



EU, COMPETITION AND REGULATED MARKETS

New State Aid Transparency Requirements

by **Marco Hickey**

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Publication of Information Regarding State Aid Granted to Individual Taxpayers

The Taxes Consolidation Act 1997 provides that all taxpayer information held by the Revenue Commissioners is confidential and may only be disclosed in accordance with statutory provisions. As part of a gradual move toward increasing transparency of public subsidies in the EU, from 1 July 2016, all EU Member States are required to publish information regarding certain State aid granted to individual beneficiaries on a central website. The purpose of this article is to give a brief overview of these new State aid transparency requirements as they apply to aid granted under Irish tax relief schemes.

The new transparency requirements form a key part of a [State aid modernisation](#) programme initiated by the European Commission in 2012 to reform State aid control. In this context, the expanded EU [General Block Exemption Regulation](#) makes it possible for Member States to grant aid on the basis of pre-defined criteria without the need to notify the Commission. This flexibility for Member States is accompanied by safeguards aimed at preventing distortions in the internal market. Transparency of aid awards is one such safeguard.

What will be published?

Under the new transparency requirements, when a Member State grants aid to a beneficiary under any of the schemes identified below and it is above a specified threshold, it will publish information regarding the aid granted on a central website. This information will include the identity of the beneficiary, the amount of aid granted and the date on which it was granted. For aid in the form of a tax relief, the information will be published within twelve months from the date on which the relevant tax return for the relevant tax year is due.

A number of Irish tax relief schemes constitute State aid and tax relief granted under six of these schemes will be subject to the new transparency requirements. These schemes are listed below, along with the threshold for publication.

1. **Capital Gains Tax entrepreneur relief:** Section 597A of the Taxes Consolidation Act 1997: Threshold: €500,000.
2. **Employment investment incentive scheme (incorporating seed capital scheme):** Sections 488 to 507 of the Taxes Consolidation Act 1997: Threshold: €500,000.
3. **Relief for investment in films: Section 481 of the Taxes Consolidation Act 1997:** Threshold: €500,000.
4. **Capital Gains Tax relief for farm restructuring: Section 604B of the Taxes Consolidation Act 1997:** Threshold: €60,000.
5. **Stock relief for young trained farmers: Section 667B of the Taxes Consolidation Act 1997:** Threshold: €60,000.
6. **Stamp Duty relief for transfers of land to young trained farmers: Section 81AA of the Stamp Duties Consolidation Act 1999:** Threshold: €60,000.

It should be noted that the transparency requirements may apply to additional tax relief schemes

commenced in the future that constitute State aid.

To understand the operation of these transparency requirements as they apply to Irish tax relief schemes, Revenue have provided the following [guidance](#):

- The **amount of aid granted**, in the context of tax relief schemes, is the difference between the tax payable by a taxpayer claiming the tax relief and the tax that would have been payable had he/she not been granted the relief.
- It should also be noted that aid granted from 1 July 2016 under the same tax relief scheme is **cumulated** for the purposes of determining whether an individual beneficiary has exceeded the threshold specified for that scheme.
- The **date of granting of the aid** is determined depending on whether there is a granting act, and it will either be the date that Revenue informs the taxpayer that they have been approved for the tax relief or, where there is no formal application process, the date on which the relevant tax declaration for the relevant tax year is due.

As a citizen, what will you be able to see?

- The full text of the approved aid scheme or the individual aid-granting decision and its implementing provisions, or a link to it.
- The identity of the granting authority.
- The identity of the individual beneficiaries, the form and amount of aid granted to each beneficiary, the date of granting, the type of undertaking (SME / large company), the region in which the beneficiary is located and the principal economic sector in which the beneficiary has its activities.

This information will be available through the "Transparency Award Module" accessible on the websites for the European Commission and each Member State.

The European Commission has also updated its State Aid Scoreboard. The State Aid Scoreboard, which shows information on national spending on individual State aid schemes, as well as data on public support for renewable energy sources and on structural fund expenditure used to co-finance State aid measures, is available [here](#).

For more information, please feel free to contact Marco Hickey, Partner and Head of the EU, Competition and Regulated Markets team at mhickey@lkshields.ie. Marco is the author of [Merger Control in Ireland](#) published by Thomson Reuters.

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