IRISH PROPERTY OWNERS' ASSOCIATION

THE PROPERTY OWNER'S WATCHDOG

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UNION INTERNATIONALE DE LA PROPRIETE IMMOBILIERE

U.I.P.I. Member

YOUR REF: OUR REF:

Green Paper Consultation
Pensions Policy Unit,
Department of Social and Family Affairs,
Aras Mhic Dhiarmada,
Store Street,
Dublin 1.

30th May 2008

Dear Sir/Madam,

We attach hereto a summary of the current pension treatment on rental income, which outlines its inadequacies under current legislation. In our opinion it is high time that the philosophy in relation to income from rental property is brought into the 21st Century.

Everyone should be fairly treated in this process. Pension tax relief is allowed on all income except Schedule D Case (V) income. Landlords/Property owners are not allowed any tax relief on contributions from their rental income.

It is essential that the discrimination currently prevailing in the private rental sector be addressed in order to encourage the transfer of rental property from the older generation to the younger generation and in the process revitalising the supply and quality of properties. Without pensions in place for the older generation, it will not be possible to transfer the properties to younger people with enthusiasm and new ideas. It is also of immense importance that the supply of rented accommodation which traditionally in Ireland, is held as a family concern, is treated as a business and this will help sustain the supply of good quality private rental accommodation. Facilitating the transfer of properties from the older generation to the younger generation, will result in transfer tax at the point of transfer for the government, together with re-energising the accommodation.

You will be aware from the attached that our nearest neighbours, the UK does allow pension relief from rental income, up to £3,800. This allows property owners to retire and pass on their properties to their children rather than depending on the income that the property earns. Unfortunately as we grow older we don't adapt to change easily, including new legislation and some older properties become run down. Elderly property owners do not always see the value in modernising properties be it their own or their rental property.

Cont...

It is also worthy to note that a letter from Paul Kenny, Pensions Ombudsman, dated the 18th October 2006, confirmed that the ombudsman realised that there is discrimination against individual landlords who are not incorporated.

The Government's aim is to encourage citizens to put a pension in place, surely this includes property owners.

Change is a simple and logical process and will improve the quality of life for tenants and allow property owners to retire and pass on their property to younger people.

Yours sincerely,

Stephen A. Faughnan
Chairman

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Submission on Pensions

Legislation

The primary legislative and regulatory rules governing the operation of personal pensions are Revenue law contained in Chapter 2 Part 30 Taxes Consolidation Act 1997. Tax Relief for pension contributions was introduced by the Finance Act 1958. The legislation allows tax relief on contributions to personal pensions, known as Retirement Annuity Contracts, up to a certain percentage of Net Relevant Earnings. The maximum percentage allowable has changed over the years but the definitions of Net Relevant Earnings now contained in Section 783(3) of the Taxes Consolidation Act 1997 remains unchanged and are defined as follows:-

a) Income arising in respect of remuneration from an office or employment other than a pensionable office or employment.

b) Income from any property which is attached to or forms part of the emoluments of such office or employment. (i.e.Benefits-in-Kind).

c) Income which is chargeable under Schedule D and is immediately derived by the individual from the carrying on or exercise of his or her trade or profession either as an individual or, in the case of a partnership, as a partner personally acting in the partnership but does not include any remuneration from an investment company of which the individual is a propriety director or propriety employee.

An Investment Company is defined as a company, the income of which mainly consists of investment income (unearned income). Consequently where there is no source of Net Relevant Earnings the individual is not entitled to effect a Retirement Annuity Contract. This definition therefore precludes a person whose only source of income is rental or investment income from contributing to this type of pension.

As a result of the Pensions (Amendment) Act 2002 everyone may contribute to a Personal Retirement Savings Account which is a form of an investment account. Under Section 106(2) Pensions (Amendment) Act 2002 - "For the avoidance of doubt, contributions to a PRSA may be made by a person who has entered into a PRSA contract, notwithstanding that at the time of making the contributions, he is not employed or self employed" This type of pension is therefore available to individuals with no source of Net Relevant Earnings.

The Revenue law governing tax relief on contributions to a PRSA is contained in Chapter 2A Part 30 Taxes Consolidation Act 1997. The definition of Net Relevant Earnings in Section 787B of this chapter has been carried from the definition in Section 783(3) with the exception of the reference to pensionable office or employment which is no longer excluded. This definition therefore excludes a person whose only source of income is rental or investment income from availing of tax relief on contributions. These individuals are therefore at the disadvantage of having to fund the entire pension from after tax income in the same way as a savings plan.

Other Jurisdictions
Other jurisdictions have taken a somewhat different approach. In the UK a limited form of relief is available for contributions from unearned income to certain pension products. While the overall tax relief available on pension contributions in Canada is more restrictive than in Ireland, unearned income can be taken into account in calculating the maximum tax deductible contribution.

Other Businesses
Farmers, publicans, doctors and all other traders and professionals who are actively engaged in their trade or profession can avail of tax relief on pension or PRSA contributions. By contrast a property owner who provides rented residential accommodation and is actively engaged in the maintenance, repair and management of his properties is precluded from availing of relief. The redefinition of Net Relevant Earnings to include income from residential lettings would address this anomaly. The provider of residential lettings is arguably providing a service to the public in the same way as say a shopkeeper. The letting activity typically requires investment, financial risk, management and compliance with legislation and regulations.

Illustrations
Illustrations attached demonstrate the impact of tax relief on pension investment. For a fixed monthly investment the benefit of tax relief can produce a fund almost 70% greater than a fund where tax relief is not available.

PRSI Contributions
The definition of "Reckonable Income" for the purposes of PRSI contributions includes rental income. The Department of Social & Family Affairs recognises rental income as a valid source of income for the purposes of contributions towards State support on retirement. The Revenue should therefore take the same stance by incentivising landlords of rented residential properties to make additional provision for retirement in the same way as is available to self employed professionals and traders.

End.

Net Monthly Savings €500

	With Tax Relief	With No Tax Relief	Difference	% Difference
	€	€	€	
Monthly Premium	847.46	500		
Tax Relief @ Marginal Rate	347.46	0		
Net Monthly Cost	500	500		
Total Fund at age 65 in todays terms	326,449	192,605	133,844	
Total fund value at age 65	683,511	403,272	280,239	70%

Notes
Payments commence at 40 years of age
Retirement age 65
Amount of savings increase at 3% per annum
Investment growth assumed at 5% per annum

Net Monthly Savings €625

	With Tax Relief	With No Tax Relief	Difference	% Difference
	€	€	€	
Monthly Premium	1059.32	625		
Tax Relief @ Marginal Rate	434.32	0		
Net Monthly Cost	625	625		
Total Fund at age 65 in todays terms	408,061	240,756	167,305	
Total fund value at age 65	854,389	504,089	350,300	70%

Notes
Payments commence at 40 years of age
Retirement age 65
Amount of savings increase at 3% per annum
Investment growth assumed at 5% per annum