

The Employment Investment Incentive Scheme for Tourism Fáilte Ireland Guidelines

Background:

The new Employment Investment Incentive Scheme ("EII"), which has replaced the existing Business Expansion Scheme (BES), was first announced in the Budget and is contained in the Finance Act 2011. The purpose of EII is to enable a company to have a share issue which, under the scheme of tax relief for investment in corporate trades, will attract tax relief for individual investors.

The function of Fáilte Ireland in respect of the EII is to assess, on behalf of the Revenue, whether tourism applications satisfy the criterion of a tourism undertaking. A listing of the various tourism undertakings which qualify for EII can be found at Appendix I below.

Full details of the EII, to include definitions, limitations, investment ceilings, tax relief and rules, can be found at the website of the Revenue Commissioners ("Revenue"), www.revenue.ie

The issue of an EII Certificate of approval by Fáilte Ireland is confirmation that a company qualifies as a tourism undertaking. Such approval should not be taken as confirmation that:

- A. The company will be regarded by Revenue as a qualifying company. The question of entitlement to relief is a matter to be agreed with Revenue.
- B. Fáilte Ireland have assessed or considered the level or likelihood of risk associated with an investment in a qualifying entity.

Application Process:

All applications for EII should be made electronically to Fáilte Ireland via the following email address EII@failteireland.ie

Applications should include the following information/documentation:

- A business plan which gives a full description of the proposed project;
- A three year marketing plan which details the activities to be undertaken across each of the three years, with the respective cost of each activity. This will be used to confirm that 8% of the EII monies raised will be discharged on out of State marketing;
- Five year financial projections to include profit and loss and balance sheet;
- Copies of the company's certificate of incorporation and memorandum and articles of association;
- Contact details, email and telephone numbers, of the promoters;
- Confirmation of which tourism undertaking the company qualifies under; and
- An upper limit applies to the proportion of total assets which can be devoted to land and buildings excluding fixtures and fittings. Such interest should normally be held freehold, but a leasehold with sufficient interest, e.g. 20 years or more, may be acceptable. Where applicable, it will be necessary to supply an auditor's

certificate confirming that the applicant company's interest in land and buildings does not exceed 90% of total assets.

The application is a consultative process and applicants will be afforded the opportunity to provide additional information to support their application.

Approval:

Applicants will be informed of the progress of their applications on an ongoing basis. Where applications are successful, a Certificate of Approval will be issued directly to the applicant by Fáilte Ireland. All EII companies applying under tourism will be required to evidence such Fáilte Ireland approval in order to progress an EII application with the Revenue.

Post Approval:

Fáilte Ireland has responsibility to monitor the implementation of the marketing and business plan over a three year period starting from the date the company commenced to carry on the qualifying trading operations. Failure to comply with the approved plans could invalidate the entitlement to relief under EII and in that event, Fáilte Ireland will notify the Revenue of non-compliance.

Fáilte Ireland will therefore maintain contact with approved companies in order to monitor the progress made since starting.

Appendix 1 Qualifying Tourism Undertakings

A. Accommodation Facilities

- Caravan and camping Sites that include an onsite food service facility*
- Holiday hostels that include an onsite food service facility*
- Holiday camps**
- Hotels
- Guest houses
- Self-Catering Accommodation or comparable establishments

B. Approved Tourist Facilities

- Boat/cruiser/passenger boat/water craft hire***
- Horse drawn caravan hire***
- Equestrian centres
- Sailing/yachting centres/marinas
- Sub-aqua centres
- Heritage houses, castles, gardens: improvement and development of ancillary services for tourism
- Sea angling boat hire***
- Game fisheries angling facilities
- Commercial golf facilities (pay-as-you-play) (see Appendix 2)
- Interpretative centres
- Chauffeur-drive operations for tourism only***
- International conference centres****
- Outdoor pursuits, activity centres
- Tourist guide agencies
- Tour coach services***
- Campervan hire***

In the case of accommodation facilities, the facility concerned must be registered with the relevant statutory National Quality Assurance Framework (Fáilte Ireland) or listed with the relevant non statutory National Quality Assurance Framework (Fáilte Ireland).

* In the case of caravan and camping sites or holiday hostels, the facility concerned must provide evidence, to Fáilte Ireland's satisfaction, that meals will be provided onsite to staying guests by the facility operator.

** In the case of holiday camps, meals and refreshments must be provided on site.

*** In all instances in which a company proposes to supply to tourists any form of transportation, information must be provided to satisfy Fáilte Ireland that the company's total fleet is sufficient to provide the proposed service. In the event that the company's fleet is deemed too small, satisfaction should be provided as to the company's access to supplementary fleet, e.g. contract hire.

**** An international conference centre facility must be attached to accommodation classified as Four Star or higher by Fáilte Ireland and offering a minimum of sixty-five bedrooms and be a dedicated meeting space with its own reception and lobby area, but be readily accessible to a Business Centre serviced with computers, printer, fax, photocopying and related services. In addition the meeting rooms concerned must comply with the following criteria:

There must be a minimum of four meeting rooms, one of which must be capable of seating a minimum of 50 people classroom style, with dining / banqueting facilities for this number separate to the conference room (and not the hotel/other facility main dining room) and three additional syndicate rooms each capable of holding a minimum of 15 people. No form of bar facility is to be contained *within* the meeting rooms and Fáilte Ireland must be satisfied that the design is such that the rooms are not principally provided such that they can be adapted to the requirements of non-meetings business. In addition it is required that the rooms are:

- dedicated meeting rooms isolated from public areas;
- located conveniently for other services required by delegates;
- accessible to wheelchair and mobility-impaired users;
- with controls for ventilation and heating within the meeting room for guests direct use;
- lighted to a maintained luminance of 500 lux;
- with lighting controls in the room and enable split lighting over/near the projection screens;
- adequately sound proofed for secure discussion and from noise outside the room;
- capable of being secured with access under the control of the meeting organisers;
- supplied with spacious and hard surface tabling with ergonomically designed comfort seating appropriate for prolonged use – minimum four hours;
- with sufficient in-room power sockets together with appropriate provision of audio visual equipment;
- equipped with high-speed internet access through provision of either hard-wired or wireless;
- designed to allow natural light;
- capable of being effectively blacked-out;
- supplied with a telephone connection; and
- located nearby accessible toilets.

C. The promotion outside the State of any of the facilities mentioned at (A) and (B) above, along with accommodation which has been registered by Fáilte Ireland.

APPENDIX 2
COMMERCIAL GOLF FACILITIES
(PAY-AS-YOU-PLAY)

1. *The approval relates to the operation of "Pay-as-you-Play" Commercial Golf Facilities that:*

- comply with the code of standards laid down by Fáilte Ireland for such facilities (in the context of the EII);
- are owned, managed and controlled by a company; and
- are/become members of a Golf Product Marketing Group recognised by Fáilte Ireland.

2. *The approval does not extend to*

- any golfing facility, existing or new, which offers any form of membership, whether of the facility itself or of an associated club;
- any golfing facility which is currently in the ownership, or under the control of a private golf club.

3. Standards for "Pay-as-you-Play" Commercial Golf Facilities

- The facility must be of 18-hole championship standard.
- The facility must feature international standard clubhouse services, including locker room, changing room, toilets, dining and lounge areas.
- The facility must be operated as a commercial venture registered for VAT.
- The facility must provide golf professional services and a satisfactory range of quality equipment for hire.
- Priority in use of the facility must at all times, including weekends and peak season, be accorded to foreign visitors. On-line tee time booking must be available.
- Tariffs for foreign tourists must not be less favourable than for any other class of golfer using the facility.
- Membership of any club or society using the facility must not give any right to priority over either foreign visitors or hotel guests or any right to ownership of, or control over the company, or any associated company.
- The ownership of any shareholding in the company controlling or managing the facility (or any associated company) must not give any right to reductions in tariffs for use of, or to any form of priority access to, the facility or any other golfing facility.

4. *Guidelines for approval of a Development and Marketing Plan in respect of "Pay-as-you-Play" Commercial Golf facilities. (The following guidelines apply in addition to rather than in lieu of the existing guidelines for tourist traffic undertakings):*

A. Fáilte Ireland shall not approve a Development and Marketing Plan in respect of a "Pay-as-you-Play" Commercial Golf facility unless it is satisfied that the plan:

- will result, on completion, in at least one-third of the revenue of the facility arising from foreign tourists;
- allows for the negotiation of substantial contracts with distribution intermediaries for the priority use of the facility by foreign tourists, and for the promotion of such use;
- provides that at least 8% of green fee income will be expended annually on overseas marketing; and
- makes provision for the employment in respect of the facility of a suitable qualified marketing executive.

B. The value of the company's interests in land and buildings (excluding fixtures and fittings) shall not be more than 90% of its assets; for this purpose, the cost of conversion of the land into a golf course shall be disregarded.