalments can usually be taken in lump sum form (tax free). If additional provision is made, it is in the form of pensions. The most common provision in this area is a spouse's pension payable on the death of the member but the rules may provide for an alternative of a pension payable to dependants. Children's pensions are not commonly provided - or needed - on death after retirement.

Pension Increases

Pensions, whether they are paid to scheme members or to their dependants may be subject to increase during payment. When pensions come into payment, members are entitled to be told what, if any, are the arrangements that exist for increases, and whether these increases are guaranteed or subject to somebody's discretion or consent.

The Annual Report of a scheme must specify the rate at which pensions in payment are increased or, if relevant, say that there are no arrangements for increases. The rates at which pensions are increased vary considerably from scheme to scheme and are subject to overall maximum limits imposed by the Revenue Commissioners.

Leaving Service

The benefits to which employees are entitled on leaving service are determined primarily by the rules of each pension scheme. However, under the Pensions Act, members of schemes who fulfil certain conditions are entitled to particular benefits as of right, as a result of leaving the employer's service.

Preserved Benefits

This is the term given by the Pensions Act to benefits which members of pension schemes become entitled to if they leave relevant employment before the normal pensionable age, provided that they satisfy certain qualifying conditions. This preserved benefit, which is payable at the normal pensionable age under the scheme, on earlier retirement, or on death, is a proportion of the long service benefit to which the member would have been entitled if he or she had remained in relevant employment until the normal pensionable age.

It applies mainly to scheme service, or contributions made, after 1st January 1991. The value of preserved benefits will always be a minimum of the amount contributed by the member after 1st January, 1991. In a defined contribution scheme this will also include the value of employer's contributions. In a defined benefit scheme, the value of the preserved benefits is calculated by the scheme actuary.

Vested Rights

This is a general term used to describe rights that are given to members of schemes under the rules of their schemes on leaving service. It would include any preserved benefits arising under the Pensions Act, but could also embrace benefits accrued in respect of service before 1st January 1991. Whether you are entitled to preserved benefits under the Pensions Act, to other benefits under the Rules of the scheme, or both, the Disclosure Regulations made under the Pensions Act oblige the trustees of your scheme to give you detailed information about these entitlements and all options relating to them at the time when you leave service.

Sample Pensions Calculator

The calculator allows you to estimate the amount of money you would need to contribute to your pension in relation to your age and current yearly salary to end up with the level of pension you expect in retirement. To access the sample pensions calculator click on the link in the associated links on this page, or visit www.pensionsboard.ie/

For further information on this topic, please contact:

Name: Pensions Board

Organisation: Pensions Board

Address: Verschoyle House , 28/30 Lower Mount Street , Dublin 2

Telephone: +353 1 6131900

Fax: +353 1 6318062

Email: info@pensionsboard.ie

Webaddress: www.pensionsboard.ie