Excessive Bankers Remuneration Bill 2012

(1) Interpretation

‘excess bank remuneration charge’ shall be construed in accordance with section (5) of this Bill;

‘relevant employee’, in relation to a specified institution, means an employee of the specified institution—

(*a*) who is resident in the State in a tax year for the purposes of the Acts, or

(*b*) the duties of whose employment in that specified institution are at any time in the tax year concerned performed wholly or partly in the State;

‘relevant former employee’, in relation to a specified institution means a former employee of the specified institution who retired on or after the passing into law of the Credit Institutions (Financial Support) Act 2008 and who currently receive an annualised amount of a pension in excess of €100,000.

‘relevant remuneration’, in relation to a relevant employee, means, subject to section (2), all emoluments including salary or wages or a regular benefit or perquisite in excess of €150,000 per year for the purposes of applying a 20 per cent levy and in excess of €250,000 per year for the purposes of applying a 45 per cent levy;

‘specified institution’ means an institution, specified by order of the Minister for Finance made under section 6 (1) of the Credit Institutions (Financial Support) Act 2008 , that has received financial support under either or both that Act and the National Pensions Reserve Fund Act 2000 .

(2) For the purposes of this section, relevant remuneration is awarded during a tax year if—

(*a*) a contractual obligation to pay or provide it arises during the tax year, or

(*b*) the relevant remuneration is paid or provided during the tax year without any such obligation having arisen during the tax year.

(3) The amount of any relevant remuneration is—

(*a*) if it is money, its amount when awarded, or

(*b*) if it is money's worth, the amount of the money's worth when awarded.

(4) Where the market value of any relevant remuneration at the time it is awarded exceeds, or would exceed, what would otherwise be its amount, its amount is that market value.

(6) (*a*) Where anything constituting relevant remuneration is or would be when awarded subject to any restriction the restriction is to be ignored in arriving at its amount.

(*b*) For the purpose of paragraph (*a*) 'restriction' means any condition, restriction or other similar provision that causes the market value of the relevant remuneration to be less than it would otherwise be.

(5) A relevant employee, instead of being charged to universal social charge at the rates provided for in The Finance Act 2012 on that part of his or her aggregate income for a tax year that constitutes relevant remuneration awarded during the tax year to or in respect of the relevant employee by reason of his or her employment as an employee of the specified institution, shall be charged to universal social charge (to be known, for the purposes of this Bill, as 'excess bank remuneration charge') on the amount of that relevant remuneration at the rate 20% for those relevant employees earning in excess of €150,000 per year and at the rate of 45 per cent for those relevant employees earning in excess of €250,000 for that tax year.

(6) With effect on and from 1 January 2013, the annualised amount of a pension in excess of €100,000 payable to a relevant former employee of a specified institution in accordance with his or her entitlement shall be reduced in accordance by 99 per cent.

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Explanatory Memorandum

Purpose of the Bill

The purpose of the Bill is to apply a 20% levy on pay in excess of €150,000 per year and a 45% levy on pay in excess of €250,000 per year received by senior bankers in the covered institutions. As a result the effective rate of tax on senior banker's earnings over €250,000 per year would be 90% when the levy is added to existing income tax and PRSI contributions.

The Bill also seeks to apply a charge of 99% on pension incomes in excess of €100,000 for those former senior bankers who took retirement after the introduction of the blanket banking guarantee of 2008.

Detailed Provisions of the Bill

Section 1 provides definitions the persons to whom the act applies and the specific banking institutions in which they work. It also provides a definition of the portion of their total remuneration package to which the charge will apply, namely that portion of their total remuneration in excess €150,000 per year for the purposes of the application of a 20% levy and €250,000 per year for the purposes of the application of a 45% levy..

Section 2 clarifies the remuneration to be charged as being both remuneration to which there was a contractual obligation by the employer to provide in a given tax year and remuneration that was paid during the tax year which was not part of any contractual arrangement.

Section 3 states that the charge applies to both money and other forms of payment and that their value is determined as at the time of the payment.

Section 4 ensures that the value of other forms of payment as detailed in Section 3 is based on its market value at the time of the payment and that any restrictions which apply at the time of the payment which have the effect of reducing the market value of the remuneration shall not apply.

Section 5 applies charges of 20% and 45% on those portions of the banker's remuneration as detailed in Section 1 on the Bill in place of the appropriate rate of Universal Social Charge as detailed in the Finance Act 2012

Section 6 applies a charge of 99% on pension income in excess of €100,000 per year to former employees of the covered institutions who took retirement on or after the introduction of the blanket banking guarantee of 2008.