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Budget 2019 & Current Tax Developments

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Conor O'Brien
Partner

Introduction

The Minister for Finance introduced the 2019 Budget on 9 October 2018. Further detailed measures will be included in the Finance Bill to be published on 18 October 2018.

Budget 2019 was introduced by the Minister for Finance against the backdrop of a remarkable Irish economic performance in recent years. Having endured a serious economic downturn as a result of the property market crash 10 years ago, Ireland is now enjoying robust economic growth, reaching full employment and ending government borrowing. It is a tribute to the sure footedness of Irish policy makers, and to the discipline of Irish citizens, that this has been achieved.

This Budget sees the distribution of some of the fruits of improving economic conditions, mostly in the form of increased government spending. On the tax front there is a mixture of tax increases and modest tax reductions. The tax relief measures include:

- A reduction in the 4.75% rate of USC to 4.5%
- An increase of €750 in the standard rate income tax band
- An increase in the home carer tax credit by €300
- An increase in the earned income tax credit by €200

The tax raising measures include:

- An increase in the VAT rate applicable to tourism related activities from 9% to 13.5%
- The second of three 0.1% increases in the rate of Employer's PRSI, via an increase in employer contributions to the National Training Fund
- An increase in betting duties and tobacco related excise duties

The Government has again reaffirmed its commitment to Ireland's 12.5% corporation tax rate - Ireland's commitment in this regard has been rock solid for many years. This year's Budget confirms that the corporate "exit tax" which Ireland has committed to introduce under EU law will be levied at the 12.5% rate. Ireland's corporation tax regime remains attractive and remarkably stable.

There will be some disappointment that this Budget follows a pattern of previous Budgets by failing to include any substantial measures to improve the competitiveness of Ireland's tax regime for international mobile talent or domestic entrepreneurs. Both of these groups are relatively mobile and the evolution of the international tax landscape is likely to make it increasingly important to attract them to, and retain them in, Ireland. This would also act as a hedge against any downturn in foreign direct investment of which historically Ireland has been a significant beneficiary. It is to be hoped that future Budgets might include measures to improve existing capital gains tax regime for entrepreneurs, and the Special Assignees Relief Programme applicable to inbound workers, and to reduce Ireland's relatively high marginal rates of income tax. This would complement our competitive corporation tax offering and encourage Irish businesses with Irish based owners.

Conor O'Brien
Head of Tax and Legal Services

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Personal Tax

Robert Dowley
Partner

Income tax bands

Building on last year's Budget, the minister announced that the level of income at which people enter the higher rate of income tax of 40% is to be increased again for 2019. The increase of €750 for both a single person and a single-income couple (married or in civil partnership) will result in a single person reaching the higher income tax rate at a level of €35,300 and single-income couples reaching it at income levels of €44,300. Each tax payer, in dual-income households may also benefit from the increased standard rate band where the respective income of each tax payer is equal to or is greater than €35,300. The maximum annual benefit of this increase amounts to €150 (€300 for a dual-income household).

While welcome, this increase represents year-on-year growth of 2.17% which is less than the growth in average weekly earnings (currently 3.3% per the latest figures available from the CSO).

Universal social charge

Continuing the trend of recent years, the reductions in the USC announced in the Budget were well signalled. In keeping with the Government's stated approach, these reductions are targeted mainly at those categorised by the Government as being on low-to-middle incomes, being those with earnings between €13,000 and €70,044 per annum. The reductions are provided by way of increase in the band two ceiling and reduction in the band three rate.

Firstly, the ceiling at which the 2% rate applies will be increased from €19,372 to €19,874. This increased ceiling should ensure that full-time workers on the increased national minimum wage of €9.80 per hour should not pay USC at rates higher than 2% on their salary.

Secondly, the USC rate applying to income between €19,875 and €70,044 is to be reduced by 0.25% to 4.50%. This change results in the marginal aggregate rate of USC, income tax and PRSI reducing from 48.75% to 48.50% for those earning up to €70,044.

These changes should benefit all taxpayers (including those earning over €70,044), and the maximum benefit to any one individual is limited to €140 per annum. It is expected that these changes will take effect from 1 January 2019.

The employee marginal rate of 52% (comprising income tax, USC, and PRSI) will continue to apply for incomes above €70,044, and a marginal rate of 55% will continue to apply to self-employment income above €100,000.

There is no change to USC for those earning less than €60,000 per annum who are either (i) full medical card holders, or (ii) over 70 years of age.

Notwithstanding that it was introduced as a temporary measure in December 2010, the USC applies to a wider base of taxpayers than the income tax charge and now appears to form a permanent part of the personal tax regime in Ireland. In February of this year, the minister established a working group to examine the potential amalgamation of USC and PRSI over the medium term to ensure the competitiveness and resiliency of Ireland's personal tax system in the future, without narrowing the tax base. The group was expected to report in advance of today's Budget. The Minister did not refer to the working group in the Budget speech.

Full details of the revised rates and bands are included in the Tax Rates and Credits 2019 table at the end of this publication.

Earned income credit

The earned income credit was introduced from 2016 to reduce the differential in taxes payable by employees and self-employed individuals. The minister announced that the credit for 2019 will increase by €200 to €1,350. The increased earned income credit is still €300 lower than the corresponding PAYE credit available to most employees.

This represents another step towards parity between the tax credits applicable to employees and self-employed persons, albeit there remains a €300 differential.

However, there has been no equalisation of self-employed and employee USC rates on income over €100,000 as previously mooted. As such non PAYE income over €100,000 will continue to be liable at 11%.

Home carer credit

Continuing a trend from the last two Budgets, the home carer credit is to be increased for 2019. This year's change will see the credit increase by €300 to €1,500 for the year. In total, the credit has been increased from a level of €1,000 in 2016 to €1,500 for 2019.

The full credit will be available where the carer's income (excluding Carer's Benefit and Carer's Allowance) is €7,200 or less, with a tapering credit available to those with income between €7,200 and €10,200.

Mortgage interest relief

Mortgage interest relief is available in respect of certain owner-occupied residential mortgages drawn down between 1 January 2004 and 31 December 2012.

The minister did not announce any change to the expected tapering of the relief between now and 2021.

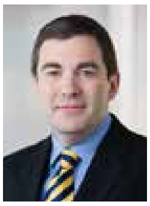
Capital Acquisitions Tax thresholds

The minister announced an increase in the tax-free threshold that generally applies for capital acquisition tax (CAT) purposes for gifts or inheritances from a parent to a child. This threshold is to be increased from €310,000 to €320,000, and it is expected to take effect for gifts or inheritances taken on or after 10 October 2018.

In his speech, the minister referenced concerns about the tax burden for families on inheriting the family home as being the driver for this increase. Today's increase in the threshold is small, and there is a long way to go in restoring the threshold to previous levels, which were in excess of €500,000 before the financial crisis.

Full details of the revised tax-free thresholds are available in the Tax Rates and Credits 2019 table at the end of this publication.

Employment Taxes



Ken Hardy
Partner

Key Employee Engagement Programme (KEEP)

In 2017, the minister announced the introduction of the Key Employee Engagement Programme (KEEP), an employee share option incentive scheme targeted at the Small and Medium Enterprise (SME) sector. The incentive scheme allows qualifying companies to remunerate key employees in a manner which is tax-efficient and is linked to the future success of the company, provided certain qualifying requirements are met throughout the option-holding period.

KEEP aims to support SMEs in attracting and retaining key talent by effectively deferring the taxation of gains on employee owned shares until the sale of the shares. The scheme came into effect in January 2018 and currently applies for qualifying options granted before 31 December 2023.

In his Budget speech, the minister acknowledged that the level of interest to date in the KEEP incentive has been less than expected. In order to incentivise the take-up of the incentive and to support SMEs in attracting and retaining key talent, the minister announced a number of changes to the rules relating to the total market value of qualifying share options which may be granted by a qualifying company to an employee or director. Specifically, the ceiling on the maximum annual market value of share options that may be granted by an SME to any one employee or director under the KEEP scheme will be increased to 100% of the annual emoluments of the employee or the director in the year in which the qualifying share option is granted. A 50% ceiling previously applied. In addition, the minister announced that the overall value of share options which may be awarded to each employee will increase from €250,000 to €300,000, while also changing the time period in which this limit applies from three consecutive years to a lifetime limit.

Introduction of PAYE Modernisation

As noted in more detail in the commentary on PAYE modernisation later in this publication, Revenue's updated PAYE system will be fully operational from 1 January 2019. From this date employers will be required

Michael Rooney
Principal

to submit real time information on remuneration and PAYE data for each employee, and the modernisation will allow employees access to real time online information relating to their taxable pay, taxes paid, tax credits etc.

Hourly Minimum Wage

In his Budget Speech the minister announced an increase in the hourly minimum wage. From 1 January 2019, the hourly minimum wage will be increased to €9.80 following a recommendation from the Low Pay Commission. In tandem with the minimum wage increase, the minister also announced related changes to USC and PRSI, as noted below. As such, an increase in gross income should not be significantly eroded by PAYE/USC/PRSI for employees in this space.

Employer's PRSI – increased threshold

From 1 January 2019, the weekly income threshold for the higher rate of employer's PRSI will increase from €376 to €386. This follows a recommendation of the Low Pay Commission to ensure that the increase in the hourly minimum wage does not lead to a reduction in working hours for a full-time minimum wage worker.

USC rate band increase

With effect from 1 January 2019, the ceiling of the second USC rate band will be increased. This should ensure that the salary of a full-time worker on minimum wage will remain outside the top rate of USC. The impact of this increase is included in the Tax Rates and Credits 2019 table at the end of the publication.

Employer's PRSI - National Training Fund levy

As anticipated, from 1 January 2019 there will be a 0.1% increase (from 0.8% to 0.9%) in the National Training Fund levy payable by employers in respect of reckonable earnings of employees in Class A and Class H employments.

This increase represents an additional cost for employers given that it is collected as part of employer's PRSI. The current rate of employer's PRSI of 10.85% will increase to 10.95% from 1 January 2019 as a result of this change.

The minister also announced that with effect from 1 January 2020, there will be a further 0.1% increase (from 0.9% to 1.0%) in the National Training Fund Levy payable by employers in respect of reckonable earnings of employees in Class A and Class H employments. This will increase employer PRSI to 11.05%.

Business Tax

Paul O'Brien
Partner

Colm Rogers
Partner

Employment and Investment Incentive (EII)

The minister announced in his Budget speech that, following a recent review of the EII incentive, he intends to bring forward a priority package of measures in the Finance Bill to address the main problems which were identified with the EII incentive during the review to increase the efficiency and effectiveness of the incentive. We await further details in the upcoming Finance Bill of the proposed changes.

Film corporation tax credit relief

The film corporation tax credit relief was introduced to promote the Irish film industry by encouraging investment in Irish made films which make a significant contribution to the national economy and the Exchequer. The scheme provides relief in the form of a corporation tax credit related to the cost of the production of certain films. The credit was due to expire at 31 December 2020, but the minister has extended this to 31 December 2024 in order to support the continued growth of the industry in Ireland.

The minister also announced that a regional uplift to the film corporation tax credit relief, will also be introduced, for productions made in areas designated under the State Aid regional guidelines. Full details of the relief will be set out in the Finance Bill.

Relief from corporation tax for certain start-up companies

A relief from corporation tax for certain qualifying start-up trades was introduced in Finance Act (No. 2) 2008. The relief was due to expire for qualifying trades which commenced after 31 December 2018. The minister announced that the relief is to be extended for a further three years. It will therefore be available to companies which commence qualifying trades in the period up to 31 December 2021, where the relevant conditions are met.

Since 2011, the amount of corporation tax relief available is linked to the amount of employer's PRSI paid by the company in each accounting period, subject to a maximum of €5,000 per employee and an overall annual corporation tax liability limit of €40,000 on qualifying income and gains (with marginal relief available where the company's corporation tax liability would otherwise be between €40,000 and €60,000).

A review of the relief was published with Budget 2019. The report sets out that while unemployment rates have significantly decreased since the introduction of the relief, enterprise survival rates from the last five years show that start-up companies continue to struggle to survive. The report concludes that the relief continues to support job creation and employment at a minimal cost to the Exchequer when contrasted with the potential cost of unemployment support for the employees of the companies claiming the relief. It recommended that the relief should be extended for a further three years. The importance of retaining the link to employer's PRSI was emphasised as this measure serves to encourage start-ups to retain employees. A further evaluation is to be carried out in 2021.

Accelerated capital allowances scheme for gas-propelled vehicles

The minister announced that a new accelerated capital allowances scheme for gas-propelled vehicles and refuelling equipment will be introduced. The purpose of the scheme is to encourage the uptake of gas-propelled commercial

Tim Lynch
Partner

vehicles as an alternative to diesel. Currently, capital allowances on such vehicles are available on a straight line basis over an eight year period, where certain conditions are met. Details of the new accelerated scheme will be set out in the Finance Bill.

Crowdfunding

The minister announced that the Department of Finance and the Central Bank will begin work on the regulation of crowdfunding in Ireland. As part of this process, a review of the withholding tax obligations for peer-to-peer lending activities will be carried out with a view to making appropriate amendments following the introduction of regulations.

Existing legislation requires the deduction of income tax at the standard rate (currently 20%) from yearly interest paid by companies, or by any person to another person whose usual place of abode is outside of Ireland, unless a specific exemption applies. Such exemptions do not extend to yearly interest paid to an Irish tax resident individual.

Agri-business measures

While recognising the significant contribution that agriculture makes to the economy, the minister acknowledged that the sector is facing a number of threats, with Brexit posing specific challenges. He also recognised that 2018 has been a difficult year for farmers and has extended a number of farming related tax measures.

Stock relief provides for an additional income tax deduction for stock increases during the tax year. This has been extended for a three year period until the end of 2021. This extension applies to the three separate stock relief measures, which are:

- the general 25% stock relief
- the 50% stock relief for registered farm partnerships
- the 100% stock relief for certain young trained farmers

Income averaging allows certain farmers to pay tax based on average profits over a five year period and is intended to assist farmers in dealing with the income volatility associated with the industry. Eligibility for this relief has been extended where the farmer, or their spouse/civil partner, carries on another trade/employment, or holds/controls more than 25% of the share capital in a trading company.

At present, where certain conditions are met, young trained farmers under the age of 35 can avail of a stamp duty exemption on transfers of agricultural land. The exemption was due to expire on 31 December 2018. The minister confirmed that it will be extended for a further three years to 31 December 2021.

The financial resolutions passed on Budget Day announced an increase in the VAT rate from 9% to 13.5% on the sale of bloodstock. However, the sale of bloodstock to farmers should continue to qualify for the 4.8% VAT rate.

These taxation measures were complemented by increases in funding for the Department of Agriculture, Food and the Marine and other Brexit related support, including a new Future Growth Loan Scheme that will be available to the agriculture and food sectors as well as other SMEs.

Review of the workload and operations of the Tax Appeals Commission

The new tax appeals process was introduced in 2016. Following a commitment in Budget 2014 by the then Minister for Finance to reform the role, functions and structure of the Office of the Appeal Commissioners, the Tax Appeals Commission (TAC) was established on 21 March 2016. The TAC replaced the Office of the Appeal Commissioners.

The minister introduced the reforms to ensure an enhanced and cost-effective appeal mechanism for tax cases. This was to provide transparency and increased certainty for taxpayers and to ensure that the appeals process was fully independent, with no actual or perceived bias in the operation of the appeals system.

The main reforms made to the tax appeals process were as follows:

- Appeals are now made in the first instance to the TAC (rather than to the Revenue Commissioners)
- Hearings of the TAC (by default) are in public – although an appellant can request the hearing to be private
- Determinations of the TAC are written and published (albeit redacted)
- An appeal against a determination of the TAC can only be made on points of law to the High Court. Access to the Circuit Court for a full rehearing of the case, which had been a feature of the previous model, was withdrawn

A difficult beginning

Since it was established, the TAC has struggled to manage its substantial case load. The TAC was initially set up with just two Commissioners and thirteen staff members.

In its 2017 Annual Report, the TAC highlighted various challenges that have hampered its ability to progress appeals as efficiently as it would have liked:

- On its establishment, the TAC assumed the existing case load of the Office of the Appeal Commissioners, a total of 2,731 legacy appeals. The TAC also received 901 fresh appeal notifications in 2016 (excluding legacy appeals transferred by Revenue that

Gareth Bryan
Partner

year) and 1,751 in 2017. There has been a further increase in the number of appeals in 2018
- Budgetary constraints, a shortage of staff and inadequate premises from which to operate

These challenges have resulted, in practice, in long delays in setting hearing dates and the subsequent issue of determinations.

Independent review

An independent review of the workload and operations of the TAC was commissioned by the minister during 2018 and was published on Budget Day. The review concluded that there are changes that can be made to the governance, resourcing and operational practices of the TAC which would assist in clearing the current backlog of cases and equip the organisation to deliver on its mandate in accordance with the objectives originally set.

Key recommendations arising from this review are as follows:

Governance:

- The minister should appoint a Chairperson, Accounting Officer and Head of Office. In addition to the normal duties of Commissioner, the Chairperson would be responsible for overseeing case allocation, quality assurance, consistency and management of the operations of the TAC
- In the recruitment of Commissioners, attention should be paid to ensuring that there is a balance of professional backgrounds (i.e. tax practitioners; legal professionals with tax experience; former Revenue officials) to ensure a balance of approach by the TAC to its work

Independence:

- The provision of corporate supports (including internal audit, health and safety services, risk management) for the TAC should be a responsibility of the Department of Finance in the short term. For the longer term, the Civil Service Management Board should be asked to consider how best a shared service solution for these areas might be progressed for the TAC and other small agencies as the need arises in the future
- There should be re-engagement between Revenue and the TAC in relation to the provision of IT systems design, support and hosting facilities

Additional resources:

- Significant additional resources need to be added to the TAC to enable it to deal efficiently with the volume of current cases and clear the backlog of legacy cases

Dealing with the backlog:

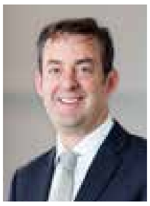
- The TAC should identify and categorise the case load to determine the scale of the backlog of current cases. It should then put a plan in place to deal with the backlog. The plan should indicate a timeframe for the elimination of the backlog and targets for progress against which progress can be reported
- The TAC should communicate with all parties to appeals caught up in the backlog outlining the approaches being taken and identifying when progress might be expected in relation to different categories of appeals

Process improvements:

- The TAC should publish indications for expected timeframes for finalisation of determinations following the hearing of an appeal. A target of two months is suggested. The TAC should report on progress in meeting this target
- The TAC should formalise liaison arrangements with Revenue to facilitate greater efficiency in the operation of the appeals process
- There should be an exploration of how alternative dispute resolution procedures might be accommodated at different stages of the appeals process

The minister confirmed that he fully supports the recommendations of the review.

Property & Construction



Jim Clery
Partner

Carmel Logan
Partner

The Budget measures announced focus on delivering the Government's housing program for 2019.

Housing strategy

The Minister announced the allocation of €2.3 billion to the Government's housing programme for 2019, with an allocation of €1.25 billion for the delivery of 10,000 new social homes. The new homes will be delivered through a combination of construction, acquisition and leasing. These are welcome measures, which in combination with the private sector will continue to make progress towards easing of the acknowledged housing crisis.

The involvement of the newly established Land Development Agency in the delivery of these projects provides an interesting and exciting opportunity to increase housing supply, with clear targets on 3,000 houses and expectations of a further 7,000.

Private rental sector

The minister announced full restoration of interest relief for mortgages on private rental accommodation. The relief had been restricted a number of years ago, and was not due to be restored until 2021.

Despite some rumours in the weeks leading up to the Budget, it is welcomed that the minister has not altered the stamp duty rate applicable to Private Rental Sector (PRS) projects. Given the current housing challenges, any such change could have led to delays in project acquisitions, reduction in investment and ultimately increases in the cost of delivering large scale rental developments.

Local Property tax

The new valuation date for Local Property Tax (LPT) is 1 November 2019. A public consultation was undertaken by the Department of Finance in April 2018 and the minister stated the report will be published in due course. The consultation will have particular regard to valuation issues. The minister reassured homeowners that any future changes in LPT will be moderate and affordable.

International Tax

Andrew Gallagher
Partner

The minister reaffirmed Ireland's commitment to the 12.5% rate of corporation tax. He also confirmed that Ireland will continue to take the actions needed to meet the highest international standards in tax, whilst offering a competitive tax regime that assists in building the Irish economy.

In September, the Department of Finance released Ireland's Corporation Tax Roadmap which set out the future of Ireland's corporation tax regime. The roadmap reflected stakeholder feedback to recommendations that were made in the Review of Ireland's Corporation Tax Code that was undertaken by independent expert Seamus Coffey (the Coffey Review).

The roadmap detailed Ireland's adoption of measures that all EU member states are required to implement under the European Union Anti-Tax Avoidance Directive (ATAD) which was agreed by the member states in July 2016. The minister noted some of these proposals in his budget speech.

Exit Tax

Under the ATAD provisions, member states are required to introduce an exit tax for corporates, or to bring existing exit taxes for corporates into alignment with the EU provisions, no later than 1 January 2020.

The minister confirmed that Budget 2019 would introduce a new ATAD compliant exit tax regime. Financial Resolutions passed by the Dáil on Budget Day brought this regime into effect from midnight on Budget night. The minister considered that early introduction of this measure will provide certainty to businesses currently located in Ireland and to those considering investing in Ireland in the future.

The regime will tax unrealised capital gains on capital assets where:

- There is a transfer of assets by a company resident in a member state from an Irish permanent establishment to another territory,
- There is a transfer by a company resident in a member state of a business carried on by a permanent establishment in Ireland to another territory, or
- a company ceases to be tax resident in Ireland.

The tax rate for the exit tax is set at 12.5% - which is equivalent to the Irish corporation tax rate on trading profits.

There are some additional provisions relevant to this measure:

- There are specific anti-avoidance measures which seek to deny the 12.5% rate where the charge arises as part of a wider transaction to dispose of the asset where a gain would otherwise be taxable at a rate of 33%.
- There is no charge when the assets are situated in Ireland and the company continues to use the assets as part of a trade in Ireland or continues to hold the assets as part of a permanent establishment in Ireland after the relevant transaction. This is because such assets remain within the charge to Irish tax.
- There are no changes to the provisions which deny the availability of the substantial shareholdings exemption when there is a deemed disposal of shares under an exit tax event.
- The measures allow for a harmonised approach on intra EU transfers of assets. They deem the market value of assets subject to exit tax in another EU member state to be the acquisition cost in Ireland. These provisions do not apply to treat the asset brought into Ireland as acquired at market value for capital allowances purposes.
- The resolutions adopt permitted exceptions for temporary transfers of assets in certain financial services transactions.
- The ATAD provisions require that Ireland shall allow the company to spread the exit tax charge over 5 years. It is hoped that the legislation will clarify that the tax spreading provisions in Ireland's existing exit charge provisions, apply to tax liabilities arising under the new exit tax provisions.
- Capital gains tax principles apply in measuring the exit gain. This means that foreign currency movements during the holding period of the asset may result in an increase or decrease in the gain as measured in euro terms.

Controlled Foreign Company (CFC) Rules

The minister confirmed that the Finance Bill will provide for the introduction of a Controlled Foreign Company (CFC) regime in Ireland for accounting periods commencing on or after 1 January 2019.

CFC rules are an anti-abuse measure for corporates that are designed to limit the artificial deferral of tax through the use of low-tax or no-tax offshore entities.

The roadmap confirmed that Ireland would introduce ATAD compliant CFC rules in Finance Bill 2018 to take effect for accounting periods beginning on or after 1 January 2019.

The Department of Finance issued a Feedback Statement in September 2018 which sets out some outline legislation for Ireland's CFC rules. KPMG has made a comprehensive submission on the feedback statement which includes comments on the draft legislative measures and matters which we believe should be addressed in guidance in order that the implementation of the CFC rules can be as clear and unambiguous as possible for businesses.

The CFC rules will introduce an additional compliance burden on Irish headquartered groups and on international groups that have located their regional headquarters and holding structures in Ireland. However, it is hoped that the final legislation and related guidance will be drafted in a manner that ensures the regime is clear, unambiguous and operable in practice.

Transfer Pricing

Conor O'Sullivan
Partner

The minister in his Budget speech reiterated previous commitments to undertake a review of Ireland's transfer pricing (TP) regime during 2019. Any changes arising from the review will likely take effect from 1 January 2020. The changes will include formally adopting the OECD's 2017 TP Guidelines - Ireland currently applies the OECD 2010 TP guidelines under domestic legislation.

The public consultation will give further consideration to a number of TP matters including:

- extending Ireland's TP to non-trading and capital transactions (although for the latter there are already relevant provisions in effect);
- ending the exclusion from TP of arrangements in place prior to 1 July 2010 under existing grandfathering provisions;
- whether the TP rules should be applied to SMEs and if so, what de-minimus thresholds should apply, including possibly reduced documentation requirements e.g. related to the preparation and filing of the Master File and Local File;
- if the new OECD 2017 TP Guidelines should be applied to past transactions;
- obligations relating to TP documentation;
- any additional changes to Ireland's tax regime that may be needed to ensure TP rules are fully effective in ensuring tax is paid where value is created;
- the potential introduction of TP rules to the taxation of branches in Ireland, in line with the Authorised OECD Approach.

There is a commitment from policy makers that any changes will be made in a careful, considered manner as one coherent package.

What will changes to transfer pricing mean?

Reform of the Irish transfer pricing rules could have a significant impact on taxpayers.

- Applying transfer pricing requirements to non-trading transactions would impact many intra-group financing arrangements and arrangements for licensing intangible property. Given the difference in tax rates with non-trading income being taxed at 25%, this could give rise to unexpected and inequitable tax liabilities on domestic arrangements. Businesses should review and identify group arrangements (whether domestic or cross-border) where transfer pricing adjustments are not made because the transaction is non-trading. Alternatives to existing (intra-group arrangements) might include centralising intra-group arrangements and related infrastructure, and carrying on intra-group lending, treasury and other support activities as an Irish trade taxed at 12.5%.
- Adoption of the 2017 OECD TP guidelines could affect the transfer pricing of intangible assets, the split of profits in a global supply chain and the allocation of profits to branches. Those guidelines, when dealing with transfer pricing for intangibles, provide greater clarity on attributing profits to the value added by key decision-makers. Understanding where decision-makers are located and how key risks are controlled is an important step in understanding

if the approach to the recognition of profits in a particular local jurisdiction is appropriate. In practice, the 2017 OECD TP Guidelines are automatically applied in relation to any international transfer pricing matters that are the subject of dispute resolution mechanisms under relevant double tax treaties. Any retrospective implementation to past transactions would be largely unnecessary.

- CFC legislation is to be introduced from 1 January 2019 which will potentially impose a charge to Irish tax on the income of foreign subsidiaries in certain restrictive circumstances. This charge can apply where significant people functions related to the underlying assets/income are exercised in Ireland and where the essential purpose of the arrangements is a tax advantage. While the CFC provisions should not have broad application, where they do apply, the identification of these significant functions and the calculation of any potential amount chargeable to tax is to be determined based on OECD transfer pricing principles.
- Extending transfer pricing and documentation requirements for SMEs could create a significant and unnecessary administrative burden for Irish business. Many countries apply a generous de-minimus threshold to minimise this risk.
- It is also intended to enact regulations to give effect to the EU Dispute Resolution Directive, thereby allowing taxpayers an additional forum for resolving intra-EU disputes on transfer pricing. This can be a very effective approach in practice to resolving difficult and protracted disputes and has been applied successfully in other countries.

Transfer pricing is without doubt the single biggest area of potential dispute and source of controversy for many taxpayers. The revision and clarification of OECD transfer pricing principles in certain key areas has been at the very core of international tax changes. It is clear the reform of Ireland's transfer pricing regime will significantly impact upon Irish based businesses.

VAT and other indirect taxes

Terry O'Neill
Partner

Glenn Reynolds
Partner

Increase in VAT rate for tourism and hospitality sectors

As speculated in media reports in recent days, the minister confirmed that the VAT rate applicable to services in the tourism and hospitality sectors will increase from 9% to 13.5% with effect from 1 January 2019.

The 9% VAT rate will, however, continue to apply to sales of printed newspapers and the provision of sporting facilities. The minister also announced that the 9% rate will be extended to e-books and digitally supplied newspapers with effect from 1 January 2019 (these items are currently subject to VAT at 23%).

The 9% VAT rate was originally introduced as a stimulus measure in July 2011 as part of a Government jobs initiative for the tourism and hospitality sectors. A Department of Finance study into the measure, released in July 2018, concluded that the benefits of the 9% rate for the tourism and hospitality sectors no longer outweighed the cost of VAT receipts foregone.

Consequently, from 1 January 2019, the 13.5% VAT rate will apply to restaurant and catering services, hotel and similar accommodation, and admissions to cinemas, museums and other attractions. The changes will also impact on certain other supplies including supplies of live horses (other than for food or agricultural production) as well as hairdressing. Suppliers of these goods and services will need to consider the impact of the higher VAT rate on their pricing, and will need to update their systems and procedures to apply the correct VAT rate from 1 January 2019 onwards. In addition, as the VAT charged on hotels, restaurants and other entertainment is generally not deductible, business purchasers of these services will also suffer an increased cost.

The reduction in the VAT rate from 23% to 9% for e-books and digitally supplied newspapers follows agreement reached in the EU Council earlier this month to allow reduced rates of VAT to apply to digital publications. Prior to this, EU VAT rules required all EU Member States, including Ireland, to apply the standard rate of VAT (currently 23%).

There were no other changes to VAT rates or to the flat-rate credit for unregistered farmers.

Excise Duty

The excise duty on a packet of 20 cigarettes will increase by 50 cents (including VAT) with a pro-rata increase on other tobacco products, and an increase in the minimum excise duty on all tobacco products.

The above measures will take effect from midnight on 9 October 2018.

There are no increases in excise on alcohol, diesel or petrol, and motor tax rates also remain unchanged.

Betting Duty

The minister announced an increase in the rate of betting duty from 1% to 2% for bets placed by customers in the State.

In addition, betting duty levied on commission earned by betting intermediaries and exchanges will increase from 15% to 25%.

Both measures are to take effect from 1 January 2019.

Vehicle Registration Tax

While there was no increase in the excise rate on diesel, the minister announced the introduction of a 1% Vehicle Registration Tax (VRT) surcharge on diesel engine passenger vehicles registered in the State from 1 January 2019.

The VRT reliefs available for the purchase of conventional hybrid electric vehicles and plug-in hybrid electric vehicles are being extended to 31 December 2019. The relief for hybrid vehicles had been due to expire at the end of 2018. Reliefs in place for electric (non-hybrid) vehicles are scheduled to continue until the end of 2021. The reliefs are up to a maximum of €5,000 for electric vehicles with lower amounts for hybrid vehicles.

Carbon Tax

There was no increase in the rate of Carbon Tax in the Budget. There had been speculation that the minister would raise carbon tax following the announcement during last year's Budget that a review of carbon tax would be undertaken. While there was no increase, the minister announced his intention to set out a long-term trajectory for carbon tax increases out to 2030.

Planning for Brexit

Brian Daly
Partner

Budgetary context

The Minister reiterated that Ireland will remain at the heart of Europe and open to the world. He stated that the Budget is designed to prepare the economy for the challenges of Brexit – the best preparation for which is responsible budget policy.

The Minister did not announce any specific tax related measures related to Brexit today. Instead, the challenges which Brexit will bring are addressed through a number of spending initiatives announced.

The Budget was prepared with the assumption of an orderly Brexit (i.e. the UK is assumed to remain in the single market and customs union during the period until end-2020). The Economic and Fiscal Outlook published on budget day consider that there are short-term risks to this scenario which are firmly tilted to the downside.

The outlook states "In particular, the probability of a disorderly Brexit – failure to agree either a transitional arrangement or trade agreement (or both) between the EU and the UK – has increased in recent months and, even at this late stage, there remains considerable uncertainty regarding what form any post-exit arrangement will take".

What are businesses doing to prepare for Brexit?

Brexit may bring an unprecedented scale and pace of change for businesses. Companies will continue to ask themselves the key strategic and operational questions they have always asked themselves, such as:

- Is there a market for our products/services?
- Can we provide the product/service from my current location whilst generating an adequate return in equity?

- Do I have access to the people and skills that I need?

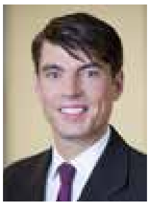
Brexit may mean the answers to these questions are different than they would otherwise have been.

Regulators are requiring companies to prepare for a no deal/hard brexit, and hence, for example, financial services and pharmaceutical companies are spending significant amounts of money on preparing themselves for that outcome so as to ensure that they can continue to provide services/products after 29th March 2019, irrespective of the political outcome agreed between now and then.

Large non-regulated companies with the resources to reconfigure supply chains and scenario plan are also spending significant time and resources in preparing for Brexit. This involves, for example:

- Looking in detail at their supply chains
- Understanding the VAT and Customs costs they will face (and considering whether to secure Authorised Economic Operator status as a means of simplifying their Customs procedures)
- Securing warehouse capacity for longer lead times
- Exploring new markets
- Seeking to hedge fx and working capital exposures
- Looking at whether data flows will be affected
- Addressing the impact on availability of people with the right skills.

Many other businesses are struggling to get the time to fully prepare for an event which, some believe, and many hope, will never happen, and have adopted a "wait and see" mentality.



Brian Brennan
Partner

So what areas should business be focussed on?

If a no deal/hard Brexit is the outcome, many businesses may face significant issues insofar as their goods, services and market focus are concerned.

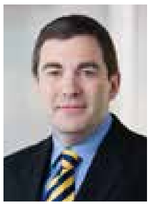
How should Ireland position itself in this context?

A key challenge for the Government in this environment is to make sure that Ireland continues to be seen as an attractive location from which to conduct business. Ireland has a very strong story to tell, as a location which offers businesses stable and predictable industrial and fiscal policy, a highly skilled workforce, access to an EU market of over 450 million people (post-Brexit), English language skills and a common law system. Maintaining our international reputation as a country which abides by, and contributes to, the development of sensible new rules and regulations will also help.

However, if we lose competitiveness, be it either cost competitiveness or our ability to attract and keep entrepreneurs in Ireland (availability of skilled people and an attractive taxation policy are highly influential in this regard), the challenges emerging from Brexit will only be exacerbated.

Given its scale, the UK will continue to be an important market for many businesses, and post-Brexit may seek to enhance its relative attractiveness as a location via aggressive tax policies, and perhaps even reducing what they may perceive as over burdensome regulation. Ensuring that Ireland's brand is not damaged by proximity to a post-Brexit United Kingdom with lower standards on, for example food, will be critically important. Hence the terms of the future framework will need to secure a good outcome not only for all island trade in Ireland but also for trade from Ireland to both the UK and the rest of the EU. Without this, the long term success of many Irish businesses may be damaged.

PAYE Modernisation


Ken Hardy
Partner


Michael Rooney
Principal

The Summary of Budget 2019 Taxation Measures which was published on Budget Day noted that Revenue's updated PAYE system will be fully operational from 1 January 2019. It was further noted that once the system is implemented, it is expected to yield additional exchequer savings arising from increased taxpayer compliance, citing an additional expected tax yield of €50m.

Given the 1 January 2019 introduction date, employers now have less than three months until Real Time Reporting (RTR) comes into effect in respect of the application of Pay-As-You-Earn (PAYE) to their employees' salaries. Employers should therefore be considering the implications of PAYE Modernisation for their business, including any steps which will need to be taken in the months prior to its introduction.

RTR will require employers to submit the details of each employee's pay to Revenue on or before each pay day. An accurate and detailed breakdown of all pay, deductions and tax must be disclosed in respect of each employee.

Key changes under PAYE Modernisation

With effect from 1 January 2019, employers will be required to report all employee remuneration and PAYE data to Revenue on or before the payment date of the employee's remuneration on a real time basis. This will mean that Revenue will have access to PAYE related data each month at the time when the tax is deducted.

Some of the key changes to PAYE processes under PAYE Modernisation and their likely impact on both employers and employees are set out in the table below:

Key Change	What does this mean for employers and employees?
All current forms relevant to payroll taxes (i.e. P30, P35, P60, and P45) will be abolished for tax year 2019 onwards.	The first few months of 2019 will mean an overlap of old and new regimes with 2018 reporting forms due but 2019 RTR also in force. Adjusting to the new regime, whilst finalising reporting under the old regime, is likely to place an additional strain on teams responsible for PAYE related processes.
The tax details disclosed in each payroll run will be collated and a statement will be issued by Revenue which will become the employer's payroll tax return, replacing the P30 form.	Accurate information about employees pay will have to be reported to Revenue on or before the date of payment of employees' salaries. It will no longer be possible to defer collecting and validating the information until the PAYE return filing and tax payment dates.
Companies will have 14 days to review the statement issued by Revenue and investigate any errors/discrepancies, before paying over the relevant tax to Revenue by the payment dates in the following month. Tax payment dates will remain unchanged.	Employers with highly manual or complex payroll processes may find it more challenging to collect and validate all of the necessary reporting information on a timely basis.
Employers are required to download the latest RPN (Revenue Payroll Notification, which is akin to the current P2C/TCC) for each employee and use the details therein to calculate the payroll taxes to be deducted. These tax details, along with a significant number of other employee specific remuneration data, need to be disclosed in a PSR (Payroll Submission Request), on or before the day on which employees are paid.	This represents a fundamental change to the operation of payroll. Employers will have limited time to collect all relevant information and check it for accuracy. Errors mean that employees' after tax pay will be incorrect.
Where any employee record mismatches are not resolved in advance of 1 January 2019, employees will default to emergency tax. Where no PPSN is provided to the employer the top rate of tax and USC will apply.	Employees may be subject to emergency tax at the higher rate of tax.
Where there are a significant amount of routine / recurring errors in an employer's payroll system, RTR will mean that Revenue will be aware of these errors and corrections.	A high volume of error corrections may well raise the perceived risk of compliance failure by the employer, this may increase the risk of a Revenue audit or other tax compliance interventions.

Which employers will be most impacted?

Although all employers will be impacted by the introduction of RTR, employers with complex payroll structures can expect to be affected to the greatest extent. They are likely to face the greatest challenges in collecting and validating employee information within such a short period of time in a RTR environment. Payroll features that pose some of the greatest challenges for employers will be described below:

- Share based remuneration schemes
- Company cars or other benefits-in-kind
- Regular and/or variable bonuses
- Inbound/outbound assignees
- Short term business visitors
- Multiple payrolls for different populations of employees
- Weekly, fortnightly and monthly payroll runs

High volumes of seasonal employees or employees with multiple employments ensuring robust processes to capture this information will be critical to compliance with the new requirements.

Next steps

With less than three months until 1 January 2019, employers need to act with speed to identify and manage any changes that may be required. If your business has not already done so, now is the time to develop and implement your RTR readiness plan.

Tax Rates and Credits 2019

Personal income tax rates (changed)

	At 20%, first	At 40%
Single person (increased)	€35,300	Balance
Married couple/civil partnership (one income) (increased)	€44,300	Balance
Married couple/civil partnership (two incomes)* (increased)	€70,600	Balance
One parent/widowed parent/surviving civil partner (increased)	€39,300	Balance

* €44,300 with an increase of €26,300 maximum

Personal tax credits (changed)

Single person	€1,650
Married couple/civil partnership	€3,300
Single person child carer credit	€1,650
Additional credit for certain widowed persons /surviving civil partner	€1,650
Employee credit	€1,650
Earned income credit (increased)*	€1,350
Home carer credit (increased)	€1,500

* Applies to self employed income and certain PAYE employments not subject to the PAYE credit

Help to Buy Scheme (unchanged)

Income tax rebate, capped at €20,000, for first time buyers of a principal private residence. The relief is 5% of the house value (capped at €400,000). No relief for houses valued greater than €500,000. Claimants must take out a mortgage of at least 70% of the purchase price. The scheme only applies to new builds, self builds or a converted building not previously used as a dwelling and not to second hand properties. The scheme will be in place until 31 December 2019.

Home loan interest relief granted at source on principal private residence* (unchanged)

Married/widowed - First time buyers loan taken out from 2009 to 2012**	
Years 6-7	Lower of €4,000 or 20% of interest paid
After year 7 (where applicable up to and including 2017)*	Lower of €900 or 15% of interest paid
2019	50% of relief available in 2017
2020	25% of relief available in 2017
Married/widowed - Other mortgages, loans taken out from 2004 to 2012**	
2017*	Lower of €900 or 15% of interest paid
2019	50% of relief available in 2017
2020	25% of relief available in 2017
Married/widowed - First time buyers loan taken out from 2004 to 2008**	
After year 7 and up to and including 2017*	Lower of €1,800 or 30% of interest paid
2019	50% of relief available in 2017
2020	25% of relief available in 2017
Single persons	
Thresholds set at 50% of those outlined above for married/widowed persons	

* Loans taken out on or after 1 January 2013 do not qualify for Mortgage Interest Relief. The relief available in 2017 was extended in Budget 2018 on a tapered basis to 2020

** Applies to civil partnerships/surviving civil partner also

Local Property Tax (varying rates) Minister to review in late 2018

Market Value less than €1,000,000*	0.18%
Market Value greater than €1,000,000:	
- First €1,000,000	0.18%
- Balance	0.25%

* Market Value less than €100,000 - calculated on 0.18% of €50,000. Market Value €100,000 - €1,000,000 assessed at mid-point of €50,000 band (i.e. property valued between €150,001 and €200,000, assessed on 0.18% of €175,000).

- Applies to residential (not commercial) properties. Exemptions for houses in certain unfinished estates and newly constructed but unsold property. Exemption until 31 December 2019 for new and unused houses purchased between 1 January 2013 and 31 October 2019 and second hand property purchased between 1 January 2013 and 31 December 2013
- Certain payment deferral options may be available for low income households
- From 2015 onwards, local authorities can vary the basic LPT rates on residential properties in their administrative areas. These rates can be increased or decreased by up to 15%

Value Added Tax (9% rate changed)

Standard rate/lower rate	23%/13.5%*
Newspapers, electronically supplied publications** and sporting facilities	9%
Flat rate for unregistered farmers	5.4%
Cash receipts basis threshold	€2m

* VAT rate for tourism sector reverts to 13.5% from 1 January 2019 (previously 9%)

** 9% VAT rate applies to electronically supplied publications from 1 January 2019 (previously 23%)

PRSI contribution, Universal Social Charge (changed)

	%	Income
Employer	10.95%* (increased)	No limit
	8.7%* (increased)	If income is €386 p/w or less
Employee (class A1)**		
PRSI	4%	No limit**
Universal Social Charge	0.5% (unchanged)	€0 to €12,012***
	2.0% (unchanged)	€12,013 to €19,874****
	4.5% (reduced)	€19,875 to €70,044*****
	8% (unchanged)	> €70,044

* 0.1% increase in National Training Levy from 1 January 2019 included in Employer PRSI for Class A and Class H employments. A further 0.1% increase will apply from 1 January 2020.

** Employees earning €352 or less p/w are exempt from PRSI. In any week in which an employee is subject to full-rate PRSI, all earnings are subject to PRSI. Unearned income for employees in excess of €3,174 p.a. is subject to PRSI. Sliding scale PRSI credit of max. €12 per week where weekly income between €352 and €424

*** Individuals with total income up to €13,000 are not subject to the Universal Social Charge

**** Increase in upper limit of the 2.0% band from €19,372 to €19,874

***** Reduced rate (2.0%) applies for persons over 70 and/or with a full medical card, where the individual's income does not exceed €60,000

Self-employed PRSI contribution, Universal Social Charge (changed)

	%	Income
PRSI	4%	No limit*
Universal Social Charge	0.5% (unchanged)	€0 to €12,012**
	2.0% (unchanged)	€12,013 to €19,874***
	4.5% (reduced)	€19,875 to €70,044****
	8% (unchanged)	€70,045 to €100,000
	11% (unchanged)	> €100,000

* Minimum annual PRSI contribution is €500

** Individuals with total income up to €13,000 are not subject to the Universal Social Charge

*** Increase in upper limit of the 2.0% band from €19,372 to €19,874

**** Reduced rate (2.0%) applies for persons over 70 and/or with a full medical card, where the individual's income does not exceed €60,000

Tax relief for pensions (unchanged)

- Tax relief for pensions remains at the marginal income tax rate
- The Defined Benefit pension valuation factor is an age related factor that will vary with the individual's age at the point at which the pension rights are drawn down
- Except where a Personal Fund Threshold applies, the Standard Fund Threshold is €2m

Capital gains tax (unchanged)

Rate	33%
Entrepreneur relief (reduced rate)*	10%
Annual exemption	€1,270

* Relief remains capped at lifetime limit of €1m chargeable gains

Capital acquisitions tax (changed)

Rate	33%
Thresholds	
Group A (increased)*	€320,000
Group B	€32,500
Group C	€16,250

*Increased Group A threshold applies to gifts or inheritances received on or after 10 October 2018

Corporation Tax rates (changed)

Standard rate	12.5%
Knowledge Development Box rate	6.25%
Land, not fully developed	25%
Non-trading income rate	25%
Exit tax*	12.5%

* Applies to unrealised gains arising where a company migrates or transfers assets offshore, such that they leave the scope of Irish taxation. Applies from 10 October 2018.

Stamp duty - commercial and other property (unchanged)

6% on commercial (non residential) properties* and other forms of property not otherwise exempt from duty.

* Where a claim for a refund is made, up to two-thirds of the stamp duty paid on the acquisition of land may be repaid if residential development on the land commences within 30 months following the date of execution of the stampable instrument. This refund is available where an instrument is executed on or after 11 October 2017 and is subject to conditions. The refund will not be available where development commences after 31 December 2021.

Stamp duty - residential property (unchanged)

1% on properties valued up to €1,000,000

2% on balance of consideration in excess of €1,000,000

Deposit Interest Retention Tax (changed)

DIRT (rate reduced)	35%*&**

* 41% rate remains for exit taxes on financial products

** The rate of DIRT will be decreased to 33% in 2020

Personal Tax Scenarios **2019**

Single person employed, earning €45,000, property owner

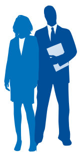
2019 changes	**Euro**
Change in Tax Bands	150
Change to Tax Credits	0
Change to PRSI	0
Change to Universal Social Charge	77
Net Saving	**€227**

Married couple, one employed, earning €50,000, three children, property owner

2019 changes	**Euro**
Change in Tax Bands	150
Change to Tax Credits	300
Change to PRSI	0
Change to Universal Social Charge	89
Net Saving	**€539**

Married couple, both employed, one earning €150,000, one earning €30,000, property owner

2019 changes	**Euro**
Change in Tax Bands	300
Change to Tax Credits	0
Change to PRSI	0
Change to Universal Social Charge	178
Net Saving	**€478**



Married couple, both self employed, one earning €150,000, one earning €30,000, property owner

2019 changes	**Euro**
Change in Tax Bands	300
Change to Tax Credits	400
Change to PRSI	0
Change to Universal Social Charge	178
Net Saving	**€878**

Unmarried couple, living together, renting, both employed, one earning €80,000, one earning €35,000

2019 changes	**Euro**
Change in Tax Bands	240
Change to Tax Credits	0
Change to PRSI	0
Change to Universal Social Charge	191
Net Saving	**€431**

Married couple, both employed, one earning €250,000, one earning €90,000, one child, property owner

2019 changes	**Euro**
Change in Tax Bands	300
Change to Tax Credits	0
Change to PRSI	0
Change to Universal Social Charge	278
Net Saving	**€578**

Notes

Notes

Artificial Intelligence?

Irish CEO Outlook 2018

Forbes INSIGHTS

of Irish CEOs believe artificial intelligence will **create more jobs** than it destroys.

Learn more at kpmg.ie

#CEOoutlook

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