Submission to the Commission on Taxation & Welfare

January 2022

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Acronym	Definition
ATAD	Anti-Tax Avoidance Directive
BEFIT	European Commission's Business in Europe: Framework for Income Taxation
BEPS	Base Erosion Profit Shifting
BPR	Business Property Relief
CAT	Capital Acquisitions Tax
CCCTB	Common Consolidated Corporate Tax Base
CGT	Capital Gains Tax
DIRT	Deposit Interest Retention Tax
ETFs	Exchange Traded Funds
FDI	Foreign Direct Investment
GloBE	Global Anti-Base Erosion Proposal
IF	Inclusive Framework
EIIS	Employment Investment Incentive Scheme
EU	European Union
EV	Electric Vehicle
NWT	Net Wealth Tax
R&D	Research and Development
RDTC	Research and Development Tax Credit

RSU	Restricted Stock Units
SARP	Special Assignee Relief Programme
SME	Small and Medium Enterprises
TP	Transfer Pricing
USC	Universal Social Charge
VAT	Value Added Tax

1. General Questions

1. ***What elements of the taxation and welfare systems do you feel are working well?***
2. ***What elements of the taxation and welfare systems do you feel are not working well?***
3. ***Good quality public services, welfare provision and infrastructure are financed mainly from taxation and PRSI. What are the features that you think our taxation and welfare systems should have in order to meet these needs?***
4. ***In your view, what main reforms are necessary so that the Irish taxation and welfare systems can embrace the opportunities and meet the challenges that Ireland may face over the next 10-15 years?***

We propose to answer all four questions in this section together.

Executive Summary:

— The key challenges and opportunities facing Ireland over the coming 10-15 years, include:

- BEPS 2.0
- Increasing importance of retaining and attracting talented and skilled people
- Brexit
- Faster digitalisation may reduce the importance of physical location for business, whereas OECD and EU measures ensure that aligning substance and profits is more important than ever.

— As our ability to compete using our corporation tax rate is constrained, other tax and non-tax factors will take on increased importance.

— We highlight that the following tax and non-tax factors will require consideration and reform in this regard:

- Ireland's personal tax regime needs to be made more attractive to attract and retain key talent. This is essential to attracting and retaining substantial business here.
- Our R&D tax regime should be enhanced to allow Ireland compete against larger economies when seeking to attract R&D investment and establish itself as an international hub for such activities.
- Domestic enterprise and entrepreneurship should be encouraged and supported by further amendments of the tax system applicable to these taxpayers and those who finance them.
- Consideration should be given to whether our CGT rate should be reduced to bring it in line with that in place in other European OECD countries, and whether such a reduction would promote greater economic activity and stronger Exchequer returns.

- Our overall tax regime needs to compete in terms of stability, certainty and minimising the cost of tax compliance. Simplification of the tax code would be an important contribution in this regard and could be enhanced by establishing an Office for Tax Simplification.
- Climate action and housing will be important non-tax factors impacting Ireland's attractiveness. Tax should be used to incentivise positive action in both areas.
- Given the increased importance of digital technology and connectivity to business and the global economy, Ireland should continue its focus on the successful rollout of digital infrastructure here, in particular the National Broadband Plan and the rollout of the 5G network.

Introduction

KPMG is Ireland's largest professional advisory firm, largest accountancy firm and largest taxation advisory firm. Our comments in this consultation are drawn from our extensive experience in advising many businesses on investment and location decisions. In this regard, the taxation and welfare systems in a country are undoubtedly very important factors affecting decisions made by businesses on where to locate investments. This applies to the direct impact these systems have on businesses, in the form of the costs falling on businesses and their employees, including the cost of administration of taxes. It also applies indirectly in the way our taxation and welfare systems shape and steer the wider business environment, economy, and society.

We welcome the opportunity to contribute our views to the Commission on Taxation and Welfare, and wholly support the broad review being undertaken by the Commission. In this regard, the work of the Commission arrives at an opportune time, as Ireland and the world experiences significant shifts in the labour and capital markets driven by changes in technology, some of which have been precipitated by the Covid-19 pandemic, as well as major changes in the global tax landscape as a result of recent tax developments by the Organisation for Economic Co-operation and Development (OECD) / Inclusive Framework (IF). All of this is occurring against a backdrop of the UK, Ireland's largest trading partner and ally on many issues at the EU table, having left the EU.

Executive Summary

Ireland is a small open economy competing in the international marketplace for investment and talent. To succeed in this environment the country needs to maintain its attractiveness across a wide range of areas such as access to talented people, cost competitiveness and market access. The taxation system is a key factor of relevance to our attractiveness to talented and highly skilled people, and their employers. In this context it is crucially important that Ireland's tax system continues to be a factor that attracts and retains business to be based here. This will involve maintaining certain aspects of the system that have stood us in good stead for many years, and adapting where relevant to the world that is emerging:

Maintain:

— Maintain an attractive corporate tax regime – this will still be important notwithstanding that the relative differences between corporate tax regimes around the world will have been narrowed by BEPS 1.0 and BEPS 2.0.

- Maintain a reputation for certainty i.e., a regime that minimises unexpected changes so that long term investment decisions are made in as predictable and trustworthy an environment as possible.

- Maintain our reputation for having a high-quality tax administration system and relatively inexpensive levels of compliance costs.

Adapt:

- Build a reputation as being attractive to talented people, be they employees or entrepreneurs who can lead, grow, and contribute significant value within their businesses.

  This will be critically important in a world where BEPS and many other tax developments are putting greater emphasis on the need for substance in supporting the level of profits allocated for corporate tax purposes to a country. In smaller countries, the level of substance will be significantly influenced by the number of senior and value adding roles that are based in that country.

- It could also be important in the context of technological developments, some precipitated by the pandemic, which could see a greater level of labour mobility and remote working outside the country where the main employer is based.

- Our marginal rates of personal and capital taxes will be relevant to this, as will the cost of employing such individuals here.

- It will also be important to have an expat scheme that is attractive for those on short-term assignments.

- Given the importance of access to affordable housing in terms of our attractiveness as a location, we should look at ways of using our tax system to assist in achieving the objectives outlined in the *Housing for All* strategy.

- Enhance our R&D scheme to ensure it is best-in-class, easy to access and administer, and applies to as broad a range of activities as possible including, importantly, those which contribute to achieving our climate targets.

- Establishing a framework for an ongoing programme of simplification of our tax code and its administration.

A changing landscape

It may appear a truism to state that Ireland’s twin industrial policies of successfully attracting international business to the country and supporting domestic entrepreneurship have led to great prosperity for the country at large. However, to simply treat this statement as such would be to disregard that this success was far from certain at the outset of the policies’ implementation. Similarly, it would also incorrectly suggest that the decisions needed to implement these policies were easy to make, requiring little in the way of foresight or vision.

For Ireland to improve and indeed maintain the standards of living it has succeeded in achieving in the last number of decades for people living here, it will have to continue to be an attractive location for businesses who are successful in both the domestic and international marketplace. To achieve this, it will need to be responsive to the major changes that are likely to happen over the next 10-15 years. In this regard, the OECD's BEPS programme is already having an impact on how large international multinational corporations operate and is highly likely to have further material impacts when the BEPS 2.0 proposals come into effect. The impact of the UK's departure from the EU on the Irish economy over the coming decade could also be significant. Not only is the UK our largest trading partner, it is a strong competitor for talent and foreign direct investment, and was a country which had somewhat similar views to Ireland's on certain tax matters around the EU table.

We believe that current trends with respect to digitisation and improvements to technology will continue, and are likely to accelerate, in the medium to long-term. These developments allow business to be conducted from anywhere in the world, reducing for many businesses the importance of physical location, and facilitating remote working arrangements including across borders. Furthermore, this move away from the need to be centralised in a specific country or location will be most pronounced in businesses that already have organisational structures spanning several countries and continents, such as multinational corporations. These trends in digitisation, remote working, and the connectivity of businesses highlight the importance for Ireland of continued focus on the successful rollout of digital infrastructure here, in particular the National Broadband Plan and the 5G network.

Whilst employers have been historically reluctant to take on foreign payroll and corporate tax complications from having workers based in countries outside their country of corporate tax residence, we have already seen many situations in the last couple of years where employers, looking to attract and retain highly talented and valuable employees who are able to contribute very effectively whilst working remotely, are being forced or are willing to facilitate these remote cross border working arrangements. This trend may well continue given the changes in technology which have been precipitated by the pandemic.

At the same time, BEPS developments in the context of Pillar Two, transfer pricing, controlled foreign company rules and tax treaty provisions mean that preserving corporation tax benefits for international businesses operating in Ireland is increasingly dependent on having key personnel and decision makers located here.

It must also be recognised that these changes are taking place at a time when the relative attractiveness of Ireland's corporation tax rate is likely to be reduced as the world converges on a minimum tax rate for large multinational corporations. In these circumstances, the other factors that are taken into account in location decision making will assume greater relative importance than they have in the past.

These factors will also be relevant for Irish indigenous businesses making investment decisions as they scale and grow.

Attracting and retaining talent

In the above context, the attractiveness of a country's personal tax regime and the cost to employers of locating people in a country will be an even more significant factor in determining where key talent and substantial businesses base themselves. Therefore, any long-term strategy aimed at attracting and retaining FDI and domestic entrepreneurship must include reform of the taxation system aimed at reducing the marginal cost of employment in Ireland for both businesses and individuals. This will be key to maintaining Ireland's existing attractiveness as a location for substantial business, but also to continue to attract the mobile talent to work in such businesses.

In addition, as more Irish employers facilitate their staff working remotely from another jurisdiction on a permanent basis, Ireland's personal tax regime may be an important factor in determining whether employees already based here remain here in the future.

In this regard, it is important to dispel a possible misconception that the additional cost of Ireland's personal and capital tax environment is absorbed by employers providing a higher salary or tax equalisation. Whilst this may be true for a relatively small cohort of employers, it is not generally the case, and there are many examples where employers have been unable to attract people to base themselves in Ireland as a result of the tax costs they would suffer. In addition, adding further cost burdens on employers who are willing to absorb the personal tax cost can be a material additional cost for their Irish business units, reducing the overall attractiveness of Ireland for these businesses as a result.

Our detailed comments in relation to the personal tax regime are in Sections 2, 3 and 6.

A hub for research and development

While the Pillar Two rules released in December 2021 will constrain countries' ability to compete based on corporation tax rate alone, they also create new potential areas of competition and opportunities for those countries who have signed up to the agreement. Specifically, the rules treat certain refundable tax credits, grants and subsidies as income (rather than reductions in tax) for the purposes of calculating a company's effective tax rate, ensuring that such incentives will become increasingly important areas of competition for countries seeking to attract investment from the world's largest companies in the future. Indeed, several countries have publicly stated that they may expand their offerings in the areas of grants and subsidies to attract foreign investment.

Acknowledging that EU State Aid considerations may inhibit EU countries from responding quickly to such developments outside the EU, it is crucial that Ireland optimises the elements under its own control to remain an attractive location for investment. In this regard, we must ensure that our R&D tax credit regime continues to offer a strong incentive to businesses to establish substantial operations here involving a highly skilled workforce. Indeed, the need for a best-in-class R&D tax credit regime is more pronounced in Ireland in comparison with larger economies. Larger economies have many more resources available to them, as well as larger universities and deeper talent pools, all of which position them very well for R&D activities. Ireland's R&D regime must therefore be noticeably better to address the inherent disadvantage it faces as a smaller economy. In addition, consideration should be given to using the R&D regime to strategically target specific industries or industry segments where Ireland wants to develop deep competencies and manufacturing capabilities (e.g., green technologies being one of our suggested strategic areas of focus).

Where successful, we believe Ireland could distinguish and enhance our reputation as a global centre of excellence for research and innovation, which would in turn create a positive feedback loop when seeking to attract further such operations here.

Our detailed comments in relation to improvements to the R&D Credit regime are in Section 6.

Supporting domestic entrepreneurship

While much attention may be focused on how Ireland might best continue to attract international investment, increasing challenges in the international tax landscape also act to reemphasise the importance of driving and supporting our domestic businesses. Entrepreneurs, both domestic and foreign, can and do move location based on the taxation environment, and marginal entrepreneurial investment can be significantly influenced by targeted, pro-growth tax policies. Incentivising and supporting domestic entrepreneurship must become a key focus for Irish tax policy, both as a means of stimulating economic growth and to maintain Ireland's reputation as an international hub of innovation and collaboration. It is crucially important that the after-tax return available Irish business people sufficiently incentivises them for taking on the risks associated with expanding their businesses.

This can be best achieved through direct reform of the tax system which applies to entrepreneurs and SMEs and, equally importantly to providers of risk finance who are essential in providing growing businesses the capital to expand and flourish.

Reducing tax on capital gains

The rate of CGT which applies to individuals is higher in Ireland than many other EU and OECD countries. For example, the average rate of CGT which would apply in European OECD countries on the disposal of long-held listed shares is 19.3%, compared with Ireland's 33% rate which would apply on the same transaction[1]. Indeed, the average rate of CGT applying on such transactions in European OECD countries is declining, falling from 19.5% in 2020[2] and 19.9% in 2019[3].

In this regard, we would note that between 1995 and 2000 the Irish CGT rate was halved from 40% to 20% and, on a static analysis, the Irish Exchequer CGT yield ought to have fallen by 50% but instead the yield increased more than twelve-fold (over 1200%) in over that 5-year period[4].

Consideration should be given to whether a reduction in the CGT rate would promote stronger economic activity and greater Exchequer receipts as taxpayers respond to the lower CGT rate.

Certainty, stability, and simplification

Other tax factors that will influence businesses' decisions to set-up operations and remain in Ireland will be the certainty and stability of the tax regime, as well as the ease and related cost of compliance. The cost and ease of tax administration will become an important differentiator between jurisdictions.

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[1] Capital Gains Tax Rates in Europe, Tax Foundation (2021) 2021 Capital Gains Tax Rates in Europe | Tax Foundation - https://taxfoundation.org/

[2] Capital Gains Tax Rates in Europe, Tax Foundation (2020) 2020 Capital Gains Tax Rates in Europe | Tax Foundation - https://taxfoundation.org/

[3] Capital Gains Tax Rates in Europe, Tax Foundation (2019) Capital Gains Tax Rates in Europe | Tax Foundation - https://taxfoundation.org/

[4] Revenue Statistical Report (2000) https://www.revenue.ie/en/corporate/documents/statistics/archive/statistical-report-2000.pdf

In this regard, it will be important to ensure that Ireland's tax system is consistent, minimises undue complexity, and is as competitive as permitted within the OECD and EU frameworks. This applies with respect to our expanded framework of anti-avoidance rules, where it is crucial that their necessity is reviewed and evaluated as a whole, as opposed to reviewing each measure in isolation resulting in the current patchwork of overlapping measures (e.g., in the area of interest deductibility). However, this drive for simplicity and clarity should not just be confined to anti-avoidance measures, but expanded to other areas of our corporation tax system to improve their competitiveness, such as our R&D tax credit regime and other reliefs. In this regard, the establishment of an Office of Tax Simplification, like that in operation in the UK, should be considered.

Our personal taxes system has also become increasingly complex in recent years, with this increase in complexity particularly noticeable with respect to compliance including in relation to the offshore funds tax regime. Given the broad growth in retail investment in recent years, there is an increasing need for Ireland to implement a system of taxation on fund products such as Exchange Traded Funds (ETFs) which minimises the compliance cost and burden on taxpayers in line with that in place in other countries (e.g., the UK). If helpful to the Commission, we would be happy to provide further details with respect to Ireland's regime for the taxation of offshore fund investments which will illustrate the unduly complex nature of the system in Ireland.

Undertaking the necessary reform to identify and remove obsolete or unnecessarily complex measures will be key in reducing the cost of tax compliance in Ireland for both businesses and individual taxpayers, a factor which will come under increased focus for businesses and high-value workers making location decisions in the future.

Climate

Ireland's Climate Action Plan is another non-tax factor which may influence Ireland's ability to maintain its attractiveness as a location, particularly as both businesses as well as individuals strive to reduce their carbon profiles. Ireland has previously demonstrated the power of tax policy in delivering societal change and environmental impact in the form of the plastic bag levy introduced in 2002. In the regard, tax policy is uniquely placed as a tool to promote sustainable behaviour from consumers and business alike. We have provided detailed comments on this topic in Section 4.

Housing

An extremely important non-tax factor which affects the attractiveness of a location for businesses is the availability of accommodation for employees. In this regard our current housing crisis is a challenge for Ireland. Urgent action is needed to resolve this, both with respect to the immediate impact that the crisis is having on our communities but also with respect to the risk the crisis continues to place on our future prosperity as a result of disincentivising the migration and retention of skilled labour here. We consider that tax policy can, and should, play a part in addressing the current housing crisis. See Section 5 for our detailed comments.

Digital Infrastructure

As noted above, the current trend towards greater digitisation of business, connectivity and remote working highlights the importance for Ireland of continued focus on the successful rollout of digital infrastructure here, in particular the National Broadband Plan and the 5G network.

The successful rollout of this infrastructure across Ireland offers an important opportunity to stimulate revitalisation of rural town centres, promote the growth and development of our non-capital cities, and narrow the urban-rural earnings divide.

2. Fiscal sustainability

Question 1: What reforms to the taxation and welfare systems should be considered to ensure the system is sustainable and resilient and that there are sufficient resources available to meet the costs of public services in the medium and longer term?

Executive Summary:

— The concentration of tax receipts creates an inherent instability in our tax system.

— This applies both to our corporation tax receipts, as well as our income tax receipts.

— Given the importance of large multinationals to the Exchequer and wider economy, any proposals to support resilience and stability in our tax and welfare systems must seek to maintain Ireland's attractiveness for foreign direct investment in the medium and long-term.

— With respect to income tax receipts, our current overreliance on a narrow base of taxpayers to support the majority of receipts creates instability.

— The trend which has seen proportionately fewer people contributing to the income tax Exchequer receipts since 2012, combined with increases in the overall marginal tax burden on high earners has left us with a regime which will impact on Ireland's attractiveness for high earners in a post-BEPS and post-pandemic world.

— The impact of any changes in our social insurance system need to factor in the impact they would have on the overall marginal tax rate and on the cost for employers of employing people in Ireland. In this regard, whilst our social insurance contribution rates are lower than some other EU countries it needs to be borne in mind that the level of earnings to which the charges apply are capped in many other countries.

— We recommend that the overall marginal rate of tax (including social insurance contributions) in Ireland is set at a level that is attractive to highly skilled and mobile labour. We consider that capping of social insurance contributions by employers, employees and self-employed should become a feature of the Irish system so that our marginal tax rate is attractive.

— We believe that the best means of ensuring stability and resilience with respect to the quantum of income tax Exchequer receipts and the income of the Social Insurance Fund is to ensure that our systems of taxation and welfare support and encourage employment.

Multinationals

It is often noted that the concentration of Ireland's corporation tax receipts gives rise to an inherent instability in our corporation tax receipts. In 2020, the 10 largest payers of corporation tax accounted for 51% of net corporation tax receipts for the period. Overall, foreign owned multinational companies accounted for 82% of net corporation tax receipts in 2020[5].

However, it is also worth noting that other tax heads are also significantly dependent on the continuing presence of multinational companies here, with foreign owned multinationals accounting for 32% of total corporate employments in 2019 and 49% of all employment taxes collected from corporate employers in the period.

In total, foreign multinational corporation and payroll tax payments amounted to approx. €15bn in 2019[6], accounting for more than half the net Exchequer receipts for these tax heads in the period[7].

These statistics demonstrate the enormous contribution that foreign direct investment has made towards the Irish economy and the prosperity and wealth of its communities. Any proposals intended to support the resilience and stability of our tax and welfare systems must in our view include specific measures to maintain Ireland's attractiveness for foreign direct investment in the medium and long-term. Such measures should form the basis of any reform intended to ensure that there are sufficient resources available to meet the costs of public services in the medium and longer-term. We have set out in later sections of this consultation response our proposed reforms intended to maintain and improve our attractiveness as a location for mobile investment and labour (Sections 3 and 6).

Our income tax system

Our income tax system is a critical driver of Irish tax receipts. It is estimated that receipts from income tax and USC will total approximately 41% of total tax receipts in 2021[8]. Data also demonstrates that this tax is applied to a narrow base and heavily concentrated amongst a relatively small number of individuals. In 2021, it is projected that the top 1% of earners will pay 25% of the total income tax and USC for the period. Similarly, it is projected that the top 25% of income earners will pay 83% of the total income tax and USC in 2021. This picture places us as an outlier within the EU and broader OECD community – in 2018 (the latest period for which such data is available) Ireland had the most progressive system of taxes and transfers of any OECD member. Ireland also has the most progressive system of taxation of any EU member of the OECD[9]. In this regard, it is worth highlighting our existing very high marginal tax rates for employees and self-employed individuals – 52% and 55%, respectively.

This progressivity has been a contributor to Ireland having a more equal system in terms of the Gini coefficient factor which is in many ways a good outcome from an overall societal perspective[10]. That said there are two concerns with having such a highly progressive system. Firstly, an overreliance on a relatively small share of the population to fund such a significant proportion of the overall tax take with (25% of individual earners projected to account for circa 34% of our total tax take across all tax heads in 2021[11] and over 10% of

[5] https://www.revenue.ie/en/corporate/documents/research/ct-analysis-2021.pdf
[6] https://www.revenue.ie/en/corporate/documents/research/ct-analysis-2020.pdf
[7] https://www.revenue.ie/en/corporate/press-office/annual-report/2019/ar-2019.pdf
[8] https://assets.gov.ie/198263/dc82f791-edb9-4f42-8414-59b540a765d1.pdf
[9] Ibid
[10] Ireland: Government at a Glance 2021, OECD (2021)
[11] Being the top 25% of earners accounting for 83% of our income tax + USC take, with income taxes + USC projected to account for 41% of the total tax take in the same period.

total tax receipts in 2021 are expected to be collected from 1% of individual earners[12]), already creates a significant element of instability in the system. Secondly, the trend which has seen proportionately fewer people contributing to the income tax Exchequer receipts since 2012[13], combined with increases in the overall marginal tax burden on high earners (taking account of income tax and social insurance contributions) has left us with a regime which will impact Ireland's attractiveness for high earners in a post-BEPS and post-pandemic world. Given the open nature of our economy and labour market, and the ability to travel freely within the EU and to the UK, it is critically important in our view that our tax system is attractive to these people.

Prior economic shocks highlight the instability that this highly progressive system of taxation can create. Ignoring income levy receipts which applied to a much wider base, the drop in earnings by many people who had been high earners before the financial crash caused a reduction in income tax receipts from a high of c. €12.25bn in 2007 to a low of €8.6bn in 2010 (a c. 30% reduction). It is also noteworthy that the introduction of the broad base income levy in 2009 did much to counteract the steep fall in the income tax receipts, contributing €1.1bn to the Exchequer in 2009 and €1.45bn in 2010[14], despite applying at much lower rates in comparison with the income tax rates applying at that time[15].

This highlights the danger of overreliance on a narrow base of taxpayers to support the majority of receipts under any particular tax head or across various tax heads.

Stability & resilience in contributions to our welfare system

Much of the discussion on social insurance contribution levels in Ireland seems to take place from the not unimportant perspective of making the social insurance fund solvent on a standalone basis so as to minimise the need for Exchequer support. In our view the broader implications of increasing social insurance contributions on the marginal rate of tax for employees and the self-employed, and on the cost for employers of employing people in Ireland, needs to be fully factored into the analysis of changing the contribution system.

In this regard we would acknowledge that compared to some countries our rates of social insurance contributions are lower – however it is important to point out that in many countries, the level of earnings on which they impose social insurance charges is capped. Examples of this include Germany, Spain, Greece, Netherlands, Bulgaria, Cyprus, Malta, and Singapore, or by applying a fixed contribution per employee regardless of their earnings as is done in Denmark.

We recommend that the overall marginal rate of tax (including social insurance contributions) in Ireland is set at a level that is attractive to highly skilled and mobile labour. We consider that capping of social insurance contributions by employers, employees and self-employed should become a feature of the Irish system so that our marginal tax rate is attractive.

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[12] Being the top 1% of earners accounting for 25% of our income tax + USC take, with income taxes + USC projected to account for 41% of the total tax take in the same period.

[13] It is projected that 29% of earners will be exempt from USC in 2021, versus 27% in 2012 (Income Tax TSG Paper, 2021)

[14] https://www.revenue.ie/en/corporate/documents/statistics/receipts/net-receipts.pdf

[15] The lowest rates for the income levy in the years 2009 and 2010 were as follows:
Period 1 January 2009 to 30 April 2004: 1% on income up to €100,100
Period 1 May 2009 onwards: 2% on income up to €75,036

Overall, we believe that the best means of ensuring stability and resilience with respect to the income of the Social Insurance Fund is to ensure that our systems of taxation and welfare support and encourage employment, which should also provide the benefit of reducing expenditures from the Fund. It is our view that this should be a central consideration when analysing possible reforms aimed at creating stability and resilience in these systems.

If this requires a greater level of Exchequer funding to be provided to sustain the social welfare system during a period of transition from our existing model, this is a cost that should be borne in this manner.

Question 2: Given approaching demographic pressures and future uncertainties, future funding of public services is a critical issue. In order to meet these challenges, what is the appropriate balance between the taxation of a) earned income, b) consumption e.g. VAT and c) wealth e.g. capital acquisitions tax?

Executive Summary:

- We should focus on implementing policies which promote increased employment in Ireland, hence driving economic activity and consumption. Limiting the overall tax wedge incurred by Irish workers is an important element of this so we can attract and retain a highly skilled and talented workforce.
- In line with policies successfully implemented in other countries, our tax system should seek to support and encourage the accumulation of household, pension and business wealth, while also facilitating the transfer of business assets to a younger generation who may seek to drive further success.
- The amount collected in Ireland under capital acquisitions tax is already significantly above that collected on average under equivalent gift, inheritance, and estate tax regimes in other OECD countries. In 2019, Ireland collected the 7th highest amount in the OECD as a proportion of total tax receipts in this regard. We do not believe that the proportion of tax collected from taxes on wealth, such as capital acquisitions tax, should be increased
- Ireland is particularly susceptible to adverse effects if we were to increase the level of taxation on wealth:
  - HNWI may relocate from Ireland if we impose a wealth tax. They may also divest from investments in Ireland where a NWT is applied to Irish-situs assets.
  - Our current system of taxation of wealth already promotes behaviours which can over the long-term depress economic activity and restrict growth, by incentivising the deferral of inter-generational transfers of wealth.
- With respect to the possible introduction of a net wealth tax in Ireland, we would highlight recent international and domestic research which indicates that, from an efficiency, equity, and efficacy perspective, there are limited arguments for having such a tax in addition to broad-based personal capital income taxes and well-designed inheritance, gift, and property taxes.
- The Irish tax system can and should play an important role in incentivising behaviours which reduce the cost of demographic changes on public services, while also ensuring appropriate Exchequer funding going forward. In this regard, we recommend:
  - Supporting population wide investment in supplementary pension schemes, including via auto-enrolment.

- Easing demographic pressures caused by our ageing population by promoting tax policies which support net inward migration.
- Improving tax relief on the cost of purchasing private medical insurance in order to ease cost pressures on our public health system precipitated by an ageing population.

This question invites comments in relation to the appropriate balance between different forms of taxation. In considering this matter we think it is important to clearly keep in mind that Ireland is a small open economy which needs to be attractive to talented people who are skilled and capable of operating in a competitive domestic and international marketplace. The more of these people we have employed in Ireland the better, as it will generate economic activity across all aspects of society whilst also generating activity which will generate taxation revenues for the State. We should also bear in mind that there is a strong culture and history in Ireland of people moving into and out of Ireland at various stages of their lives. This mobility has brought many benefits such as access to new skills and perspectives. It also means that our tax system should not discourage people who are able to contribute to the overall success of the Irish economy and society from basing themselves here.

It will also benefit the country if people in Ireland are encouraged to accumulate wealth, be it in the forms of pensions, business assets or otherwise. Where this wealth is represented by business assets it would also be advantageous to allow for those assets to be passed on a tax effective basis to the next generation at a time that will allow the next generation to drive further success. We would note that a core element of the success of the German economy over the last 70 years has been the Mittlestand, i.e., the family businesses which have generated significant wealth and social cohesion in Germany. Many of these businesses are passed on from one generation to another which has seen significant wealth accumulation occurring with consequential benefits to the country.

In considering what features of the tax system will support these outcomes in Ireland we believe that focus should be put on implementing reforms which promote increased employment, hence driving economic activity and consumption. In this regard we believe that Ireland needs to have an income tax regime which is demonstrably more attractive than that available in competitor locations for highly skilled and talented people. As explained in more detail in Section 3, our marginal tax rate is much higher than many other countries with which we will be competing for talent, and we recommend changes are made to improve our relative position in this regard.

We also believe for the reasons outlined below that it would be detrimental to increase the proportion of the overall tax take from taxes on gifts and inheritances, and it would be detrimental to introduce a wealth tax.

The attributes we have mentioned above would in our view assist in generating a sustainable flow of receipts to the Exchequer to meet the challenges that will arise in the future. The Exchequer receipts in 2021 have thankfully been very strong with increases of €11.3bn and €9.2bn over 2020 and 2019, respectively, which has been testament to the strength of the existing model. We would be concerned that unless changes are made to respond to the dynamics which are likely to emerge in a post-BEPS and post-pandemic world, some of the features of the system that have produced these Exchequer returns will come under pressure. When the additional demands imposed on the State by the pandemic ease, this will ease pressure on the Exchequer and provide some capacity to make the changes that we consider necessary to make the system more sustainable and resilient.

Taxation on wealth

We do not believe that the proportion of tax collected from wealth taxes, such as capital acquisitions tax (CAT), should be increased.

In this regard, we would note that according to recent OECD research Ireland already collects a significantly larger share of its total tax take from gift and inheritance taxes in comparison with equivalent taxes collected in other OECD member states[16], with CAT receipts proportionally being the 7th highest amongst the 37 OECD member states analysed.

In addition, we believe that Ireland would be particularly susceptible to adverse changes in behaviour and outcomes where the level of taxation on wealth is increased in the future. This is on the basis that high net wealth individuals are more likely to be mobile with respect to where they live and may choose to locate themselves elsewhere in response to the imposition of greater levels of taxes on wealth. We believe that this is particularly the case for individuals considering relocating to Ireland or already based here due to the open nature of our economy and the entitlement of Irish citizens and residents to avail of free movement within the EU and to the UK. Similarly, to the extent that higher levels of taxes on wealth are imposed on assets situated in Ireland, we believe that the risk of movement of capital out of Ireland in response to an increase in wealth taxes is greater than that in other countries for the reasons stated above.

Furthermore, our current system of taxation of wealth already promotes behaviours which can over the long-term depress economic activity and restrict growth. This can be noted from families and individuals delaying an intended transfer of wealth to the next generation as a result of the CAT and capital gains tax implications of this. It is our view that reform of the current system of capital and wealth taxes which supports increased economic activity and the transfer of businesses and capital to the next generation should be pursued. Specifically, CAT reliefs on the transfer of business and agricultural property are, in their present form, needlessly complex and prohibitive for many business owners looking to retire and pass on the business to the next generation. For example, the current system creates uncertainty regarding the treatment of assets which may be used to maintain liquidity in a business, or which are intended to finance future expansion of the business as the opportunity arises. Due to this lack of certainty, many business owners prefer to retain business assets, often with the result that such assets pass to the next generation after the death of the business owner, many years after this transfer would otherwise have arisen.

Net wealth tax

In addition to our above recommendation that the proportion of tax collected from wealth under our existing CAT regime should not be increased, we recommend against the introduction of a net wealth tax in Ireland.

In this regard, we would note that careful consideration should be given to recent international research which indicates that, from both an efficiency and equity perspective, there are limited arguments for having a net wealth tax in addition to broad-based personal capital income taxes and well-designed inheritance and gift taxes[17]. This report concluded that net wealth taxes tend to be more distortive and less equitable than personal capital income taxes.

[16] OECD (2021), Inheritance Taxation in OECD Countries, OECD Tax Policy Studies, OECD Publishing, Paris
[17] The Role and Design of Net Wealth Taxes in the OECD, OECD (2018)

A 2018 OECD report[18] noted that while there is a need to complement capital income taxes with a form of wealth taxation, it concludes that there is a strong case for an accompanying inheritance tax on efficiency, equity and administrative grounds. This already exists in Ireland in the form of capital acquisitions tax.

Consideration should also be given to domestic research from the ESRI that while a recurrent tax on wealth could raise substantial additional revenue, it would need to exempt very few households or sources of wealth to do so. For example, given property makes up around 90% of household wealth[19], a tax which exempted property would raise little unless levied at very high rates. We would note also that Ireland already has an effective system of taxation for residential property in the form of Local Property Tax.

The above cited research suggests that a net wealth tax in Ireland would likely be ineffective in the collection of tax receipts where property is exempted (for example, as residential property is already subject to Local Property Tax), while also being inefficient and inequitable when layered on top of our existing systems of capital taxation. On this basis we do not believe that there is a need or benefit to the introduction of such a tax in Ireland.

Demographic pressures & future funding of public services

As noted in the question above, our systems of taxation and welfare should be resilient in the face of demographic pressures and future uncertainties. In this regard, it is important that these systems are designed to reduce the impact of such demographic pressures on public services to the greatest extent possible.

In this regard, we believe that the Irish tax system can and should play an important role in incentivising behaviours which reduce the cost of demographic changes on public services, while also ensuring appropriate Exchequer funding going forward. In this regard, we recommend:

— *Supporting supplementary pensions & auto-enrolment*: A key demographic challenge for the State going forward will be an ageing population and decrease in the ratio of workers to pensioners. Adequacy of pensions is a key driver for the auto-enrolment proposals. To the extent that Ireland's ageing population fails to make appropriate arrangements to fund their retirement, this will increase the cost borne by public services as they seek to protect those affected. Therefore, we support current Government proposals to implement auto-enrolment for employees earning over €20,000 but without a supplementary pension.

  In addition, we believe it is important that Ireland not only retains the tax relief on contributions and on the investment returns but also builds upon them so the State's policy objective can be achieved. Further details of our suggestions in this regard are outlined in Section 7 of our submission.

— *Increasing net inwards migration*: Ireland has traditionally experienced net outward migration. A key factor in much of this outward migration was the relative lack of opportunities for employment and entrepreneurship in Ireland. As noted in the 2017 actuarial report on the Social Insurance Fund[20], our ability to encourage net inward migration remains one of few remaining levers available to policymakers to reverse the ageing trend in Ireland. In this regard, we advise that our tax system should be designed

[18] Ibid

[19] Options for Raising Tax Revenue in Ireland, Kakoulidou & Roantree, ESRI (May 2021)

[20] Actuarial review of the Social Insurance Fund, KPMG (2017) https://assets.gov.ie/37220/99a896910d574b7daa0b65fbb00900e5.pdf

to maximise employment opportunities in Ireland and our ability to attract mobile talent. We refer to our detailed comments in Section 3 of our submission in this regard.

— *Incentivising access to private health insurance*: An ageing population is likely to apply significant pressure on our public health system in future years. The impact and cost of this pressure may be eased through increased adoption of private health insurance policies across the population. Finance (No. 2) Act 2013 introduced a limit on the amount of tax relief available on medical insurance premiums for policies renewed or entered into on or after 16 October 2013. We recommend that this limit is removed in order to offer a broad incentive to enter into private health insurance. The impact of this could be further improved by increasing the rate of relief from the standard rate which currently applies to the taxpayer's marginal rate of income tax.

3. Promoting Employment

Question 1: What reforms to the taxation and welfare system should be considered to ensure that taxation and welfare work in tandem to support economic activity and promote employment while also supporting those most vulnerable in an equitable way?

Executive Summary:

— In order to attract and retain substantial businesses here, Ireland needs to be a cost competitive and attractive location in which to employ and be able to attract and retain highly skilled and mobile talent.

— In this regard:

- The marginal rate of tax (including social insurance) applying to higher income levels in Ireland needs to be competitive in comparison to other countries both inside and outside the EU. It is currently uncompetitive.
- Consideration of any proposals to change our social insurance system needs to factor in the impact they would have on the overall marginal tax rate and on the cost for employers of employing people in Ireland. In this regard, whilst our social insurance contribution rates are lower than some other EU countries it needs to be borne in mind that the level of earnings to which the charges apply are capped in many other countries.
- Taking account of the marginal personal tax rates (including personal social contribution rates) that apply in other competing locations, we consider that to assist in making our marginal tax rate sufficiently attractive:
    - the entry level to the top marginal rate should be increased, and
    - capping of social insurance contributions by employers, employees and self-employed should become a feature of the Irish system.
- The availability of quality affordable accommodation will be an important aspect of employees' and employers' decisions to come to Ireland.
- Our current system of taxation for share-based compensation could be simplified and improved in line with that in place in competitor countries:
    - An area which could be simplified in line with other countries is the treatment of share options for both assignees and Irish employees.
    - Similarly, we recommend that the tax treatment of Restricted Stock Units (RSUs) is amended so that the amount of the reward taxable in Ireland is aligned with the proportion of the vestment period in which the individual was located here.
    - SARP relief should be extended to share-based remuneration to be effective at attracting high-value assignees in the FDI sector.

- We recommend the following:
  - Ensuring that the overall marginal rate of tax (including social insurance contributions) in Ireland is set at a level that is attractive to highly skilled and mobile labour.
  - Enhancing SARP so it is sufficiently attractive as compared to regimes in other countries by:
    - Removing or substantially increasing the €1m cap.
    - Increasing the qualifying period from 5 years (CAT exclusions should also be extended to match this increase).
    - As outlined above, expanding the relief to include share options and other forms of share-based compensation.
    - Opening the regime to new hires.
    - Increasing the rate of relief and expand its application to include USC and PRSI.
- Finally, we note that the best way to promote employment in Irish enterprise is to support and encourage the growth of such businesses. Further recommendations to support such growth are included in Section 6 – *Supporting Economic Activity.*

As noted in response to the consultation queries on fiscal sustainability, we believe that reforms aimed at supporting employment are essential in ensuring the resilience and stability of our taxation and welfare systems going forward. Such measures should be aimed at supporting employment by the multinational sector with operations in Ireland, while also supporting domestic entrepreneurship and SME growth. We believe that our taxation and welfare systems should continue to contribute to a pro-enterprise environment in Ireland, while also protecting those most vulnerable within Irish society when they need that support.

Tax proposals being put forward by the OECD on behalf of the G20 will further drive existing trends within the global tax landscape aligning the taxation of profits to the territory where substance is located. Specifically, the substance-based carve-out contained in the BEPS Pillar Two rules released in December 2021 highlights the importance and value of attracting and maintaining substantial businesses in Ireland. At the same time, existing international tax developments in the areas of transfer pricing, controlled foreign company rules and tax treaty provisions mean that preserving corporation tax benefits for international businesses operating in Ireland is increasingly dependent on having substance in the country – in all these areas having key personnel and decision makers located in Ireland will be critically important.

In addition, the importance of Ireland's attractiveness as a place to work is only likely to be heightened by the fundamental change to working practices precipitated by the Covid-19 pandemic and developments in communications technology, as workers seek to avail of greater flexibility regarding how and where they work. Indeed, this is likely to be most pronounced for people carrying on high-value roles who in many cases may be able to require their employer to facilitate their preference to work from a different country than where their employer is based. We are already seeing some employers seeking to attract high-value talent by facilitating such work practices, and that such arrangements are being put in place with respect to existing employees in many businesses in Ireland.

This presents an incredible opportunity and challenge for Ireland as it seeks to attract foreign direct investment and encourage domestic enterprise. In our view, succeeding in this challenge has myriad benefits – by successfully attracting and retaining substantial business and mobile talent here, Ireland can maintain its strong corporation tax base, while also benefiting from the employment and payroll tax Exchequer receipts from employment that would not have been here otherwise. In addition, promotion of employment in the FDI sector will in turn drive activity and employment in those domestic Irish businesses which support multinationals present here and their employees.

Caution is necessary as the opposite also holds true, in that to fail to be an attractive place for substantial business and mobile talent could result in the erosion of our corporation tax base and the loss of employment and income tax receipts as companies move their operations to more attractive locations in this regard.

With respect to the above, we would make the following observations and recommendations:

Marginal cost of employment for employees and employers:

The 52% marginal rate of tax (including social insurance) applying to employees with higher income levels in Ireland is uncompetitive in comparison to other countries both inside and outside the EU. The same comment applies with respect to the 55% marginal rate that applies to self-employed. Similarly, for employers, other countries inside and outside the EU have a more competitive cost of employing high earners than Ireland.

When we look at how we compare to other countries with which we will be competing for talent, these high marginal personal tax rates create concerns in two ways:

— Firstly, the marginal tax cost of 52% applies on earnings of €70,044 and above. This rate is the 5th highest in the OECD at equivalent levels of earnings, exceeding the marginal tax rate applying in Germany, Italy, France, Portugal, Norway, the UK, Spain, the US, and Canada (amongst others)[21]. This is also approximately 12% higher than the OECD average marginal tax rate applying at this level[22].

— Secondly these high marginal rates continue to apply to the marginal earnings of high earners resulting in the Ireland having a marginal rate which is far higher than that which applies in a number of other countries including:

  - Germany, (c. 44%)
  - the UK, (c. 44%)
  - Italy, (c. 44%)
  - Switzerland (c. 44%),
  - US (c. 34%),
  - Singapore (c. 20%).

It is essential that Ireland is competitive as a location for businesses competing and providing goods and services both in and outside the EU. We would be very concerned that Ireland's lack of competitiveness in this area may act to disincentivise the creation of highly skilled, high-value, high-economic impact jobs in Ireland, impacting the number and scale of substantial businesses created here.

In this regard, it is important to dispel a possible misconception that the additional cost of Ireland's personal and capital tax environment is absorbed by employers providing a higher salary or tax equalisation. Whilst this may be true for a relatively small cohort of employers, it

[21] Comparison of OECD marginal tax rate at 144% of national average earnings using OECD Taxing Wages data (https://stats.oecd.org/Index.aspx?DataSetCode=AWCOMP)
[22] Ibid

is not generally the case, and there are many examples where employers have been unable to attract people to base themselves in Ireland as a result of the tax costs they would suffer. In addition, adding further cost burdens on employers who are willing to absorb the personal tax cost can be a material additional cost for their Irish business units, reducing the overall attractiveness of Ireland for these businesses as a result.

In addition, another implication of Ireland's high marginal rates of income tax rate is that it offers less incentive as compared to other countries for individuals to grow their earnings beyond the point at which those marginal rates apply.

Much of the discussion on social insurance contribution levels in Ireland seems to take place from the not unimportant perspective of making the social insurance fund solvent on a standalone basis so as to minimise the need for Exchequer support. In our view the broader implications of increasing social insurance contributions on the marginal rate of tax for employees and the self-employed, and on the cost for employers of employing people in Ireland needs to be fully factored into the analysis of changing the contribution system.

In this regard we would acknowledge that compared to some countries our rates of social insurance contributions are lower – however it is important to point out that in many countries, the level of earnings on which they impose social insurance charges is capped. Examples of this include Germany, Spain, Greece, Netherlands, Bulgaria, Cyprus, Malta, and Singapore, or by applying a fixed contribution per employee regardless of their earnings as is done in Denmark.

We recommend that the overall marginal rate of tax (including social insurance contributions) in Ireland is set at a level that is attractive to highly skilled and mobile labour. Taking account of the marginal rates that apply in other competing locations, as referred to above, we consider that to assist in making our marginal tax rate sufficiently attractive:

— the entry level to the top rate should be increased, and

— capping of social insurance contributions by employers, employees and self-employed should become a feature of the Irish system.

Housing:

Other non-tax factors will also be hugely relevant to individuals and businesses making location decisions. For both groups, the availability of quality affordable accommodation will be an important aspect of this decision. In this regard, the housing crisis will continue to be a significant challenge for Ireland, and measures aimed at increasing the supply of houses and reducing the cost of housing for people living here must be an immediate priority for the State. For further comments in this regard, we refer to our responses to Section 5 of the consultation.

Share-based compensation:

Our current system of taxation of share-based remuneration is complex and unattractive in comparison with other countries. Given the very significant importance of stock compensation as a means of attracting and retaining key talent within the FDI sector, it is crucial that our system of taxation for stock compensation is best-in-class to continue to attract executives and mobile talent in this sector here.

Specifically, we would highlight our system of taxation for employee share options is overly complex in comparison with the approach taken in other jurisdictions such as the UK. Specifically, our system of taxation for share options requires individuals to separately account for any tax arising on the exercise of options. In addition, employees who exercise share options are required to file a self-assessment return in respect of that period, even where the entirety of their income relates to their Irish employment. By comparison in the

UK, tax arising on share options is typically accounted for through the employee's payroll, with lower levels of administrative burden and complexity as a result.

Similarly, as outlined in Section 6 of our submission, Ireland's system of taxation of Restricted Stock Units (RSUs) may act as a disincentive for individuals looking to relocate here. We suggest that the amount of the benefit taxable in Ireland be apportioned by reference to any part of the vesting period during which the individual is present in Ireland, rather than the full amount of the reward where resident on the date of vesting.

Finally, as noted later in this section, share-based remuneration is specifically excluded from relief under Special Assignee Relief Programme (SARP). Given the policy intent of SARP to promote the assignment of talented individuals to Ireland, and the need for Ireland to have a competitive regime given the widespread use of such reliefs in other countries, and the fact that share-based remuneration is typically an important element of the overall compensation package for these people, a change in this area to include share-based compensation within the scope of SARP would greatly enhance the attractiveness and usefulness of this regime.

Special regime for expatriates

Most countries that are looking to attract foreign investment and skills into their country offer individuals who move to the country a special regime of taxation for a certain period of time. There is a certain logic and fairness involved in offering these incentives. On the one hand the investor can be comfortable that the investment can be resourced with people who know the investor's business. The country can also benefit from having people with knowledge and skills who can assist in growing the business in that country and passing on these skills to others. From a fairness point of view, the reduced tax burden imposed on the expatriates reflects the fact that their presence in the country for a certain period of time will not involve them drawing on the resources of the State in the same way as a person who has been educated in and retires in the same country. Given the prevalence of these regimes elsewhere, and in a world where countries will be competing to attract, retain and build talent, it is very important that Ireland has a regime that is internationally competitive.

In this regard, we believe that the Special Assignee Relief Programme (SARP) regime should be enhanced to play a stronger role in attracting talent and executives to Ireland. This would also allow Ireland better compete with other EU countries with respect to attracting mobile talent and therefore substantial business in the future. Specifically, we would point to other EU countries such as Italy, Denmark, Luxembourg, the Netherlands, Spain, France, and Belgium who might be said to have more attractive expatriate regimes compared with Ireland.

As just one example, Italy implemented in 2017 an expatriate regime which provides that 50% of any income generated from employment or self-employment in Italy is exempt from income tax. Further enhancements of this relief were also announced in the 2019 Italian Budget, indicating a possible increase of this rebate to 70% of employment and self-employment income[23].

In this regard, we recommend the following improvements to the existing SARP regime:

1. The €1m cap on the amount of income that could benefit from the relief limits the effectiveness of the regime in attracting senior executives to live in Ireland, relative to other locations. Our tax system should complement our broader industrial policy of attracting highly remunerated, senior executives to Ireland, as these individuals are more likely to create value and substance in their organisations if assigned here. We recommend that this cap should be removed so that the position that applied for 2015 to 2019 is reinstated, or at a minimum substantially increased, to support this.

[23] https://home.kpmg/xx/en/home/insights/2021/07/italy-taxation-of-international-executives.html

2. The qualifying period for the relief should be increased from 5 years for non-Irish domiciled individuals. We would note that the average length of regimes similar in operation to SARP within EU countries is 7.5 years[24].

3. Given the very significant importance of stock compensation within the typical compensation package for executives, SARP should be expanded to allow for relief with respect to share-based remuneration.

4. The rate of relief under SARP should also be increased for non-Irish domiciled individuals, and it should apply to Universal Social Charge (USC) and Pay Related Social Insurance (PRSI) as well as income tax.

5. It should not require the expatriate to be moving within the same group – this requirement limits the ability of Irish owned groups and institutions such as Irish universities from accessing the relief.

6. The Capital Acquisitions Tax (CAT) exclusion for non-Irish domiciled individuals should be extended to ensure coordination between the reliefs.

Finally, we would suggest that the evaluation of such a regime should be done on a dynamic rather than static basis – in other words one should look at the taxes raised from those who participate in the regime as a benefit to the Exchequer which wouldn't have arisen were it not for the regime. It would be incorrect in our view to say that such a regime "costs" the Exchequer.

Supporting employment in domestic SMEs

While there are clear and obvious indirect benefits to Irish businesses through Ireland successfully encouraging employment in the FDI sector, it is equally important that Ireland also directly support and encourage employment in domestic enterprises. In 2020, non-multinational companies accounted for approximately 58% of all corporate employments in Ireland. By reforming Ireland's system of taxation for Irish employees and expatriates, Irish SMEs can further increase their already substantial contribution to employment in Ireland.

Reduction in the marginal rates of employment taxes:

Our comments above regarding what we view as necessary reform of Ireland's personal taxes regime through reduction of the marginal cost of employment on employees and businesses apply equally to the SME sector. Reducing the marginal cost of employment for both employees and employers would stimulate further quality employment within both sectors. Furthermore, it is our view that initiatives that reduce the cost of employment for businesses are likely to be even more impactful for the SME sector, where business margins can be tighter and sensitivity to marginal cost greater, compared with the FDI sector.

Extension of SARP to indigenous Irish business:

There are other reforms that could be undertaken which we believe would directly improve employment in the SME sector in Ireland. For example, we strongly recommend that the SARP regime is opened to indigenous Irish businesses, in line with the Government's SME Taskforce report in this regard[25]. Improved workforce mobility in a post-Covid world offers

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[24] New Forms of Tax Competition in the European Union: An Empirical Investigation, EU Tax Observatory (2021) EU-Tax-Observatory-Report-3-Tax-Competition-November-2021-2.pdf (taxobservatory.eu)

[25] Report of the SME Taskforce: National SME and Entrepreneurship Growth Plan (2021)

Ireland an opportunity to attract talent to the country, potentially helping transform Ireland into a hub for global talent across a wide range of fields.

We believe that the SARP regime offers multinational employers a powerful tool to attract talent to Ireland, particularly where it is enhanced as recommended above. However, the SARP regime is currently closed to Irish indigenous businesses as it does not apply to new hires. We agree with the conclusion of the SME Taskforce Report that a more level playing field should be created between indigenous businesses and large multi-national companies in terms of the measures available to assist with staff mobility and talent retention. In this regard, we strongly support that report's recommendation that the SARP regime should be opened to new hires (*SME Taskforce Report Action 2.6.4*). Used in conjunction with more attractive marginal personal tax rates as recommended above, this would facilitate Irish SMEs and Irish universities in attracting the best talent in Ireland and abroad, driving innovation and productivity in this sector.

Supporting growth in Irish businesses:

Finally, we also believe that other reforms of the taxation system should be undertaken in tandem with the above recommended reforms so as to further promote employment in the SME sector. Many of these will simply be pro-enterprise tax reforms which are aimed at facilitating growth-phase business to expand and access new markets. Tax measures which promote and support the expansion of businesses will be most effective in driving increased employment in Irish domestic businesses. In this regard, we refer to our responses to Section 6 below on promoting economic activity.

4. Climate

Question 1: As Ireland moves to a low carbon economy, what should be the role of the taxation and welfare system in taking advantage of opportunities; mitigating the risks; and in meeting Ireland's emission targets?

Executive Summary:

Our recommendations focus on three main areas:

— Mobilising private finance for green investment:

- Introduce green bonds, interest on which would be tax exempt.
- Enhance EIIS and CGT entrepreneur relief for investments in the green economy.
- Relief under s486B should be reintroduced.
- Support ESG investing through pension schemes. E.g., increasing the tax-free lump sum where derived from ESG funds.

— Incentivising the development and use of green technology:

- Increase the RDTC to 50% with respect to R&D on green technologies.
- Provide support for sustainable buildings and transport.
- Take advantage of forthcoming EU-wide changes allowing reduced rates of VAT to apply to environmentally friendly products such as solar panels, bicycles and renewable energy sources.

— Supporting green agriculture:

- Enhance CGT retirement relief to ensure relief remains available in circumstances where a farmer makes their land available to deliver renewable energy through solar, wind or anaerobic digestion, or who re-wilds their land, increase wetlands or plants native trees.
- Remove the restriction on the proportion of agricultural land on which solar panels can be installed while remaining eligible for CAT agricultural relief.

Ireland has an ambitious goal of reducing greenhouse gas emissions by 51% by 2030 and to reach net-zero emissions no later than 2050. These targets will undoubtedly present challenges and opportunities to Irish businesses and communities. Achievement of these targets is not only an imperative in the context of fighting climate change, but their achievement is also crucial in order for Ireland to maintain its attractiveness as a location, particularly as both businesses as well as individuals strive to reduce their carbon profiles.

We believe that there are three areas that can help Ireland achieve its ambitious climate agenda: mobilising private finance for green investment and incentivising the development and use of green technology. Ireland has previously demonstrated the power of tax policy in delivering societal change and environmental impact in the form of the plastic bag levy introduced in 2002. We believe that tax policy is uniquely placed as a tool to encourage sustainable behaviour from individuals and businesses alike. In addition, we believe that measures designed to positively influence taxpayer behaviour are most effective when the incentive provided is significant and subject to an agreed sunset provision. The combination of these features can affect the timely adoption of positive behaviours, overcoming factors which would have otherwise impeded this change (e.g., market factors, behavioural inertia, etc.).

Mobilising private finance for green investment

Mobilising green risk capital: a fundamental challenge being faced by early or growth stage enterprises in the green space is being able to attract and retain the risk capital required to build their business. In this regard, Ireland should strive to establish itself as an international hub for climate innovation, creating an environment where innovators in the green economy and their investors are incentivised and supported. In this regard, we propose:

1. The introduction of an exemption from tax on interest earned by individuals on “green” bonds which are issued to enterprises to fund initiatives which contribute to meeting Ireland’s ambitious carbon emissions targets.

2. Ireland’s existing reliefs, principally EIIS and CGT entrepreneur relief, should be enhanced with respect to investments in enterprises in the green economy. For example, CGT entrepreneur relief could be extended to allow passive investors in qualifying green projects to avail of the relief. With respect to EIIS, investment in the green economy could be incentivised by increasing the rate of relief available for qualifying green investments under the scheme.

3. Relief under section 486B TCA 1997 (which provides for tax relief for companies which invest in qualifying renewable energy projects) should be reintroduced and targeted to attract investment into the renewable energy sector and other enterprises in the green economy that the market is less active in.

4. Supporting ESG investing through pension investment: by crafting tax policy to incentivise and support investment in sustainable businesses, Ireland can exert a significant and determinative influence on business to implement environmentally and socially sustainable practices. In this regard, we propose that Ireland levers the important role that pensions can play in influencing the ESG profile of companies globally. A possible approach would be to increase the tax-free lump sum payable on retirement where some or all of the lump sum is derived from approved ESG funds, providing a strong incentive to scheme members and managers to include ESG funds in their portfolios.

Incentivising the development and use of green technology

Supporting green innovation: Irish tax policy should support and encourage innovation targeted at developing green technologies and other solutions which contribute to achieving our ambitious climate action targets. Moreover, we believe that Ireland should strive to establish itself as an international hub for R&D activities in the areas of sustainability and carbon reduction. We would note that, to date, Ireland has failed to attract substantial research investment in these areas.

An OECD study published in September 2020[26] found that both R&D tax incentives and direct funding are effective in incentivising R&D investment by business. However, given the relative lack of investment in R&D activities in the renewable sector in Ireland to date, we believe that a strong enhancement would be required to achieve the objective of attracting such investment here in the future. In this regard, we recommend enhancing our existing R&D tax credit regime to allow for a 50% credit with respect to expenditure incurred with respect to R&D activities undertaken with respect to solar, wind, hydro, or biomass energy technologies, as well as other green technologies (for example, soluble or compostable materials for packaging, air filtration methods, ocean cleaning technology, etc.).

Support for sustainable buildings: Due to a mixture of regulatory requirements and market demand, newly constructed property in Ireland is very often constructed to very high levels of energy efficiency. However, there remains a considerable challenge ahead to bring Ireland's existing residential and commercial property stock to comparable levels of efficiency and sustainability. In this regard, we have identified a number of possible suggested measures:

1. Introduce an income tax credit with respect to expenditure incurred on improving a home's energy efficiency rating.

2. Reintroduce mortgage interest relief in respect of borrowings used in the acquisition, improvement or repair of properties with a BER of B3 or better.

3. Where an individual incurs expenditure to improve a home's BER to at least a B3 level, this expenditure should be deductible from the taxable value of the relevant property for Irish CAT purposes where the property subsequently comprises part of a disposition.

4. Allow a double deduction against Case V rental income for expenditure incurred on improving a rental property's BER to at least a B3 level in the year in which the expenditure is incurred.

5. Apply a reduced rate of VAT to environmentally friendly products such as solar panels and renewable energy sources as soon as permissible under EU law (such measures were agreed by the EU's finance ministers in December 2021 and are currently subject to approval by the European Parliament in the first half of 2022).

Supporting sustainable transport: The National Development Plan sets a target of having a minimum of 500,000 electric vehicles on the road by 2030, noting that additional charging infrastructure will be required to cater for this planned growth. Given it is estimated that the transport sector accounted for approximately 40% of Irish CO2 emissions in 2018, delivery on this target will likely be key to achieving the nation's broader climate goals. In this regard, we propose that:

- The transition of Ireland's existing transport fleet to EVs could be incentivised by offering a partial income tax credit with respect to EV charging costs.
- A reduced rate of VAT is applied to bicycles and electric bicycles as soon as permissible under EU law (as above, this is currently subject to approval by the European Parliament).

Supporting green agriculture

The agriculture sector offers both some of the biggest challenges and opportunities for climate action in Ireland. Irish farmers should be supported where they decide to adapt their

[26] MicroBeRD: An OECD study on the impact of R&D tax incentives: https://www.oecd.org/sti/microberd-rd-tax-incentives-policy-note.pdf

business and land in ways that contribute to Ireland's sustainability goals. In this regard, a key challenge for many farmers (particularly those nearing retirement) arises with respect to the tax implications of adapting their land and business to sustainable practices. This challenge could be alleviated through:

1. Enhancements to CGT retirement relief to ensure relief remains available in circumstances where a farmer makes their land available to deliver renewable energy through solar, wind or anaerobic digestion, or who re-wilds their land, increase wetlands or plants native trees.

2. A removal of the restriction on the proportion of agricultural land on which solar panels can be installed while remaining eligible for CAT agricultural relief. At present, section 89(1B)(d)(i) CATCA 2003 provides that land should not be regarded as agricultural land where solar panels are installed on greater than half the total area. This obstacle to adapting land to the production of renewable energy should be removed.

Finally, we welcome the Government's confirmation[27] that the additional revenue raised from the increase in carbon tax will be ring-fenced to support the low carbon transition and the green agriculture.

[27] Budget 2022 A Review of Green Budgeting from a Tax Perspective: https://assets.gov.ie/201243/56e364cf-9bfc-4993-b405-e34784b0c4bc.pdf

5. Housing

Question 1: Taking into account previous taxation related interventions in the housing market, what role do you think the taxation and welfare systems have to play in contributing to the long-term supply of housing?

Executive Summary:

We highlight the importance of resolving the housing crisis, both in terms of the impact on our communities but also as an important factor for businesses and individuals considering locating or staying here.

We recommend:

— Reducing the VAT cost associated with the supply of housing.

— Reforming and reinstating various reliefs (indexation relief and CGT rollover relief) to incentivise the use of land for residential purposes.

— Reform the system of taxation for professional landlords to give Irish property investors a platform to participate in the Irish market, helping drive supply.

— Incentivising local investment in residential developments, for example through an SSIA-type scheme for Irish property.

Ireland's ongoing housing crisis creates substantial challenges for Irish society, and its timely resolution is a matter of the utmost importance for Ireland and its communities. The availability of accommodation at affordable prices also affects the attractiveness of a country as a location for investment. As mentioned in previous sections, non-tax factors such as housing will become of greater relative importance to investment location decisions as the differential between national corporate tax rates narrows.

The housing crisis in Ireland is already a significant negative factor for investors looking to establish substantial operations here and may well be a determinatively negative factor for future prospective investors unless urgent action is taken to resolve this. In this regard, we welcome the recent publication of the Government's Housing for All plan, which is an important first step in this regard. Outlined below are various proposals which we believe complement the Government's housing strategy and will improve the supply of housing in Ireland or act to reduce the cost of housing in Ireland.

a. *VAT cost of property:* We recognise that Ireland faces technical challenges under the current framework of European Union VAT Directives in adopting a zero or indeed a further reduced VAT rate on the supply of new housing. However, we believe that the economic impact of removing or reducing VAT on new houses (while still allowing recovery of VAT on construction costs) would fundamentally alter the economics of the house building project in this marketplace and would encourage developers (and perhaps State bodies) to move now and take on the other uncertainties present in the marketplace. We believe the notion of a temporary, say 5-year, removal of the VAT cost on new houses could be a very significant factor in bringing more affordable supply to the market. In this regard, we recommend the implementation of a targeted scheme allowing a rebate of VAT to certain persons on the purchase of new houses. This preserves the VAT regime for the suppliers of housing but allows a temporary market intervention for purchasers which could have a dramatic impact on affordability and take-up. In addition to the above proposal, we recommend:

— The lowest possible rate of VAT on supplies of new residential housing should be introduced at the earliest opportunity. In this regard, the existing 9% rate is a possible benchmark, though a lower rate is recommended. In this regard, following the agreement by the EU's finance ministers in December 2021, member states will have some greater flexibility to set reduced rates to goods and services supplied in the public interest. This will include allowing member states to avail of any derogations for lower rates in the public interest which are already in effect in other EU member states (currently a member state could only avail of such derogations if they were already in place in that member state in 1991). While the final text of these changes is subject to approval by the European Parliament, we recommend that Ireland reviews the scope to introduce a lower VAT rate for housing under these new measures.

— Where a reduction in rate is not possible, an alternative mechanism for this may be the introduction of a grant or rebate to homebuilders, assuming that this can be implemented in a manner that achieves a similar outcome for home purchasers.

b. *Targeted measures to incentivise the use of land for residential development:* As outlined in the 2018 National Planning Framework, the location of housing is crucial in ensuring that development is sustainable and meets the significant demand for housing in our towns and cities. In addition, ensuring that sufficient housing is available in urban areas can help achieve Ireland's goals with respect to tackling climate change, as well as reducing commuting times, congestion, and pollution. As a result, we have set out below a number of proposals which we think would effectively increase the supply of land for residential development, particularly in urban areas where the greatest need for such supply exists:

— Reform and reinstate CGT rollover relief: We suggest that the Government should reintroduce rollover relief from capital gains tax for businesses with respect to the amount of the proceeds received from the sale of real property which is re-invested in another replacement property (i.e., new site and/or building) where that property is used in the trade of the enterprise. We believe that not only would this free up land in city centre locations ideal for residential development, but it would also enable businesses to move to more suitable locations where they would be able to expand further without being impeded by a capital gains tax liability which they may struggle to pay along with the cost of a replacement premises.

— Reinstate indexation relief: In the context of low capital gains tax rates, the abolition of inflation relief given through the indexation of the base cost of assets for capital gain tax purposes was not considered to be a major negative. However, in the case of established long-term businesses, the impact of the lack of inflation relief is becoming very significant, with particular relevance for assets with an intrinsic long life such as real estate assets. The result is that disposals of real estate assets that have been held for many years is disincentivised, even where that real estate is not immediately needed within the business owning it. We recommend that indexation relief is re-established to counter the penal effects of the current 33% capital gains tax over an uninflated base.

c. *Levelling the playing field for Irish landlords:* To meet Ireland's significant housing needs, a mix of residential developments will be required, including medium-sized developments which are not typically investment targets of international institutional investors. However, we believe that by removing existing disincentives, Irish investors could be provided with a stronger platform to participate in the housing market, particularly with respect to developments where, at present, the business case to support the supply of housing by either domestic landlords or large international investors is challenging. In this regard, we believe the Schedule D, Case V system of taxation of rental income, particularly in the context of professional or corporate property owners, is outdated and the taxation of professional landlords should be reformed to ensure that active rental businesses (say >10 residential units) are taxed as trades rather than as passive income generators. We believe that this would align Ireland's tax regime with the commercial reality of today's business environment for large scale letting of residential property units and remove a strong disincentive for Irish investors considering investment in Irish residential property developments. In this regard, we urge that legislation is introduced to:

   - Apply Case I principles to the calculation of rental income for large scale rental businesses.
   - Eliminate the close company surcharge for active residential landlords.
   - Apply the 12.5% trading corporation tax rate to active rental businesses.
   - Extend CAT Business Property Relief (BPR) for active property rental businesses.
   - Consider allowing a tax depreciation deduction for the cost of construction of Private Rented Sector (PRS) and buy-to-let developments.
   - Apply 2% stamp duty on transfers of residential zoned land, with a clawback if that land is not subsequently developed into residential property within 5 years from the date of purchase.

   With respect to our stamp duty proposal above, the upfront stamp duty cost of acquiring land for development in Ireland is a significant financing hurdle and one which is far more likely to be prohibitive for small- and medium-sized professional landlords compared with large institutional investors. At present, Section 83D Stamp Duties Consolidation Act 1999 provides for a refund of stamp duty of up to 5.5% where land is acquired and subsequently developed for residential purposes. However, this requires those acquiring land with the intention of developing residential property to suffer an increased stamp duty upfront cost associated with this acquisition. We believe lowering the upfront cost on the acquisition of residential-zoned land would act to lower the financing hurdle for small- and medium-sized residential developments and stimulate increased supply of housing as a result.

d. *Incentivise local investment in residential developments:* We believe that local investment which contributes to the development of homes in Ireland should be actively encouraged by the Government. Such local investment should be targeted at increasing the supply of housing in Ireland, while also working to return value created through such investment to Irish communities. In addition, it would allow communities the opportunity to participate in initiatives aimed at resolving the Irish housing crisis, giving participants a sense of agency in combatting a defining challenge of Irish society today.

   In this regard, we recommend that the Government explore schemes through which Irish individuals could be incentivised to contribute savings towards investments aimed at increasing the country's housing stock. Preferably, this scheme would be open to all individuals and would operate akin to a saving scheme operated through participating retail banks, credit unions and other financial services providers, thereby opening participation in the scheme to all members of the community. Investment in the scheme could be incentivised by means of an exemption from DIRT for returns earned on participants' investments.

Question 3: What in your view is the role that taxation should play in housing affordability?

Executive Summary:

We believe that taxation policy can and should play a role in improving the affordability of Irish housing.

In this regard, we reiterate our comments from Question 1 above that a temporary reduction in the VAT cost of housing could be an effective measure in this regard, both by means of reducing the VAT cost incurred by home buyers, but also by means of encouraging development within the temporary reduction window.

As outlined above in response to Question 1 of this section, we believe that the Irish tax system can and should play a role in improving the affordability of Irish housing. In addition, we believe that measures designed to resolve market failures are most effective when the incentive provided is significant and subject to an agreed sunset provision. The combination of these features can effect a strong market reaction, overcoming factors which would have otherwise impeded this change (e.g., lack of economic viability in the absence of the measure, delay of development in hopes of greater project returns in the future, etc.).

In this regard, we would reiterate that a temporary reduction in the VAT cost of new housing could result in a material reduction in the cost of new housing whilst also encouraging supply by incentivising developers (including the State) to bring forward developments in order to avail of the temporary reduction.

In addition, we believe that our other proposals outlined above which seek to increase the supply of housing would improve affordability as new developments become available to meet the substantial demand within the Irish market.

6. Supporting Economic Activity

Question 1: How can Ireland maintain a clear, competitive, sustainable, and stable taxation policy with regard to its attractiveness to Foreign Direct Investment (FDI) in light of the rapidly changing global environment?

Executive Summary:

We recommend the following non-corporation tax specific reforms:

— Reduce marginal rates of employment tax for employees and employers.

— Reform our system of taxation for share options and Restricted Stock Units (RSUs) to align with that in other countries.

— Our gift and inheritance tax system should be amended so as to ensure that high-value executives and talent are not incentivised to leave the country as part of their estate planning.

— Establish a brand of having a clear, simple and cost-efficient system for taxpayers.

— Ensure that certainty for taxpayers is a key objective in our overall tax system. In this regard:

- Ongoing use of public consultation on key tax legislative amendments is to be welcomed.
- The creation of an alternative dispute resolution mechanism for disputes between taxpayers and Revenue should be considered.
- The establishment of an Office for Tax Simplification may also be helpful in this regard and should be considered.

— Introduce tax measures to assist in resolving our housing crisis.

We recommend the following corporation tax specific reforms:

— The trading tax rate should be applied to gains arising on the disposal of business assets used in the course of the trade.

— Enhance our RDTC regime to establish Ireland as an R&D hub:

- The rate of the relief should be increased to 30%.
- Ensure we meet the criteria to be a “Qualified Refundable Tax Credit” under GloBE rules.
- Amend s766(1)(a) to allow for the deduction of costs incurred for the purposes of R&D activities, rather than costs incurred “in the carrying on of R&D activities” at present. This would allow greater scope and certainty for including costs indirectly incurred as part of R&D activities.

- Allow for automatic cash refunds in Year 1 for SMEs where the claim is below a certain threshold (say €150k).
- Expand the list of qualifying fields.
- Increase the RDTC to 50% with respect to R&D on green technologies.
- The limit on the amount of allowable expenditure on outsourced activities should be removed in order to best promote collaboration between Irish businesses and third-level institutions.
- The impact of removing the restriction on outsourced activities could then be amplified through continued support for R&D programmes undertaken in conjunction with third-level institutions.
- Enhance the SARP regime for R&D professionals, as is currently in place in Sweden.

— Remove obsolete anti-avoidance measures.

— Protect domestic control over our tax system, in particular with respect to EU tax reforms proposals such as BEFIT / CCCTB.

— An important consideration for Ireland's tax strategy for attracting FDI will be whether we move to a more territorial regime of taxation. We recommend that the Commission consider the feedback provided in response to the recently launched Department of Finance consultation on this matter.

The OECD BEPS 'Addressing the tax challenges arising from the digitalisation of the economy' initiative will introduce substantial changes to the global tax environment. Under Pillar Two, the tax burden for large companies converges on a minimum rate of 15% on a country-by-country basis, thereby diminishing the relative attractiveness of Ireland's 12.5% corporation tax rate. Consequently, other factors taken into account in location decision making will assume greater relative importance than they have previously.

In this context, ease of doing business, cost competitiveness, developed infrastructure (including housing and digital infrastructure), the availability of a skilled workforce and access to EU markets will continue to be important factors for businesses making location decisions, as will other corporation tax considerations. There is considerable opportunity for Ireland to improve, and indeed excel, in order to maintain its status as one of the best locations to do business.

Non-corporation tax specific measures

Given the enormous significance of FDI to Ireland, not only in terms of the nature and scale of activity conducted and skills developed in Ireland, but also in terms of the contribution it has made to the Exchequer, our response to this consultation includes recommendations regarding reforms that we view are necessary to maintain and grow our attractiveness with respect to such investment. Given that the adoption of Pillar Two of the BEPS process will impact the ability of Ireland and other countries to compete for such investment on the basis of corporation tax rate, the proposals outlined below focus on improving our attractiveness with respect to some of the non-corporation tax factors that will become more significant for multinational companies making location decisions in the future.

— *We must be attractive to highly skilled and talented people*:

- Ireland should seek to develop an international brand as an attractive place to work for mobile talent. In a global tax environment where aligning substance and profits is key, our ability to attract and retain high value individuals will become more important than ever. At the very least, Ireland cannot afford to be seen as uncompetitive. The marginal income tax rate not only plays a vital role in attracting mobile talent to Ireland, it can also be a key factor in whether skilled labour remains in Ireland (human capital flight). Furthermore, the marginal cost of employment will also impact the ability of Irish SMEs to attract and retain individuals with the required skills to grow and scale their business. In this regard, we propose that Ireland reduce the marginal cost of employment here, for both employees and employers, through reductions in our marginal rates of income tax and PRSI (see Section 3 in this regard).

— *Our basis for taxing stock compensation needs to be more attractive:*

- We also recommend that the tax treatment of Restricted Stock Units (RSUs) in Ireland is reviewed and aligned with that in other OECD jurisdictions to ensure that Ireland is not uncompetitive in this area. This will be of particular importance in the FDI sector, where RSUs are used extensively as a means of remuneration for high-performing employees and executives. Currently, RSUs are fully taxable if they vest at a time when the individual is Irish tax resident, irrespective of whether the individual has only been resident for a portion of the vesting period. We suggest that the amount of the benefit taxable in Ireland be apportioned by reference to any part of the vesting period during which the individual is present in Ireland.

- Similarly, our current system for taxation of employee share options is overly complex in comparison with the approach taken in other jurisdictions such as the UK. We refer to our detailed comments in Section 3 in this regard.

— *Our gift and inheritance tax regime should be amended so they don't discourage foreign executives from staying:*

- Our gift and inheritance tax system should be amended to ensure that high-value executives and talent are not incentivised to leave the country in order to ensure that any gifts or inheritances made or received by them do not fall within the remit of capital acquisitions tax. At present, non-Irish domiciled individuals may fall within scope of Irish CAT by reason of being Irish resident if they have also been resident here for the preceding 5 consecutive years. Once this occurs, any transfer or receipt of a gift or inheritance would become subject to Irish CAT at 33%, regardless of where those assets are situated or if they were acquired before arriving in Ireland. This is a particular concern with respect to the risk that their entire estate could become subject to CAT while based here. As a result, such individuals are incentivised to break Irish residence after 5 years. This can have a negative impact on the substance of their employer's operation in Ireland. Possible solutions to this may be to increase the above 5-year test for non-domiciled person to say 10 years, or to only have Irish assets within scope of CAT for non-Irish domiciled individuals.

— *Housing:*

- The housing crisis continues to be a very important challenge for Ireland. Not only is it important for young people growing up here to be able to access affordable accommodation, in an environment where the country must work harder than before to attract mobile individuals and businesses, our housing crisis may be the determinative factor which prevents future investors and workers from relocating here unless urgent action is taken (see Section 5 for our recommendations in this regard).

— *Digital Infrastructure:*

- Other aspects of our national infrastructure will also take on an increased importance when seeking to attract FDI. For example, the continuing rollout of our digital infrastructure is an important development in this regard.

— *Tax System - simplifications:*

- In our view tax certainty will likely become an area of increasing global competition in an environment where the ability of countries to compete on tax rates and incentives is constrained. We believe that creating a strong brand of Ireland providing certainty and clarity with respect to its tax legislation and tax policy will be crucial when seeking to attract FDI in the future.

- Our recommendations with respect to corporation tax in this regard are outlined below.

- We consider there remains significant opportunity to improve our income tax system in this regard also, for example with respect to our offshore funds regime and the increasing complexity of our income tax compliance process (see Section 1 and 9 for further details regarding our recommendations in this regard).

- Our recommendations in Section 9 focus on how our tax administration process could be enhanced to provide greater tax certainty for business and individual taxpayers operating here. Specifically, we would highlight the following recommendations in this regard:

  - The State should continue the broad use of public consultations with respect to the introduction of new tax legislation, on the basis that such consultations are an important tool in seeking to ensure that newly implemented tax measures operate in the manner intended, with improved ease of application for taxpayers and practitioners.

  - We would support the favourable comments made by Chairperson of the Tax Appeals Commission regarding the creation of a mediation and alternative dispute resolution process for disputes between Revenue and taxpayers.

  - Consideration should be given to the establishment of an Office of Tax Simplification, which could undertake broad reviews of Ireland's tax systems with the specific aim of improving clarity and reducing the administrative burden therein.

Where successfully implemented, the tax measures we have referred to would, in our view, result in a material improvement to the attractiveness of Ireland as a destination for FDI, particularly in a post-BEPS, post-Covid-19 pandemic global environment.

Enhancements to Ireland's corporation tax regime

Given that BEPS will diminish the ability of countries to compete with each other on the basis of relative differences in their tax rates, it will mean that other aspects of the corporate tax regime will become of greater relative importance.

We have highlighted in this section several areas we believe will be important to focus on.

Ireland as an R&D hub:

The OECD Pillar Two rules published in December 2021 provide that the treatment of tax credits and Government grants for the purposes of the GloBE rules should broadly reflect their financial accounting treatment. The result of this is that refundable tax credits, grants and subsidies should typically be treated as income (as opposed to a reduction in covered taxes paid) for the purposes of calculating an enterprise's effective tax rate for GloBE purposes.

As a result, refundable tax credits, such as the R&D tax credit in Ireland, along with grants and subsidies, will be increasingly important in terms of attracting global investment in a post-BEPS environment. Indeed, Switzerland has publicly stated that they may expand their offerings in these areas to attract foreign investment[28].

With respect to Ireland's ability to attract global business through an expanded use of grants and subsidies, it is important to recognise the legal (e.g., EU State Aid) and fiscal constraints on Ireland excelling in this area. As a result, it will be important that any measures implemented by Ireland in this regard are targeted and effective in attracting business, while also being compliant with EU law. In addition, it should be recognised that larger economies will have an inherent advantage over small countries such as Ireland when trying to attract R&D.

In this regard, we strongly recommend that certain targeted improvements are made to the R&D tax credit regime to make Ireland materially more attractive than other countries in this regard and to ensure that the relief continues to offer a strong incentive to businesses to establish substantial operations here involving a highly skilled workforce. Where successful, Ireland could distinguish and enhance our reputation as a global centre of excellence for research and innovation, which would in turn create a positive feedback loop when seeking to attract further such operations here, hence increasing corporate, income and consumption taxes for the Exchequer.

We recommend:

— The rate at which the R&D tax credit is provided should be increased from 25% to 30%. This would strongly support Ireland's ambition to providing a best-in-class R&D tax credit regime, while sending a powerful signal to Irish and international businesses that Ireland intends to establish itself as an international R&D hub.

— A review of the mechanism by which the R&D tax credit is refundable, to ensure it meets the conditions to be a "Qualified Refundable Tax Credit" under the GloBE rules. One way of achieving this would be to ensure that the R&D tax credit is relievable against the company's payroll tax liabilities, as a first option.

— Amending the wording of section 766(1)(a) TCA 1997 to "wholly and exclusively for the purposes of R&D activities", rather than "wholly and exclusively in the carrying on by it of R&D activities", to align the definition of "expenditure on R&D" with the original policy

[28] Switzerland plans subsidies to offset G7 corporate tax plan, Financial Times, 10 June 2021

intention. This amendment would also provide greater clarity and certainty to claimants of the relief with respect to qualifying costs.

— We suggest that the cash refund mechanism is enhanced for tax compliant SMEs, allowing for an upfront cash refund of up to €150,000 in Year 1, rather than over three annual instalments as currently applies. We would also recommend that this payment is made automatically. This change in administrative process would not affect Revenue's right to audit and review the claims but would reduce delays within the system currently experienced by claimants. It would also provide a significant cashflow support for SMEs, who may find it more difficult to access sources of finance in comparison with larger taxpayers. This proposal would come at little cost to the Exchequer, being only the time value of money with respect to the refunds which would otherwise arise in Years 2 & 3.

— Consideration should be given to expanding the list of qualifying fields beyond the existing science and technology categories. For example, we recommend that consideration is given to expanding the list of qualifying fields to include specific reference to research into technologies such as artificial intelligence, machine learning, blockchain and other emerging technologies, many of which are currently included under "computer sciences and other allied subjects". Specific reference would bring further clarity to those undertaking research into these areas that they can qualify for the R&D tax credit.

— As noted in our response to the consultation's queries on climate, our existing R&D tax credit regime should be enhanced to allow for a 50% credit with respect to expenditure incurred with respect to R&D activities undertaken with respect to solar, wind, hydro, or biomass energy technologies, as well as other green technologies (for example, soluble or compostable materials for packaging, air filtration methods, ocean cleaning technology, etc.).

— We propose that the current limits on the amount of relief that can be claimed with respect to outsourced R&D activities is removed. We believe that this would act as a significant incentive for Irish businesses to collaborate with one another. In particular, we believe that this would strongly support collaboration between Irish businesses and universities and other third-level institutions, in line with Government policy in this area.

— The impact of the removal of restrictions on outsourcing under the R&D tax credit regime should be amplified through programmes which support and encourage research and development in conjunction with third-level institutions.

In addition to the above enhancements to Ireland's R&D tax credit regime, we believe that targeted enhancements to the SARP regime aimed at attracting valuable R&D professionals would act to further establish Ireland as a talent hub for innovation and research.

Specifically, key talent involved in R&D activities could be attracted to Ireland by applying an approach similar to that currently in place in Sweden, in which certain key foreign employees (defined by reference to where there is a skills shortage in Sweden) may qualify for an income tax reduction and their employers for a lower rate of employer social security contributions.

We propose a similar approach is applied here, in which all remuneration of employees engaged in R&D is taxed at the standard rate, irrespective of the amount of the individual's salary. This could be implemented as an enhancement to the existing SARP regime.

We would note that, while there are existing measures included in the R&D tax credit regime aimed at reducing the tax burden of R&D professionals, these are little used. From our experience, this is predominantly because of the complexity of these measures and the administrative difficulty associated in implementing them. Therefore, it would be important that the proposed enhancement to SARP is provided for and implemented with administrative ease in mind, in order for the incentive to work as intended.

Simplifying the taxation of business profits:

In contrast to the regime in many other competitor locations, Ireland seeks to impose tax on the disposal of some assets used in the course of the trade at the CGT rate of 33%. This tax is also imposed by reference to the movement in the value of the asset in Euro terms, hence making the tax cost dependent on movements in FX rates between the Euro and the functional currency being used by the business.

The potential exposure of an investor to such a high tax charge as compared to the 12.5% (or 15% rate in BEPS 2.0) is very concerning to many investors. The fact that in many cases the tax liability carries an exposure to movements in FX rates only heightens the concerns.

To make the position more clear-cut and fairer, we would recommend that the disposal of any asset which is used in the course of a trade should be taxed at the trading tax rate.

Simplification and removal of obsolete measures:

Ireland has for many years had a very competitive corporation tax regime, but also a very robust tax regime in terms of providing protections from base erosion.

An example of this is Ireland's position on EU ATAD interest limitation measures – that existing measures in Irish law provide equivalent protections to those prescribed under ATAD.

The measures that Ireland has or will be required to have as part of EU / OECD initiatives (e.g., ATAD, BEPS) do not take account of pre-existing measures in Irish law (and which other jurisdictions did not have) that also seek to achieve largely the same objectives, i.e., to prevent base erosion.

In our view, a review should be conducted, in consultation with stakeholders, of what internationally agreed measures have been adopted into Irish law that meet the same objectives as pre-existing measures with a view to removing pre-existing measures which are now obsolete. Otherwise, Ireland's tax regime risks becoming overly complex and uncompetitive internationally as a result of the overlay of international measures on pre-existing measures.

As noted in our response to the administration section 9 of this consultation, we recommend consideration is given to the establishment of an Office for Tax Simplification. Where such an office is created, we believe that simplification in the above areas should be a key priority for this body.

Protect domestic control over our tax system:

The 12.5% rate of corporation tax has been a cornerstone of Irish industrial and tax policy since its introduction over 18 years ago. Therefore, the joining of the October OECD/IF statement and, in particular, agreement to Pillar Two proposals which would apply a minimum effective rate of tax of 15% to in-scope large multinationals is without doubt a significant development in Ireland's policy with respect to the attraction and retention of FDI. We support the BEPS project and believe that multilateral tax reform is required in order to face the tax challenges created by digitalisation. We fully support the Government's decision to join the October statement and commend its significant efforts in securing certainty with respect to the minimum rate of 15% going forward.

We caution that Ireland must continue to protect domestic control with respect to its corporate and income tax rules. As a small open economy on the edge of Europe, Ireland must be able to use its tax policy as a lever to respond to challenges and opportunities as they arise. In this regard, we would be of the view that the imposition of the European Commission's Business in Europe: Framework for Income Taxation (BEFIT), which would replace existing national rules with formulary apportionment of the taxable base between EU Member States, on Ireland would stifle our ability to adapt in this regard and would risk a substantial erosion of our national tax base in the long-term. For this reason, we believe that Ireland should continue to resist attempts to impose initiatives such as BEFIT and the Common Consolidated Corporate Tax Base (CCCTB) at the EU level. Regarding other proposals put forward by the European Commission as part of its "Communication on Business Taxation for the 21st Century", we recommend that Ireland continue to actively participate in the discussions to ensure that Ireland's interests as a small open economy, as well as the interests of businesses located here, are championed and protected.

Territorial regime considerations:

In December 2021, the Department of Finance launched a public consultation regarding a possible move to a territorial system of taxation in Ireland.

Given the significance of any possible move to a territorial system of taxation for businesses based in Ireland operating internationally, and the complexity of implementing any such change at a time of significant change in the global tax landscape, we welcome the opportunity to contribute on this important and complex topic via the public consultation process and recommend the Commission consider the feedback provided to the Department on this matter once available.

Question 2: How can the taxation environment support indigenous enterprise, particularly small and medium sized enterprises (SMEs) to be productive, to innovate and be competitive internationally?

Executive Summary:

— Continue to exempt SMEs from transfer pricing

— Simplify the corporation tax compliance system for SMEs

— Make SARP available to indigenous businesses

— Reduce the marginal cost of employment

— Improve the efficiency for obtaining refunds for SMEs to improve cash flow (similar to what has been done throughout Covid)

— Reduce and simplify VAT compliance for SMEs

Due to insufficient economies of scale, domestic enterprises are more likely to operate under tighter profit margins in comparison with large multinational businesses based here. Indeed, many growth stage Irish businesses may be loss-making during the early stages of their expansion. Therefore, the total return of many Irish SMEs is often much more sensitive to small fluctuations in the business' cost base, with the result that a key challenge for most Irish businesses is controlling expenditure.

It is our view that certain simple reforms of the Irish tax system and its administration would provide a significant support to Irish enterprise, particularly SMEs. These may reduce compliance costs for domestic enterprises, aid liquidity by improving cash flows, allow businesses attract the necessary talent in a competitive labour market, or help businesses access risk capital to allow them to expand and access economies of scale. We have outlined some of our recommendations in this regard below.

Continue to exempt SMEs from Transfer Pricing

Finance Act 2019 updated Ireland's transfer pricing regime to adopt the 2017 OECD Guidelines that applied at that date. It also significantly extended the scope of Ireland's transfer pricing regime to include non-trading arrangements and certain domestic arrangements.

Provisions extending the scope of transfer pricing to SMEs are subject to ministerial commencement order.

We are strongly of the view that these provisions should not be commenced. There is no obligation on Ireland to do so under EU law or commitments to the OECD, and doing so would impose costly compliance burdens on domestic businesses with limited (if any) additional revenue to the Exchequer. It could, in fact, reduce revenue to the Exchequer by increasing costs to SMEs and limiting their ability to invest and grow. Commencing such provisions would appear to be in direct contradiction to the Government's stated objective of ensuring the "*tax system remains supportive of the SME sector*"[29].

[29] Programme for Government – Our Shared Future (2020)

Corporation tax compliance process

The corporation tax compliance process has become increasingly complex in recent years. A clear illustration of this increase in complexity is the increase in the length of the Form CT1 over this period, from 24 pages with respect to 2012 to 46 pages in respect of 2021.

We believe minimising compliance costs and the administrative burden of tax compliance on businesses, particularly SMEs, should be a key focus in the years ahead. In this regard, consideration should be given to the establishment of an Office for Tax Simplification which could review the current system in order to determine where further efficiencies could be achieved. Please see Section 9 for further comments in this regard.

Make SARP available to indigenous businesses

Improved workforce mobility in a post-Covid world offers Ireland an opportunity to attract talent to the country, potentially helping transform Ireland into a hub for global talent across a wide range of fields. As outlined above, we believe that the SARP regime offers employers a powerful tool to attract talent to Ireland, particularly where it is enhanced as recommended in our response to the first question in this section above.

However, the SARP regime is currently closed to Irish indigenous businesses as it does not apply to new hires. In turn, this increases the cost on Irish enterprises seeking to attract international talent to Ireland in comparison with multinationals present here who can source talent internally from other international offices. We agree with the conclusion of the SME Taskforce Report that a more level playing field should be created between indigenous businesses and large multi-national companies in terms of the measures available to assist with staff mobility and talent retention. In this regard, we strongly support that report’s recommendation that the SARP regime should be opened to new hires (*SME Taskforce Report Action 2.6.4*).

In addition to being of immediate benefit to Irish SMEs, it would also open the regime to our universities, allowing them to compete more effectively in attracting global talent to lead research and development here. This represents an opportunity to create a powerful positive feedback loop, driving the carrying on of cutting-edge research in Irish universities while contributing to the education of highly skilled graduates from these same institutions, thereby further promoting Ireland as a global hub for Irish R&D activities with our universities at its centre.

Reduce the marginal cost of employment

As outlined in sections 1, 2 and 3 with respect to reforms necessary to ensure that Ireland remains attractive for FDI, we recommend that Ireland reduce the marginal cost of employment for both employees and employers, for example by means of reducing the marginal rate of income tax, USC and PRSI. This is in order to ensure that Ireland is an attractive place to work and locate substantial business, a key challenge in a post-BEPS, post-Covid environment.

In addition, a reduction in the marginal cost of employment would not just improve our ability to attract FDI, but would also have significant benefits for Irish domestic enterprises, particularly SMEs. This is on the basis that a broad reduction in labour costs would be particularly impactful for such businesses as they strive to control their cost base in a competitive labour market.

Improve cash flows for SMEs

We believe that the Irish tax system could provide Irish SMEs a substantial support by improving the turnaround time for the processing of refunds. The efficacy of this measure is highlighted by the excellent support provided by Revenue during the course of the Covid-19 pandemic in prioritising the rapid processing of refunds due to taxpayers, providing a significant liquidity support to affected taxpayers.

In particular, and as outlined above, this should be implemented with respect to refunds payable as a result of the R&D tax credit claim. Specifically, we suggest an automatic refund of cash claims by compliant taxpayers for claim amounts below a *de minimis* threshold of, say, of up to €150,000 in Year 1, rather than over three annual instalments as currently applies. We would also recommend that this payment is made automatically. This change in administrative process would not affect Revenue's right to audit and review the claims but would reduce delays within the system currently experienced by claimants. It would also be of particular support to SMEs who are more likely to have a refund claim below this *de minimis* amount and would benefit most from the improved liquidity arising under the administrative practice.

Support to grow and access economies of scale

Often, the most effective means a business may have of reducing its cost base and improving productivity is to grow and avail of economies of scale. However, accessing the necessary funds to finance this growth can be difficult or impossible for many Irish businesses. In this regard, the Irish tax system should support growth-stage businesses seeking to access risk finance and incentivise investment in such entities.

Our recommendations in this regard are outlined in response to Question 3 below.

VAT Registration and Compliance

Changes have been agreed at an EU level to allow member states to increase their VAT registration thresholds for SMEs to a maximum of €85,000 of domestic turnover per annum with effect from 1 January 2025. This would allow Ireland to more than double its current VAT registration threshold of €37,500 for businesses supplying services, thereby allowing such businesses to achieve greater scale before coming within the VAT system.

In the interim, greater flexibility should be afforded to businesses to reduce the VAT compliance burden. This should include increasing the thresholds under which businesses can report and pay VAT less frequently than the default bi-monthly periods.

Question 3: With regard to starting, scaling or growing a business in Ireland:

1. ***what features of the current taxation system work well?***
2. ***what features do not work well and how can these be improved?***

Executive Summary:

Change Ireland's CGT rules to encourage investment in SMEs

— A reduced CGT rate (e.g., 20%) should be introduced for founders, private investors, Venture Capitalists or Angel Investors who invest in non-property SMEs

— Enhance CGT entrepreneur relief:

- Increase the lifetime limit
- Expand the 10% to qualifying dividends
- Allow passive investors to qualify

Improve the EII Scheme:

— Allow CGT losses

— Offer a full temporary exemption from CGT on the subsequent disposal of EIIS investments made in a given year

— Revenue should issue a confirmation to companies applying for the relief to confirm eligibility

— The holding company rules should be amended to allow for subsidiaries of other companies to avail of the relief.

— The connected party rules should be relaxed

We agree with the statement in the SME Taskforce Report that creating a taxation system that supports the creation and growth of new enterprises, and the re-investment of entrepreneurial capital in Irish enterprise is of critical importance to the growth of Ireland's SME sector.

In this regard, the Irish tax system already has various relief and incentives which have been introduced with this goal in mind. However, it is our view that these reliefs are often hampered in achieving their stated objective as a result of overly complex or restrictive rules which disincentivise potential investors and businesses from participating in the measure.

In this regard, we have outlined below various existing reliefs and incentives the efficacy of which could be substantially improved by simplifying their rules or expanding the scope of commercial arrangements to which they apply. Many of these recommendations echo the recommendations of the Government's SME Taskforce Report which provided excellent insight on these matters and which should be considered by the Commission.

Change Ireland's CGT rules to encourage investment in SMEs

We would strongly support that SME Taskforce Report's recommendation that a reduced CGT rate (e.g., 20%) should be introduced for founders, private investors, Venture Capitalists or Angel Investors who invest in non-property SMEs. (*SME Taskforce Report Action 1.4.1*)

In addition to the above measure, we believe that significant incremental investment in Irish businesses could be encouraged by enhancing CGT Entrepreneur Relief as follows:

Increase the lifetime limit:

We believe that increasing the lifetime limit should reduce the risk of Irish entrepreneurs basing themselves and their businesses abroad. This is particularly important where the high standard rate of capital gains tax otherwise continues to apply on the disposal of investments in Irish SMEs.

Provide for the same rate (10%) on dividends paid to entrepreneurs from qualifying companies:

A number of EU countries apply a special tax rate to the taxation of dividends which is substantially lower than the headline income tax rate. For example, Germany applies a special flat tax rate of 25% to taxation of dividends, this is in comparison to the marginal tax rate of 45%. Another example of an EU country adopting such an approach is Bulgaria, which applies a flat tax rate of 5% to dividend income compared to the flat income tax rate of 10%.

We propose that the 10% rate currently available under CGT Entrepreneur Relief is extended to dividends received by individuals that qualify for the relief. This reduced rate would apply up to the lifetime limit provided for under the relief, with the amount of the lifetime limit available on an ultimate sale of the business then reduced by the amount of dividends to which the 10% rate was previously applied.

Extending the relief in this targeted manner should remove the current incentive for entrepreneurs to sell out at an early stage in the business's development and should support the possibility of founder entrepreneurs remaining in Ireland and holding their interests in the business as the business grows and matures.

Allow passive investors to qualify:

Opening Entrepreneur Relief to passive investors would, in our view, incentivise private investors to inject capital into start-ups, encouraging entrepreneurship and supporting growth in Ireland's SME sector.

Improve the EII scheme

We welcome and echo the recommended enhancements to Ireland's EII scheme suggested in the SME Taskforce Report, including:

- Allow CGT losses for lossmaking EIIS investments (*SME Taskforce Report Action 1.6.1*)
- Offer full CGT relief on profits on EIIS investments made for a year (*SME Taskforce Report Action 1.6.2*). We believe the introduction of a temporary exemption from CGT on the subsequent disposal of EIIS investments made in given year would provide a strong incentive for taxpayers to bring forward investments in participating companies to that period.

More broadly, it will be crucial that the EII scheme rules are simplified, and that greater certainty is provided for companies and individuals participating in the scheme. At present, the provisions of the EII scheme are complex and can be difficult for start-ups to understand and the penalties for getting it wrong can be steep. Improving certainty for participating companies could substantially increase uptake of the relief. In this regard, we recommend:

— The EII scheme provisions should be amended such that where a company has provided correct and complete information to Revenue, a confirmation that it is eligible for the EII Scheme can be issued to the company. This would be similar to the operation of the equivalent UK EIS rules.

— The holding company rules should be amended to allow for subsidiaries of other companies to avail of the relief. This could be used to attract minority investment in specific subsidiaries that form part of a wider group.

— The connected party rules should be relaxed in line with the UK approach of only applying them where the individual holds a 30% interest in the EIS company. Relaxing the connected party rules would ensure that Ireland remains competitive in this space and also ensure that individuals are not prevented from availing of the scheme due to unduly strict rules.

7. Review of Tax Expenditure

Question 3: How do you think the process of taxation expenditure review could be improved?

Executive Summary:

A dynamic modelling approach should be applied.

SARP is an important example of the importance of dynamic modelling, as a static model of the cost of the relief would not reflect that the relief plays an essential role in attracting employment and business of substance to Ireland which may not otherwise have arisen without the regime.

Similarly, the significant success of our R&D tax credit regime with respect to attracting R&D investment and valuable operations to Ireland may not be reflected in a simple static model of the regime. Given the myriad benefits of this regime in promoting innovation and economic activity in Ireland, a review of the regime using dynamic modelling is far more appropriate.

In 2018, a report by the Department of Finance[30] notes that there are 130 tax expenditures in place spanning multiple tax heads. As noted by the Revenue Commissioners[31], the costing of tax expenditures is estimated based on the tax foregone. This method of costing and reviewing the impact of tax expenditures does not take into consideration the behavioural changes associated with these tax expenditures i.e., this costing and review process uses static, rather than dynamic, modelling. However, we believe that using a dynamic model which takes into account these behavioural changes would provide a better picture of the impact of tax expenditures to the Irish economy and provide the Government with valuable information needed to make informed tax policy decisions. There are several ways in which one could do this. One could look at changes in a narrow sense such as only looking at the change of behaviour of those directly affected by the taxation law change or one could look more broadly at all the changes in the economy resulting from the taxation law change.

For example, the Special Assignee Relief Programme (SARP) is intended to attract employment and business of substance to Ireland which may not otherwise have arisen without the regime. To apply a static analysis in determining the value of the relief would be to entirely ignore that many individuals availing of the relief would not pay any tax in Ireland if the regime was not in place as they would not have come to Ireland. It would also ignore the additional allocation of profits to their Irish employer as a result of their employment in Ireland, the Irish jobs created by the individuals, the income tax collected as a result of these employments and the money spent in the local economy which creates further employment in restaurants / shops etc. Each of these factors increase Exchequer income tax, PRSI and VAT yields and together have a multiplier effect for all tax heads when the people employed

[30] Letter to the Select Committee on Budgetary Oversight on Tax Expenditures: https://data.oireachtas.ie/ie/oireachtas/committee/dail/32/committee_on_budgetary_oversight/submissions/2019/2019-03-28_correspondence-anna-donegan-department-of-finance_en.pdf

[31] Cost of Tax Expenditures as prepared by Revenue: https://www.revenue.ie/en/corporate/documents/statistics/tax-expenditures/costs-tax-expenditures-notes.pdf

in the restaurants and shops also spend money in the economy, and so on. Ignoring the broad and dynamic impact of tax expenditures runs the risk of one completely underestimating the benefits of the expenditure.

Similarly, the myriad benefits of our RDTC regime, both in terms of attracting and retaining valuable R&D investment in Ireland, as well as promoting innovation in businesses based in Ireland, may not be captured in a review of the regime using just static modelling. Rather, any meaningful review of the regime would need to include dynamic modelling in order to reflect the substantial benefits delivered to the broader economy under the relief with higher skilled jobs and the opportunity to attract new projects with resultant increases in corporate, income and consumption taxes

Question 4: Please give examples of taxation expenditures that you believe run counter to public policy/are badly designed?

Executive Summary:

We believe that existing tax supports for SMEs and entrepreneurs are positive from a public policy perspective but could be substantially improved where certain enhancements are implemented. In this regard, we reiterate many of our recommendations to enhance supports for SMEs outlined in Section 6:

— Expand SARP to new hires

— Reduce the CGT rate for investments in non-property SMEs

— Enhance Entrepreneur Relief

— Improve the EIIS

In order to build on the success of our RDTC regime and to ensure that it is best in class with respect to attracting international investment, we reiterate our recommendations aimed at enhancing this regime:

— Increasing the rate of relief under the RDTC regime from 25% to 30%.

— Ensuring we meet the criteria to be a "Qualified Refundable Tax Credit" under GloBE rules.

— Making the suggested amendment to s766 to allow greater scope and certainty for including costs indirectly incurred as part of R&D activities.

— Allowing for automatic cash refunds in Year 1 for SMEs where the claim is below a certain threshold (say €150k).

— Expanding the list of qualifying fields.

— Increasing the RDTC to 50% with respect to R&D on green technologies.

— The limit on the amount of allowable expenditure on outsourced activities should be removed in order to best promote collaboration between Irish businesses and third-level institutions.

— The impact of removing the restriction on outsourced activities could then be amplified through continued support for R&D programmes undertaken in conjunction with third-level institutions.

Supports for SMEs:

In the context of an uncertain global business landscape, the importance of encouraging and supporting indigenous Irish business and entrepreneurs cannot be overstated. In this regard, whilst we consider many of the reliefs and incentives in the Irish system helpful and constructive, and hence positive from a public policy perspective, we would reiterate our recommendations in Section 6 of our response to this consultation, in which we propose that tax incentives and supports for SMEs and entrepreneurs that are currently in place be reviewed and improved to ensure that the desired goals are achieved. In particular, we recommend that:

a. Indigenous SMEs are put on an equal footing with multinational companies in terms of attracting international talent by extending Special Assignee Relief Programme (SARP) relief to new hires.

b. Our CGT rules are updated to encourage investment in SMEs, including:

   i. Introducing a new CGT rate of 20% for founders, private investors, VCs or Angel Investors who invest in non-property SMEs.

   ii. Enhancing CGT entrepreneur relief by increasing the lifetime limit, extending the 10% rate to qualifying dividends, and allowing passive investors to avail of the relief.

   iii. Improving the EII scheme in line with the recommendations of the SME Taskforce Report, while also introducing changes aimed at increasing the effectiveness of the relief in terms of stimulating investment in SMEs by simplifying the rules and improving certainty for participating taxpayers and businesses alike.

R&D Tax Credit:

In addition to the above, we would also reiterate our Section 6 recommendations aimed at improving the attractiveness of Ireland as a destination for talent and substantial business by implementing targeted enhancements to existing tax incentives, transforming Ireland into a talent hub. In this regard, we propose:

i. The rate at which the R&D tax credit is provided should be increased from 25% to 30%. This would strongly support Ireland's ambition to providing a best-in-class R&D tax credit regime, while sending a powerful signal to Irish and international businesses that Ireland intends to establish itself as an international R&D hub.

ii. A review of the mechanism by which the R&D tax credit is refundable, to ensure it meets the conditions to be a "Qualified refundable Tax Credit" under the GloBE rules. One way of achieving this would be to ensure that the R&D tax credit is relievable against the company's payroll tax liabilities, as a first option.

iii. Amending the wording of section 766(1)(a) TCA 1997 to "wholly and exclusively for the purposes of R&D activities", rather than "wholly and exclusively in the carrying on by it of R&D activities", to align the definition of "expenditure on R&D" with the original policy intention. This amendment would also provide greater clarity and certainty to claimants of the relief with respect to qualifying costs.

iv. We suggest that the cash refund mechanism is enhanced for tax compliant SMEs, allowing for an upfront cash refund of up to €150,000 in Year 1, rather than over three annual instalments as currently applies. We would also recommend that this payment is made automatically. This change in administrative process would not affect Revenue's right to audit and review the claims but would reduce delays within the system currently experienced by claimants. It would also provide a significant cashflow support for SMEs, who may find it more difficult to access sources of finance in comparison with larger taxpayers. This proposal would come at little cost to the Exchequer, being only the time value of money with respect to the refunds which would otherwise arise in Years 2 & 3.

v. Consideration should be given to expanding the list of qualifying fields beyond the existing science and technology categories. For example, we recommend that consideration is given to expanding the list of qualifying fields to include specific reference to research into technologies such as artificial intelligence, machine learning, blockchain and other emerging technologies, many of which are currently included under “computer sciences and other allied subjects”. Specific reference would bring further clarity to those undertaking research into these areas that they can qualify for the R&D tax credit.

vi. As noted in our response to the consultation’s queries on climate, our existing R&D tax credit regime should be enhanced to allow for a 50% credit with respect to expenditure incurred with respect to R&D activities undertaken with respect to solar, wind, hydro, or biomass energy technologies, as well as other green technologies (for example, soluble or compostable materials for packaging, air filtration methods, ocean cleaning technology, etc.).

vii. We propose that the current limits on the amount of relief that can be claimed with respect to outsourced R&D activities is removed. We believe that this would act as a significant incentive for Irish businesses to collaborate with one another. In particular, we believe that this would strongly support collaboration between Irish businesses and universities and other third-level institutions, in line with Government policy in this area.

viii. The impact of the removal of restrictions on outsourcing under the R&D tax credit regime should be amplified through programmes which support and encourage research and development in conjunction with third-level institutions.

Question 5: Provide examples of taxation expenditures that you believe work well, either in Ireland or internationally?

Executive Summary:

Pensions:

- We note that we believe the pension taxation regime is working well and should be built further upon to ensure it is successful in achieving its objective that 70% of the workforce aged over 30 has a supplementary pension and that supplementary pension has an income target of half of pre-retirement earnings.
- We recommend that we should maintain marginal tax relief on contributions to ensure the symmetry of tax relief at marginal rates in the pre-retirement phase with marginal rates applying to retirement income.
- The tax-free lump sum should also be preserved.
- We highlight that those contributing to supplementary pension schemes must be confident that the system of taxation as it applies to pensions is stable; avoiding adverse changes to the system of taxation for pensions (be it on pension contributions, pension scheme income, or on drawdown) is an essential ingredient in this confidence.

Indexation:

- In line with similar systems in place in other countries, Ireland should introduce a statutory mechanism to index all existing reliefs, credits, thresholds and bands in order to ensure that taxpayers are not subjected to tax increases simply by virtue of rising inflation in the coming years.

Stamp duty on share transactions:

- We recommend reducing the rate at which Irish stamp duty applies on share transactions, in line with the approach undertaken in other countries.

Pensions regime

We consider that the pension taxation regime is working well and should be further built upon so as to achieve the stated policy objectives as set by the National Pensions Policy Initiative. This policy objective is to have 70% of the workforce aged over 30 with a supplementary pension and that supplementary pension has an income target of half of pre-retirement earnings[32]. The Report of the Interdepartmental Pensions Reform & Taxation Group[33] carried out an extensive review of the pension regime and prepared a roadmap to promote long-term pension savings to address income adequacy in retirement. Per their findings as outlined in this report, the stated policy objectives regarding supplementary pensions are not being achieved.

Consistent with most OECD and EU countries, Ireland provides fiscal support for private pensions by way of tax relief. Relief is in the form of an 'Exempt, Exempt, Taxed' system of

[32] Securing Retirement Income, National Pensions Policy Initiative Report of the Pensions Board to the Minister of Social, Community and Family Affairs, May 1998

[33] Report of the Interdepartmental Pensions Reform & Taxation Group, prepared by the Interdepartmental Pensions Reform & Taxation Group, November 2020

pension taxation where tax relief is provided on contributions, the investment returns on pension savings are not taxed, while actual pension drawdown is taxed at the individual's marginal tax rate. In this regard, our pension relief system should not be considered a tax expenditure over its full lifecycle, but rather an income averaging system with all contributions and investment returns are ultimately taxed on drawdown.

It is important that Ireland not only retains the tax relief on contributions and on the investment returns but also builds upon them so the State's policy objective can be achieved.

Ireland should maintain marginal tax relief on contributions to ensure the symmetry of tax relief at marginal rates in the pre-retirement phase with marginal rates applying to retirement income. The tax-free lump sum should also be preserved. It provides a well understood encouragement to save. The existing limitations on tax relief for contributions make it difficult to achieve even a modest level of pension. For example, the cost of a €15,000 per annum pension which is largely inflation proofed in retirement is c. €500,000 in today's prices.

We advocate that the design of limits that might be placed on tax relief for funding pensions takes a whole of working life approach – supporting provision early in the working life as well as in a 'lumpy fashion' throughout the working life as the individual's financial resources allow. This could be achieved by increasing the tax relief available for contributions and allowing for the carry forward of unused annual tax relief for contributions to accommodate 'lumpy' payments. At the very least, the standard rate fund threshold and earnings limit should be indexed to wage growth in the economy over future years in order to preserve the level of reliefs available under the current system.

While the comment is often made that our current system of marginal tax relief for pension contributions is regressive and inequitable as a result, we would note that at present the State pension is perfectly progressive, being provided at a flat rate regardless of the level of contributions paid into the SIF over the individuals lifetime. Indeed, there are studies to suggest that when a combined view of our State and supplementary pension systems is taken, the system remains highly redistributive, with negative "value for money" results for earners even at comparatively low levels of income[34].

Indexation of reliefs, credits, bands & thresholds

In many other countries, indexation relief is given to maintain the value (in real terms) of tax reliefs and credits. Indeed, a system of indexing reliefs previously existed within Irish tax (e.g., with respect to CGT base cost and CAT thresholds), though both since removed.

The Central Bank noted in a letter published on 22 November 2021[35] that Inflation in Ireland in October 2021 was 5.1%, whereas the two-year inflation rate from October 2019 to October 2021 was just 3.6%. While some of this increase in the rate of inflation may be short-term in nature, it seems clear that the historically low rates of inflation experienced in Ireland over the previous decade are unlikely to continue indefinitely.

Increases in price levels have and will continue to have an impact on the real value of tax reliefs and credits. As such, we propose that a statutory mechanism should be implemented here similar to that in place in other countries, which allows for all existing reliefs, bands, thresholds and credits to be indexed based on movements in the consumer price index.

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[34] Analysis of Fiscal Incentives for Retirement Savings – models and redistributive effects, Society of Actuaries in Ireland (2012)

[35] Central Bank of Ireland "An overview of inflation developments" https://www.centralbank.ie/docs/default-source/publications/economic-letters/vol-2021-no-7-an-overview-of-inflation-developments.pdf

We also reiterate our recommendation in Section 5 of our submission that CGT indexation relief should be reintroduced in order to stimulate the supply of Irish land and property which could be used for residential development.

Stamp duty on share transactions

Many other countries apply a lower rate of transaction taxes on share transfers in comparison to Ireland. For example, the UK applies stamp duty at 0.5% on the transaction, half that which a similar transaction would attract in Ireland. At present, our 1% rate of stamp duty applies to the acquisition of shares in companies incorporated in Ireland. We recommend reducing the rate at which Irish stamp duty applies on share transactions.

9. Administration

Question 1: How can modernisation of the taxation and/or welfare administrations evolve to best meet customer needs in a satisfactory manner while respecting data rights and ensuring secure and reliable tax collection?

Executive Summary:

We highlight the increasing complexity of the compliance process for both corporation tax and income tax, and the need to be competitive in this regard in a post-BEPS 2.0 environment.

We recommend:

— Consideration should be given to the establishment of an Office of Tax Simplification. For example, an area of our tax system in respect of which such a body could provide immediate value is with respect to our offshore funds regime, which is hugely complex and uncompetitive internationally.

— Ireland should reframe its transfer pricing regime to not apply transfer pricing to transactions between domestic taxpayers, supplemented where necessary by a simple anti-avoidance rule.

— DoF should continue to consult with taxpayers and practitioners with respect to new legislation.

— Improving efficiency and fairness in taxpayer disputes. In this regard, we recommend:

- Considering the establishment of an Adjudicator for Revenue
- Considering setting up an Alternative Dispute Resolution (ADR) Process for taxpayer disputes
- Finance Act 2020 amendments to the appeals process should be reversed to ensure parity between taxpayers and Revenue in the appeals process

— The rate of interest on the late payment of tax (8% p.a.) is far above current market rates and should be reduced to better reflect the time value of money. In addition, improved fairness should be established with respect to interest arising on refunds to taxpayers and the date on which such interest begins to accrue.

— With respect to Revenue's current "VAT modernisation" review, it is crucial that when considering changes to the VAT digital reporting requirements of Irish businesses a balance is struck between the requirements of the tax authority and the burden of any new change on businesses. We support a continued open consultation process between Revenue and businesses in this regard. We also recommend that Ireland await the outcome of the ongoing EU-wide review of VAT digital reporting requirements prior to implementing our own requirements in this regard.

The implementation of recommendations arising from the Base Erosion Profit Shifting (BEPS) project in 2016 and the EU Anti-tax Avoidance Directives 1 & 2 in recent years has added complexity to the Irish tax system as it applies to corporations. This is illustrated by the increase in the length of the Corporation Tax return over the last decade (22 pages in 2010 and 46 pages in 2020). The implementation of the measures arising from the OECD / Inclusive Framework (IF) agreement under BEPS 2.0 will also likely add further complexity to the tax compliance process for many of Ireland's largest corporations. This complexity and the range of disclosures required has also been replicated for individuals that file tax returns on a self-assessed basis. This is demonstrated by the increase in the length of the Income Tax return has almost doubled in the last decade from 22 pages in 2010 and 42 pages in 2020.

In an environment where countries are more constrained as a result of BEPS in their ability to compete on the basis of tax rates and incentives, the ease of paying taxes and complexity of the tax system is likely to be a relatively more important factor considered by corporations when making investment location decisions. Therefore, it is important that Ireland ensures that its tax rules are simple and transparent in order to foster taxpayer confidence and provide certainty in the tax system. Outlined below are various proposals which we believe will ensure that Ireland achieve these goals.

Consider establishing an Office of Tax Simplification

It will be essential for both FDI and indigenous business that Ireland is a leader in maintaining a simple, clear and efficient tax system which reduces the administrative costs and burdens of both the Revenue Commissioners and taxpayers to the greatest extent possible. The need to undertake a broad review of Ireland's tax legislation with this aim in mind is only increased given the extensive shifts in Ireland's tax legislation in recent years, as well as those changes which may yet be required as a result of further changes to the global tax landscape. In this regard, we propose that consideration is given to the establishment of an Office of Tax Simplification. The Office will act as an independent adviser to the Government on simplifying the Irish tax system. The objective of the Office will be to offer recommendations to the Minister for Finance in relation to how the Irish tax system can be simplified for both individuals and corporations.

As noted above, the implementation of measures under EU ATAD 1 & 2 has been layered over measures that already existed in the Irish tax system. An example of one such measure is the EU Interest Limitation Rule implemented under ATAD 1 that has been layered over existing interest restriction rules which were considered to provide equivalent protections to those prescribed under ATAD. Therefore, in our view, a review should be conducted, in consultation with taxpayers, of what internationally agreed measures have been inserted into Irish law to meet the same objectives as pre-existing measures with a view to removing pre-existing measures which one might say are now obsolete. Otherwise, Ireland's tax regime risks becoming overly complex and uncompetitive internationally as a result of needlessly going beyond the requirements of international standards and its competitor jurisdictions.

A specific example of the potential value-add that such an Office could bring is in respect of Ireland's offshore funds regime, and in particular the application of that regime to Exchange Traded Fund (ETF) investments. The regime is hugely complex and creates significant uncertainty for taxpayers, including those who receive expert tax advice in this area. Given the ever-increasing popularity of retail investment globally, this is an area that should be an immediate priority for such an Office. If helpful to the Commission, we would be happy to provide further details with respect to Ireland's regime for the taxation of offshore fund investments which will illustrate the unduly complex nature of the system in Ireland.

Reframe Ireland's transfer pricing regime to not apply transfer pricing to transactions between domestic taxpayers.

Ireland should strive to excel in providing a clear and simple tax system for businesses. While we believe that the Finance Act 2021 re-write of the domestic transfer pricing (which provides for an exclusion from transfer pricing for certain domestic non-trading transactions) is an improvement on previous iterations of this provision, our system still requires Irish businesses to incur compliance and advisory costs in order to comply with rules which impose transfer pricing on transactions between related parties in Ireland. Given that many other countries in the EU do not impose this burden on domestic transactions (either because they exempt them from the rules (e.g., Germany) or they apply tax on a fiscal unity basis (e.g., Netherlands) we would recommend that the Irish system is further simplified by removing domestic transactions from the scope of the transfer pricing rules.

To the extent necessary, this could be supplemented by a simple anti-avoidance rule, rather than relying on a complex legislative exemption to achieve a similar, yet less effective, result.

According to the OECD, the purpose of transfer pricing is to enable countries in "protecting their tax base while not creating double taxation or uncertainties that could hamper foreign direct investment and cross-border trade"[36]. These objectives are not met by the current transfer pricing domestic exemption introduced in Finance Act 2021, as a significant amount of uncertainty exists with respect to the operation of the existing domestic exemption and double taxation may arise on a wide range of domestic transactions. In addition, the OECD's explanatory notes to its 2011 model transfer pricing legislation confirms that the model legislation in this regard is drafted so as not to apply to purely domestic transactions[37].

We would also note that CJEU case law findings on German transfer pricing provisions which do not apply to transactions between domestic taxpayers indicates that the non-application of transfer pricing to such transactions is not in breach of EU fundamental freedoms.

Therefore, it should be possible for the Irish transfer pricing regime to exclude intra-Ireland transactions between domestic taxpayers, while remaining compliant with EU freedoms and protecting against cross-border profit.

Consult with taxpayers and practitioners with respect to new legislation

We welcome the expanded use of public consultations by the Department of Finance with respect to various recent tax matters. Such consultations are an important tool in seeking to ensure that newly implemented tax measures operate in the manner intended, with improved ease of application for taxpayers and practitioners as a result. We recommend that the Department of Finance continues to engage with the public with respect to developments in the Irish tax landscape in the future. In this regard, we welcome the Department of Finance's commitment to consult on the possibility of Ireland moving to a territorial regime. We believe that this will be an important consultation as the decision to retain the exiting worldwide regime or change to a territorial one will give rise to important changes in the treatment of foreign income – for example, the foreign tax credit regime will need to be reviewed if we retain the worldwide regime.

We also recommend that the Department of Finance also consult with stakeholders and practitioners on the implementation of the DWT real-time reporting regime, if and when this occurs and the implementation of the measures arising from the OECD / IF agreement under BEPS 2.0.

[36] Transfer Pricing Legislation – A Suggested Approach (June 2011), OECD
[37] Ibid

In addition, an increasingly important factor in relation to the competitiveness of a regime is certainty – a long lead and consultation time from the announcement of potential changes in law enhances the certainty of the Irish tax system. Preferably, draft legislation would also be included in consultations, providing the public the opportunity to comment on such draft legislation prior to the release of the Finance Bill each year, and in turn providing greater certainty for taxpayers regarding proposed legislation.

Improve efficiency and fairness in taxpayer disputes

An important aspect of a well-functioning tax system is the efficient and effective resolution of taxpayer disputes with the tax administrator. In this regard we propose the following measures:

Consider setting up an Alternative Dispute Resolution (ADR) Process for taxpayer disputes:

ADR is a way of resolving disputes between the Revenue Commissioners and taxpayers that does not involve an appeal to the Tax Appeals Commission or the Courts. A mediator will work with the taxpayer and the Revenue Commissioners to assist in the resolution of the dispute. The ADR process should save money and time for both the taxpayer and the Revenue Commissioners. In addition, the process should reduce the current workload and backlog of the Tax Appeals Commission. We note the Chairperson of the Tax Appeals Commission supports the establishment of an ADR process. We agree with the Chairperson's comments that such a process could assist and facilitate Irish individual taxpayers, as well as businesses.

Consider establishing an Adjudicator for Revenue:

Currently, the Revenue complaint and review process is largely carried out by Revenue officials themselves. In order to build taxpayers' confidence in the process, an independent body, such as Adjudicator (as in the UK) should be established.

The Adjudicator Office will investigate complaints made by taxpayers against Revenue. The Adjudicator's Office will also consider if Revenue has applied its rules, standards, guidance, and Code of Practice fairly and consistently. The Adjudicator will replace the current Stage 3 review of the Revenue Commissioners' current Complaint and Review Procedures. The appointment of an Adjudicator should foster taxpayer confidence in the fairness and independence of the tax dispute resolution process.

Ensure parity between taxpayers and Revenue in the appeals process

Finance Act 2020 introduced two amendments (outlined below) which are objectively unfair and unbalanced against taxpayers who appeal against a tax assessment. It is still early days in terms of their impact, but these measures will in our view, unless they are amended, damage Ireland's reputation for being a fair and reasonable environment in which to do business, and as a result impairs our competitiveness in attracting business

Section 69, Finance Act 2020 – no interest for a taxpayer that wins an appeal:

Section 69 of Finance Act 2020 denies interest on the repayment or refund of tax where the taxpayer has successfully appealed an assessment but has made a payment to Revenue (or the Collector General) in respect of the disputed tax without prejudice to their appeal. This can be contrasted to a scenario where a taxpayer loses an appeal having not paid the disputed tax, where they would be subject to interest at a rate of c. 8% per annum on the amount of the underpayment. In addition to this being particularly one-sided against the taxpayer, it also lessens the incentive for Revenue to expedite disputes with taxpayers as 100% of the risk on interest is with the taxpayer. We suggest that a fair and balanced system would be to treat Revenue and the taxpayer in the same manner i.e., the same rate of interest for both sides.

Dismissal of an appeal – Finance Act 2020 amendment to section 949AV:

Section 58(1)(b) of Finance Act 2020 amends section 949AV TCA 1997 to provide additional powers to the Appeal Commissioners as to when they can dismiss an appeal. The new powers allow the Appeal Commissioners to dismiss an appeal when either party to the appeal fails to comply with a direction given to them under section 949Q(1), TCA 1997 (requesting a Statement of Case) and section 949S(1) TCA 1997 (requesting an Outline of Arguments). This amendment is one-sided against the taxpayer, as it can only penalise the taxpayer where either party does not comply with the direction.

Given the taxpayer is the person who appeals against a tax assessment, to dismiss the appeal is to hold in Revenue's favour. Affording the Appeal Commissioners such powers where the taxpayer has failed to comply with a relevant direction is reasonable. However, should the Revenue fail to comply with the same direction, if the Appeal Commissioner dismisses the appeal, it will result in the additional liability to tax becoming due and final on the taxpayer. We suggest that section 949AV TCA 1997 should be amended to be balanced and to provide the Appeal Commissioner with the ability to uphold an appeal where Revenue fails to comply with a relevant direction.

Ensure fairness with respect to interest on the late payment and refund of tax

Late payments of tax:

At present, the rate of interest on the late payment of income tax or corporation tax is 0.0219% per day, equivalent to approximately 8% p.a. In addition, the interest rate applied to the late payment of fiduciary taxes, such as VAT and PAYE is 0.0274% (or approximately 10% p.a.). In an environment of zero, or indeed negative, retail interest rates for many deposit account holders in Ireland, the above rates of interest on the late payments of tax are unfair and not tied with present commercial reality with respect to the time value of money.

In addition, Ireland already has a separate system of penalties which may also apply with respect to the underpayment of tax or late filing of returns. In this context, the amount of interest charged on the late payment of tax should therefore largely reflect the time value of money, rather than applying an additional layer of penalties on taxpayers.

Overpayments of tax:

In addition, the rules regarding the date from which interest begins to accrue on overpayments of tax (i.e., payable by Revenue to taxpayers) are not, in our view, fair and reasonable. Specifically:

- In circumstances where the overpayment cannot be ascribed to a mistaken application of law by Revenue, the interest clock commences only after the expiry of 93 days from the date on which a valid claim for repayment is made.
- Even where an overpayment of direct taxes (e.g., income tax, corporation tax, CGT, PAYE, etc.) can be ascribed to a mistaken application of law by Revenue, interest only begins to accrue from the end of the chargeable period in which the overpayment of tax is made, with the result that the interest clock may only start up to 12 months after the date of overpayment.

In this regard, we recommend that a greater level of parity is established between taxpayers and Revenue. Specifically, we recommend that interest on the overpayment of tax should begin to accrue from the date of payment in circumstances ascribable to a mistaken application of law by Revenue, and from the date on which a valid claim for repayment is submitted in all other circumstances.

VAT modernisation

Revenue has recently launched a “VAT modernisation” review to consider potential changes to how businesses report VAT (in addition to filing ongoing VAT returns). A range of different VAT digital reporting requirements (“DRR”) are in place in EU member states and beyond e.g., periodic transaction controls such as VAT listings and SAF-T or continuous transaction controls such as real time reporting or e-invoicing. Given the potential impact that any digital reporting changes would have for business, it is crucial that a balance is struck between the requirements of the tax authority and the burden of any new change on businesses. We support a continued open consultation process between Revenue and businesses to ensure that these requirements are met. We note that the European Commission is currently reviewing the various types of DRRs and is scheduled to present a legislative proposal by the end of 2022. We believe that Ireland should await the outcome of the EU-wide review process as any new VAT reporting system would need to comply with any harmonised requirements introduced at an EU level.

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