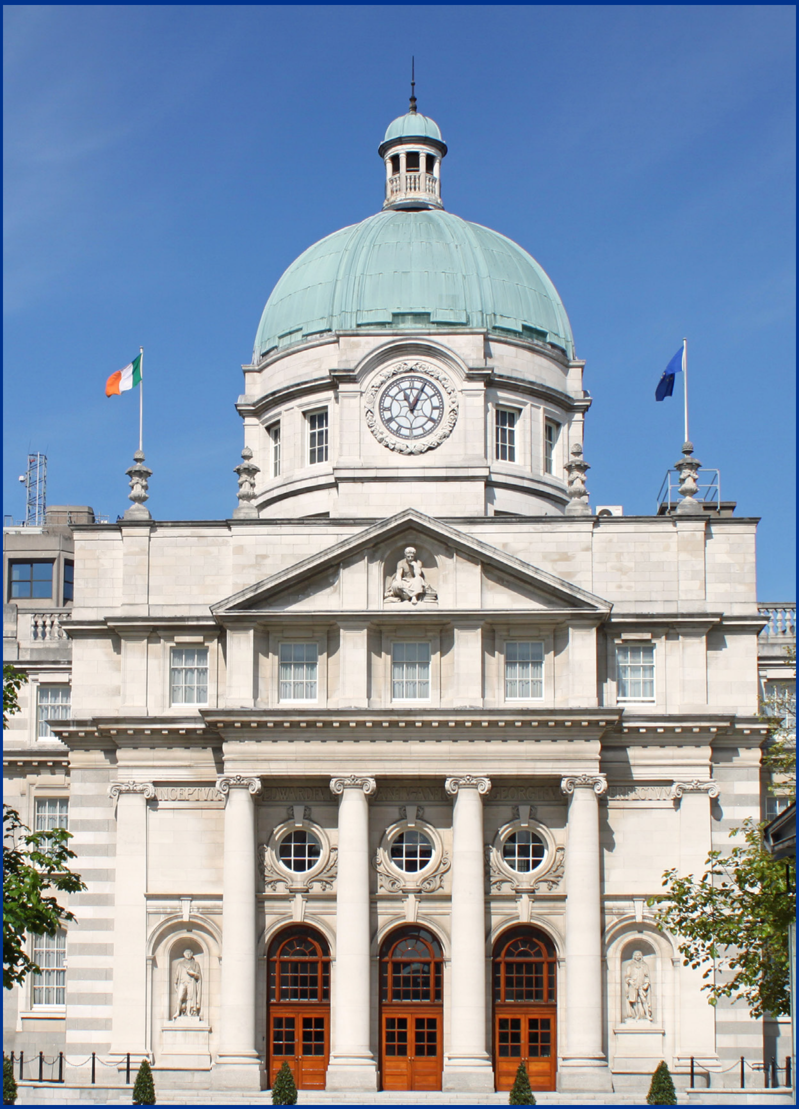
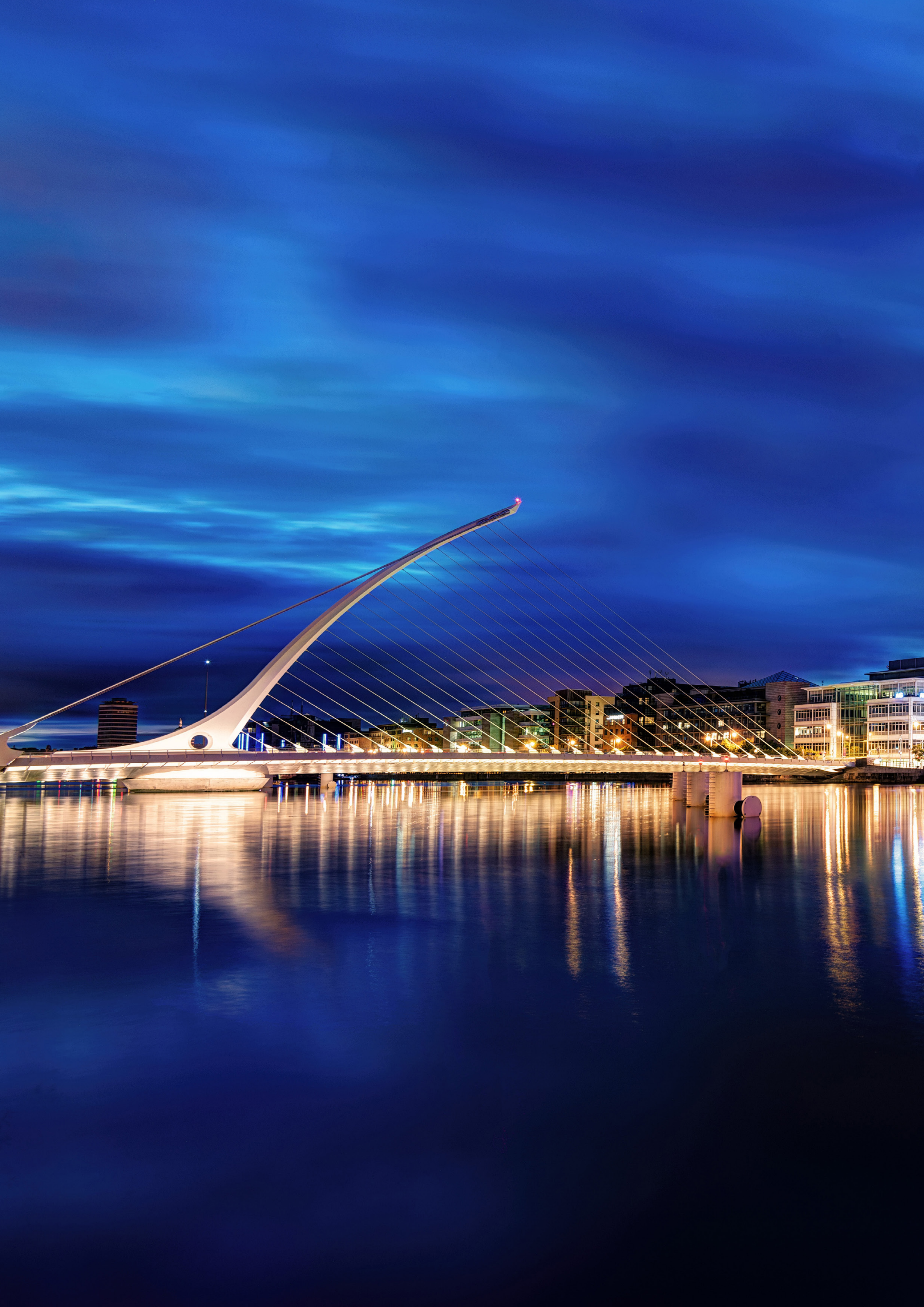
Pre-Budget 2023 Submission

26 July 2022





Content

01. Introduction

The Irish economy has made great strides since the depths of the Covid-19 pandemic generating an increase in employment and growth in the economy, with targeted tax policies playing a major role in this success.

As we re-emerge from Covid, we will have to turn our minds to the other challenges which lie ahead for the Irish economy.

Our country has reaped the rewards over many decades of following a very coherent purpose driven tax policy. As we face into Budget 2023, our tax policy needs to further evolve to address amongst other challenges, the impact of the changing international tax landscape, the war for talent, the housing crisis, the impact of inflation, the need to develop more Irish businesses of international scale and our climate change commitments.

In this submission, we have made a range of recommendations for inclusion in Budget 2023 and Finance Bill 2022 in respect of each of these issues.

Maintaining Ireland's competitive edge

The OECD BEPS 2.0 Pillar Two GloBE rules will fundamentally reshape the global tax landscape for the world's largest businesses. Ireland, as a small open economy with a successful history of attracting and retaining substantial operations of many of these businesses, may be impacted by these measures to a greater extent than many other countries.

It is important now more than ever that we refocus on ensuring that the other features (beyond the 12.5% tax rate) that make Ireland attractive for investment are best in class. Going forward, these features will gain much more prominence and have a much greater influence on investment decisions.

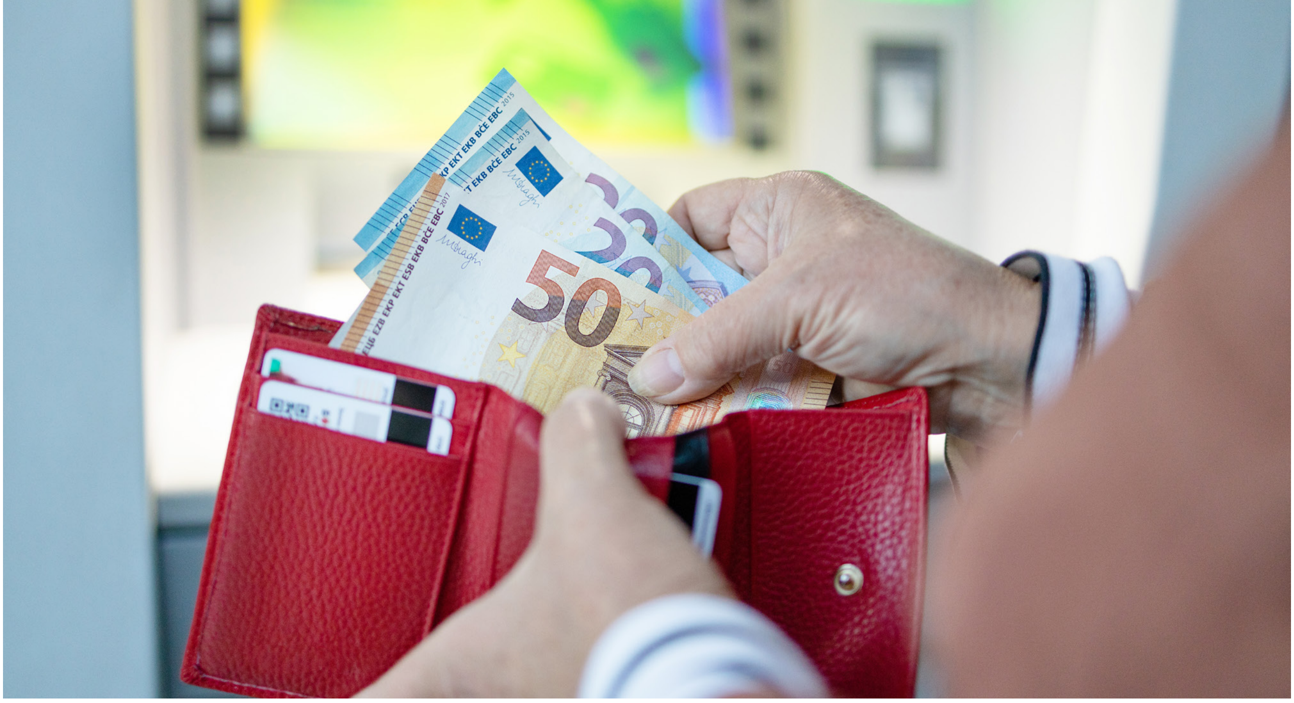
Looking beyond the 12.5% rate, Ireland has made a virtue of having available a deep pool of highly skilled workers with an excellent work ethic. However, it is becoming increasingly apparent that there is a growing shortage of available talent across a broad number of sectors. Accordingly, we believe that additional measures are required to retain our existing talent pool and to attract and retain additional talent from abroad.

The Covid-19 pandemic has brought about a fundamental change in working practices. With the advent of much greater levels of remote working, workers have become much more mobile. This has brought to the fore the need to ensure that Ireland's personal tax regime is attractive relative to what is on offer in other countries, and the urgent need to increase the availability of residential accommodation at affordable prices. Our housing crisis may well become the factor which will prevent certain workers and business from locating here.

We believe that the personal tax regime could be made more attractive by reducing the effective rate of tax on employees (by capping the level of PRSI), enhancing the SARP regime and reforming the taxation of personal investments.

On housing, we have made a number of proposals which are directed at freeing up more residential land for development and incentivising investment in residential development.

Going forward, it will be important to proactively seize opportunities to make it more efficient and less costly to conduct business in Ireland. To that end, we have identified several steps which should be taken to simplify the operation of the corporate tax regime for business (including elimination of unnecessarily complex measures that have become obsolete, removal of the requirement to apply transfer pricing rules to domestic transactions and enhancement of the tax appeals process).



Measures to counteract inflation

According to inflation figures published by the Central Statistics Office, prices rose by 7.8% in the year to May 2022[1] and 9.1% in the year to June 2022.

While some of this increase in prices may be short-term in nature due to the geopolitical landscape, it seems clear that inflation will remain an issue for the economy for years to come.

Rising inflation has and will continue to hinder the ability of businesses to provide employment and contribute to the general prosperity of the country. Inflation poses a significant challenge for many businesses who struggle to pass on the full cost of inflation to their customers. Even for those that can, such price increases will fuel further inflation.

The tax regime has a role to play in helping to shield individuals and businesses from the full impact of rising inflation. We acknowledge that the Government has already implemented tax measures to dampen the impact of inflation including the extension of the 9% VAT rate for the tourism and hospitality sector, the reduction in the excise rates for auto fuels and the reduction of the VAT rate to 9% on gas and electricity. While these measures are welcome, further measures are required.

In Budget 2023, it will be important that tax bands and thresholds are adjusted for inflation to prevent "bracket creep". By maintaining the "real" value of tax reliefs, bands and credits, businesses will be under less pressure to deliver pay increases to attract and retain talent. Pay rise moderation should help to stifle some of the inflationary pressure in the economy.

Given that inflation is likely to remain with us, it is now time to introduce a statutory mechanism to provide for an automatic increase in tax reliefs, bands and credits.

As far back as 1977, our near neighbours in the UK introduced a statutory requirement - the so-called "Rooker -Wise amendment" - to provide that the main personal allowances and income tax thresholds be increased in line with inflation, unless Parliament determines otherwise.

In a time of inflation, taxing nominal gains unintentionally raises the effective CGT rate (which is already very high) on "real" gains and can impose taxation in cases of real economic losses. This is especially relevant for assets with an intrinsic long life such as real estate. It is therefore necessary to recommence adjusting allowable expenditure for CGT purposes by reference to the consumer price index.

It will also be important to encourage businesses to continue to invest for the long term. A slowdown of investment would result in a reduction in productivity and competitiveness which would inexorably lead to a reduction in employment. In that context, we would recommend shortening the 8-year period over which wear and tear allowances are allowed for expenditure on plant and machinery to 5 years.

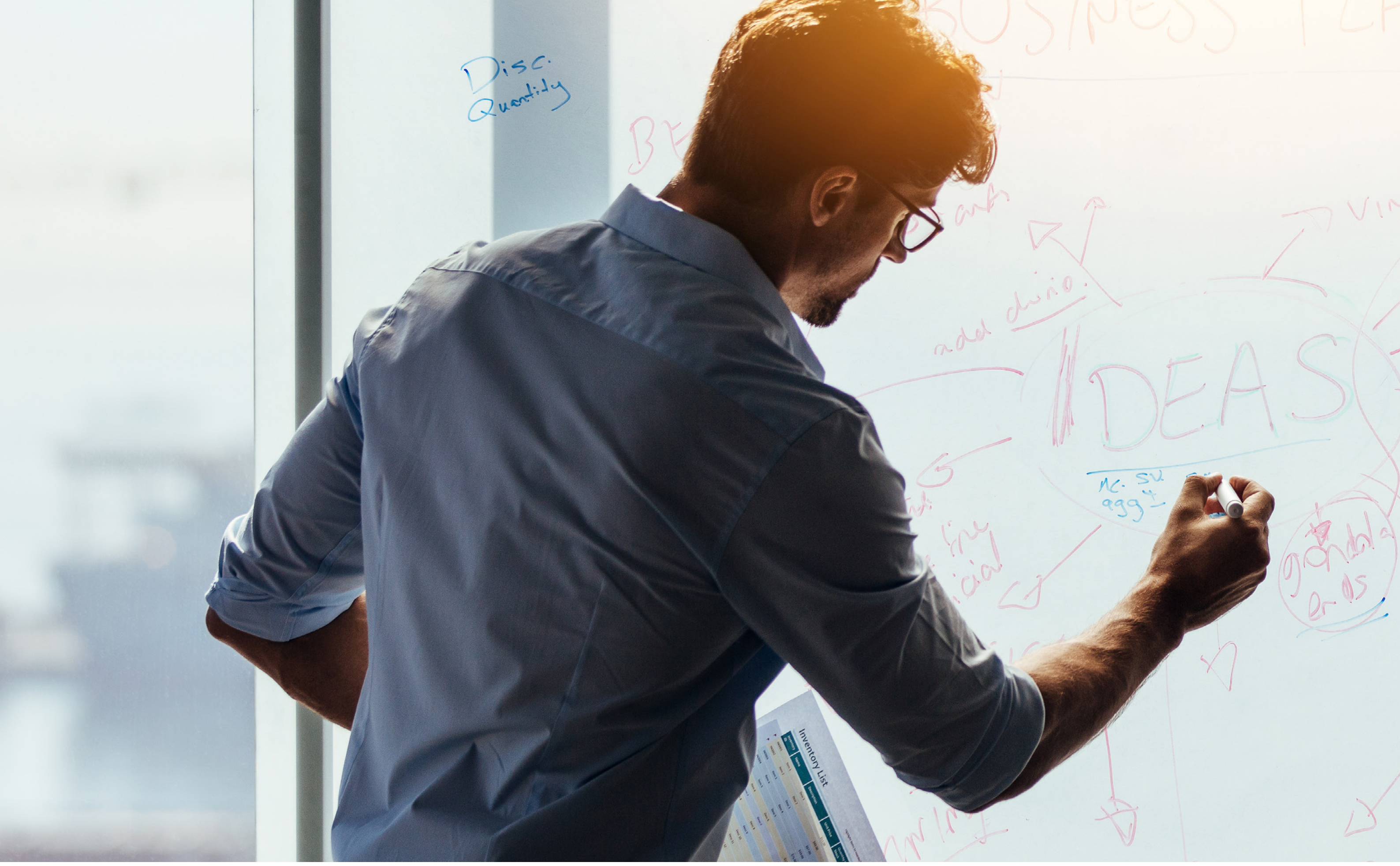
Encouraging and supporting domestic entrepreneurship

While much attention is focused on how Ireland might best continue to attract international investment, increasing challenges in the international tax landscape serve to re-emphasise the importance of fostering the development and growth of our domestic SME sector.

Entrepreneurs, both domestic and foreign, can and do move location based on the business and taxation environment. Marginal entrepreneurial investment can be significantly influenced by targeted, pro-growth tax policies.

Ireland's tax policy should support Irish indigenous

[1] Central Statistics Office: Consumer Price Index - CSO - Central Statistics Office - https://www.cso.ie/



businesses and SMEs seeking to access risk capital and talent, which are significant constraints for entrepreneurs in building businesses of scale. We also need to introduce measures to encourage entrepreneurs to remain committed to their businesses for the long haul if we are to develop more Irish businesses of international scale.

Ireland as a hub for innovation

Ireland has an opportunity to enhance its reputation as a global centre of excellence for research and innovation and separate itself from competitor jurisdictions. It could do so by ensuring that its incentive offerings are best-in-class to encourage global businesses to establish substantial operations with a highly skilled workforce here.

We consider that targeted improvements to the R&D Tax Credit (RDTC) regime would help the country to seize this opportunity.

Measures to promote sustainability

The geopolitical issues that have emerged from the Ukrainian war have brought into focus the country's overreliance on imported sources of energy and our need for food security.

These issues have emerged at a time when Ireland is striving to meet ambitious targets to limit climate change and achieve a goal of net-zero emissions by no later than 2050.

Tax policy can be a powerful tool to promote sustainable behaviour by businesses and consumers. We have identified tax measures which we believe should be introduced to encourage sustainable behaviour:

- Mobilise private finance for green investment. Ireland has the opportunity to grab the initiative and become an international hub for climate innovation by creating an environment where innovators in the green economy and their investors are incentivised and supported.

- Incentivise the development and use of green technology.

- Support the adoption of more sustainable farming practices.

- Support investment in sustainable buildings.

- Accelerate the transition to sustainable transport.

Ireland has already demonstrated the power of tax policy to deliver societal change and a positive environmental impact. One has to look no further than the plastic bag levy introduced in 2002.

Dynamic modelling

It is important that the costing of tax expenditures takes into account the broader impact on the economy to facilitate informed tax policy decision-making by the Government.

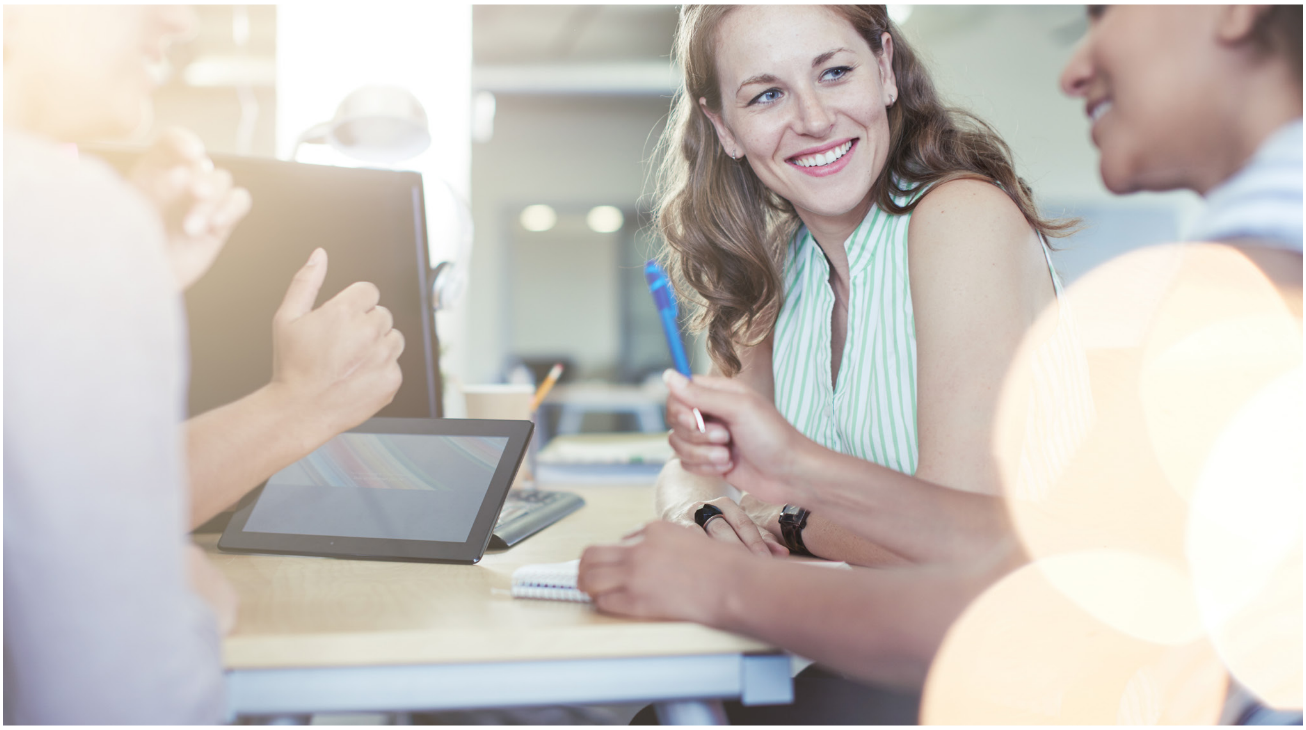
Currently, the costing of tax expenditures is estimated based on the tax foregone[2]. This method of costing and reviewing the impact of tax expenditures does not take into consideration the behavioural changes associated with these tax expenditures i.e., this costing and review process uses static, rather than dynamic, modelling.

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, SARP is intended to attract employment and businesses 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 some of the individuals availing of the relief would not have come to Ireland without the regime, 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 increase in Exchequer income tax, PRSI and VAT yields 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 of benefits of our R&D tax credit 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.



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

02. Executive Summary

Measures to maintain Ireland's competitive edge

Ireland must continue to be considered a location of choice for mobile talent and substantial business to remain competitive on the global stage. Our tax regime plays a vital role in this regard and must be attractive and free of unnecessary complexity.

Furthermore, the shortage of affordable residential property must also be addressed, not only for young people living here, but also if Ireland is to remain attractive for foreign investment.

In this context, we propose:

1. Measures to enhance aspects of the personal tax regime to make Ireland more attractive for mobile talent, specifically:

- Reduce the tax on employment (by capping the income subject to PRSI)
- Enhance SARP by removing the earnings cap, increasing the value of the relief, and extending the period during which non-Irish domiciled employees can avail of SARP and complementary reliefs
- Reform the taxation of personal investments
- Simplify the taxation of share-based compensation

2. Measures which should assist in the resolution of the housing crisis, including:

- A reduction in the VAT cost associated with the supply of housing
- The reintroduction and reinstatement of various reliefs (indexation relief and CGT rollover relief) to incentivise the disposal of land for residential purposes
- Reform of the taxation of professional landlords to give Irish property investors a platform to participate in the Irish market, to help drive supply
- Extension of the Help to Buy scheme beyond 2022
- Support apprenticeships and training in the construction sector
- Extension of CAT Business Property Relief (BPR) to active property rental businesses
- Extension of Section 83D SDCA 1999 beyond 2022. The section provides for a repayment of stamp duty on land used for residential purposes. In addition, the time allowed under that provision for the completion of residential units should be lengthened in recognition of resource constraints in the construction industry
- Incentivisation of local investment in residential development through a Special Savings Incentive Account (SSIA) type scheme for Irish property

3. Measures to simplify the tax regime to make it easier and less costly to conduct business in Ireland:

- Simplify the corporation tax regime by:
    - Adopting a territorial regime
    - Introducing a foreign dividend participation exemption and a foreign branch exemption
    - Applying the 12.5% tax rate to gains arising on the disposal of trading assets
- Exclude transactions between domestic taxpayers from the scope of the transfer pricing regime
- Adopt the minimum standard in transposing the Public Country-by-Country Reporting Directive
- Consult with stakeholders with respect to new legislation
- Establish an Office of Tax Simplification
- Remove unnecessary or obsolete tax measures
- Improve the fairness of the tax appeal process
- Introduce an alternative mediation process for tax disputes

Measures to counteract inflation

Inflation affects all aspects of the economy, from consumer spending, business investment and employment rates. In a period of high inflation, it is important that tax policy plays its role in dampening its impact on individuals and businesses.

To maintain the real value of tax thresholds, reliefs, bands etc., we recommend that a statutory mechanism be introduced to provide for their automatic indexation to take account of inflation. This would include the adjustment of:

- Tax credits and standard rate cut off bands
- USC and PRSI thresholds
- Pension thresholds for contributions and the Standard Fund Threshold (SFT)
- CGT annual exemption
- CAT class thresholds
- CAT small gift exemption

Indexation should also be re-introduced for the computation of chargeable gains for CGT purposes to ensure that only 'real' gains are subject to taxation.

In addition, Ireland's capital allowances regime should be reformed to take account of the impact of inflation by shortening the period over which allowances can be claimed.

Measures to encourage and support domestic entrepreneurship

A key tenet of Ireland's tax policy should be to enhance and support domestic entrepreneurship. Given the uncertain global business landscape, it is more important than ever that indigenous Irish businesses and entrepreneurs are supported.

In this regard, we recommend:

1. Measures to incentivise the investment of risk capital in SMEs. These include:

- Enhancing the Employment Investment Incentive Scheme (EIIS)
- Amending CGT rules to encourage investment in SMEs:
  - Introduction of a 20% rate of CGT for founders, private investors, VCs and other angel investors who invest in SMEs
  - Enhancement of CGT entrepreneur relief by increasing the lifetime limit to €5 million and allowing passive investors to avail of the relief
- Introducing a reduced tax rate for dividends for entrepreneurs who would otherwise qualify for Entrepreneur Relief on a disposal of the underlying shares

2. Measures to level the playing field for SMEs in attracting and retaining talent by:

- Reforming the Key Employee Engagement Programme (KEEP)
- Extending SARP to Irish indigenous businesses

3. Reduce the undue tax compliance burden on SMEs by:

- Simplifying the corporation tax and VAT compliance process for SMEs
- Continuing to exempt SMEs from Transfer Pricing

Measures to position Ireland as an innovation hub

The impending changes to the global tax landscape mean that Ireland must adapt certain aspects of its corporation tax regime to maintain and enhance its ability to attract global businesses. One such area that can be reformed to help achieve this objective is the R&D Tax Credit (RDTC) regime. In this regard, we propose:

1. Increasing the rate of relief to 35% for the first €1 million of qualifying expenditure
2. Increasing the RDTC rate to 50% with respect to R&D carried out on green technologies
3. Automatic cash refunds in one instalment in Year 1 where the RDTC amount is below €300k
4. An expansion of the list of qualifying fields beyond the existing science and technology categories
5. An increase in the limits on the amount of allowable expenditure on outsourced activities to third parties
6. Specific enhancement to SARP for skilled R&D professionals

It is also crucial that Ireland's RDTC regime meets the criteria to be a "Qualified Refundable Tax Credit" under GloBE rules and also complies with the new 2021 US Regulations.

Measures to promote sustainability

The availability of electricity sourced from renewable sources, the existence of an embedded electric vehicle infrastructure, sustainable housing, and a thriving green economy will be important factors when considering Ireland's relative attractiveness in the future. In this regard, we suggest introducing tax measures aimed at:

- Mobilising private finance for green investment via green bonds and Irish pensions
- Incentivising the development and use of green technology by enhancing our R&D tax credit for research in renewable sources of energy and green technologies
- Encouraging green transportation by incentivising the transition of Ireland's existing transport fleet to electric and hybrid vehicles
- Supporting green housing by incentivising the retrofitting of energy inefficient homes and commercial property
- Supporting green agriculture by incentivising farmers to adapt their land and businesses to more sustainable practices

03. Maintaining Ireland's competitive edge

The value of foreign direct investment to Ireland cannot be understated. For decades, in fact as far back as the 1950s, a cornerstone of our industrial policy has been a low corporation tax rate.

Our current rate of 12.5% stands as the third lowest in the OECD. This policy has served us well and has supported substantial overseas investment into Ireland. Budget 2023 will come at a time of significant international tax reform and raises questions in many people's minds about the impact it will have on the future attraction of Ireland for foreign direct investment.

It is important now more than ever that we refocus on ensuring that the other features (beyond the 12.5% tax rate) that make Ireland attractive for investment are best in class. These features will gain much more prominence and have a much greater influence on future investment decisions.

We have identified below a number of areas where changes are required to help Ireland to retain its competitive edge as a place to do business and invest:

1. Improvements to aspects of the personal tax regime are required to make Ireland more attractive for mobile talent.

2. The availability of accommodation at affordable prices has become a significant issue for businesses seeking to attract and retain talent. We have proposed a number of tax measures which should aid the efforts to resolve the housing crisis.

3. Going forward, it will be important to proactively seize opportunities to make it more efficient and less costly to conduct business in Ireland. To that end, we have identified several steps which should be taken to simplify the operation of the corporate tax regime for business.

1. Improvements to aspects of the personal tax regime

In a post-BEPS 2.0 environment, Ireland's attractiveness for foreign investment will be increasingly impacted by our ability to attract and retain talent and executives from across the globe. As a result, our success at attracting business will be closely tied with how successful we are in attracting individuals to relocate and work here.

We need to recognise that a fundamental change to working practices has emerged from the Covid-19 pandemic, as workers seek to avail of greater flexibility regarding how and where they work.

Ireland's personal tax regime has become an increasingly important factor for businesses looking to expand or maintain substantial operations here. We need a personal tax regime which stands out favourably when compared with our competitors. We have a number of recommendations to enhance the attractiveness of the regime:

Reduce the tax on employment

Ireland has a highly progressive personal tax system, and the entry point into the higher tax rate is relatively low compared to our competitor countries[3].

As a result of the Covid-19 pandemic which accelerated the transition to more remote working, workers now have more choice with regard to where they work. We are already seeing some employers seeking to attract high-value talent by facilitating these work practices, and that such arrangements are being put in place with respect to existing employees in many businesses in Ireland.

We recommend that steps be taken to reduce the marginal rate of tax borne by employees and the cost of employment for employers by implementing income caps for PRSI:

- Many countries achieve a more competitive marginal rate of tax for higher earners by capping the earnings base subject to social security. We recommend that an earnings contribution cap be reintroduced of €75,000 for employees' PRSI.

- Many countries also reduce the cost of employment for employers by capping the employer's contribution. Some countries apply an earnings limit (e.g. Germany, Spain, Greece, and Singapore), others provide for a fixed contribution per employee irrespective of their earnings (e.g. Denmark). We recommend that an earnings contribution cap be reintroduced of €100,000 for employers' PRSI.

Further enhancements to the SARP regime

The SARP regime should be enhanced to play a stronger role in attracting talent and executives to Ireland, as follows:

- Extend the relief beyond the end of 2022.
- Remove the €1 million cap: the introduction of the €1 million 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. We strongly recommend that this cap be removed.
- Increase the qualifying period from 5 years to 8 years for non-Irish domiciled individuals. In addition, the CAT exclusion for non-Irish domiciled individuals should be extended to 8 years to ensure coordination between the reliefs.
- The relief under SARP should also be extended for non-Irish domiciled individuals to include USC and PRSI as well as income tax.

Non-Irish domiciled individuals coming to Ireland and availing of SARP are significantly less likely to substantially avail of Ireland's social welfare, health or free education benefits while here. Therefore, we believe that it is reasonable that the value of the relief and the period during which it is available should increase to reflect the relative cost-benefit impact that such individuals have whilst in Ireland.

Simplify the taxation of share-based compensation

Given the importance of share-based remuneration in the FDI sector and the importance of that sector to Ireland's prosperity as a small open economy, it is crucial that our current system of taxation for share-based remuneration is simplified. Ideally, it should be best-in class relative to our competitors.

We recommend that the current system be simplified in the following ways:

- The tax treatment of Restricted Stock Units (RSUs) should be amended so that the amount of the benefit taxable in Ireland is apportioned by reference to any part of the vesting period during which the individual is present in Ireland. 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 - this treatment is out of sync with other OECD jurisdictions.
- The tax arising on employee share options should be accounted for through payroll to reduce the administrative burden on the employee. This is the approach taken in the UK.

Reform the taxation of personal investments

The taxation of personal investments has increasingly been raised as a negative by skilled individuals looking to relocate and take up employment here. Reform is needed in this complex area so that Ireland can compete in the global competition for talent.

There are too many rules covering too many different situations for too many different types of investment vehicles. There are different rules for Irish collective investment funds, Irish insurance products, European Union (EU) investment products, non-EU investment products, etc. In many cases, each individual investment product requires a deep tax technical analysis to understand how it should be treated. Then each individual investment needs to be entered in great detail in the correct part of the investor's income tax return. The tax treatment of investment products needs to be reformed and simplified.

Many individuals choose to invest through collective investment products. This allows investors to benefit from professional investment management, diversification and cost efficiencies. While an investor in conventional shares is entitled to tax relief for losses, an investor in regulated Irish and EU funds is not entitled to loss relief. The absence of loss relief discourages investors from switching out of loss-making investments as to do so would result in the taxation of the gain required to be made on the replacement investment to make good the loss – in effect, there would be taxation without any overall economic gain.

An overhaul of the taxation of funds is necessary to ensure ease of compliance and fairness in treatment of taxpayers with respect to their investment choices.

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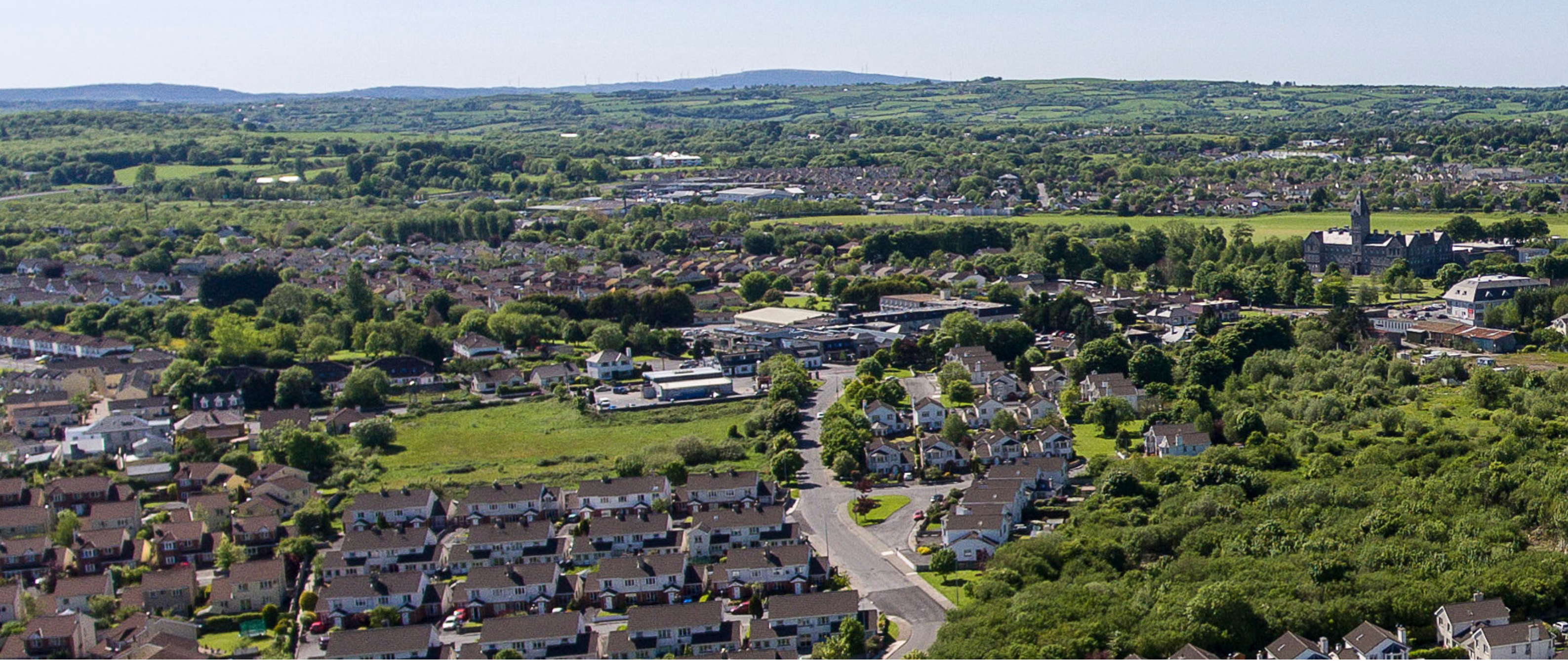
[3] The marginal tax cost of 52% applies on earnings of €70,044 and above. This rate is the 5th highest in the OECD at equivalent levels of earnings, exceeding the marginal tax rate applying in Germany, Italy, France, Portugal, Norway, the UK, Spain, the US, and Canada (amongst others): Comparison of OECD marginal tax rate at 144% of national average earnings using OECD Taxing Wages data (https://stats.oecd.org/Index.aspx?DataSetCode=AWCOMP



2. Housing

The housing crisis continues to be a critical challenge for Ireland.

Clearly, it is important for young people growing up here to be able to access affordable accommodation. However, in an environment where the country must work harder than before to attract mobile individuals and businesses, our housing crisis may also discourage future investors and workers from relocating here unless urgent action is taken.

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.

We welcome the Government's Housing for All plan, as a step in the right direction. Outlined below are various proposals which we believe would complement the Government's housing strategy and help improve the supply of housing:

VAT cost on property

The recently adopted European Union Council VAT Directive[4] gives Member States more flexibility with respect to the application of reduced (no less than 5%) and super-reduced (less than 5%) VAT rates. This provides Ireland with an opportunity to apply a reduced VAT rate to the supply of new housing. 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.

In this regard, 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.

Reform and reinstate CGT rollover relief

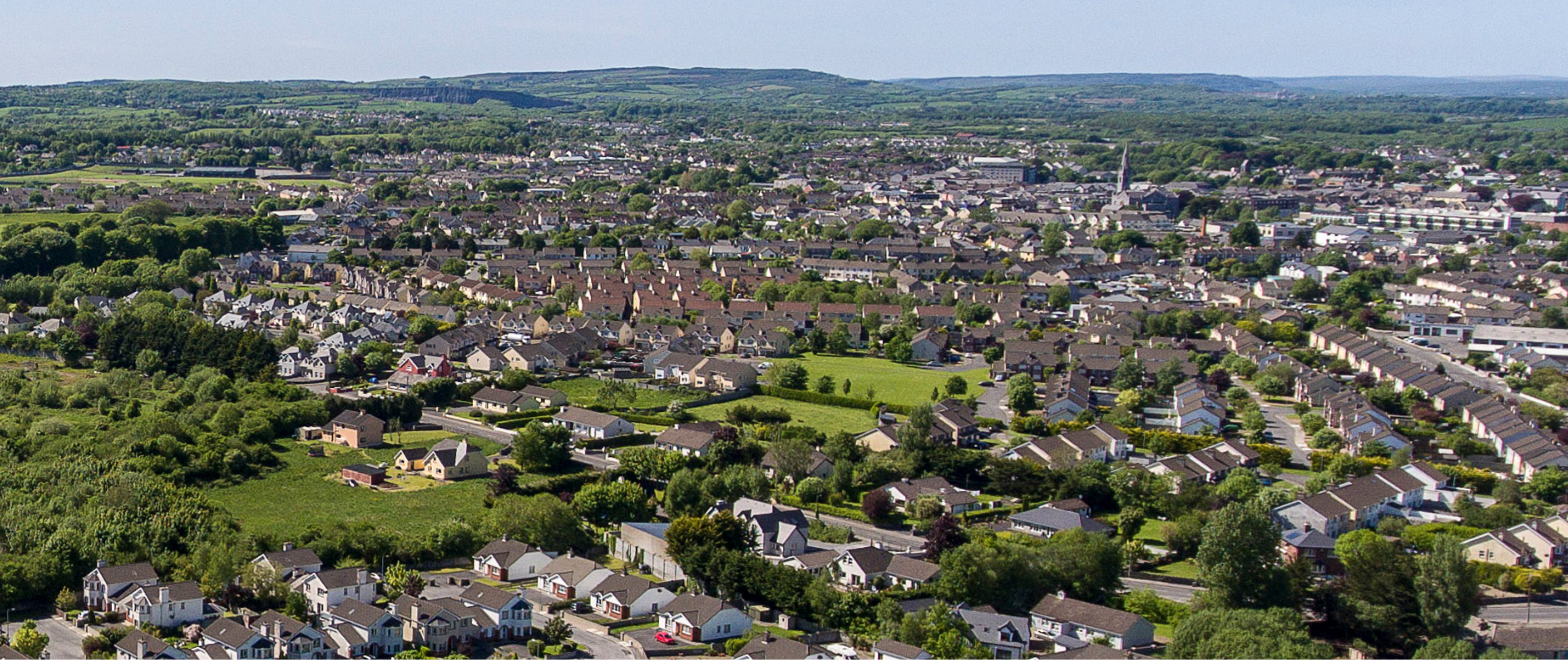
We suggest that the Government should reintroduce CGT rollover relief for businesses with respect to the amount of the proceeds received from the sale of real estate which is re-invested in another replacement property (i.e., new site and/or building) where that property is used in the trade of the enterprise.

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

With rising inflation rates the impact of a lack of inflation relief in computing capital gains is becoming very significant, with particular relevance for long life such as real estate assets. The result is that the disposal of real estate assets that have been held for many years is disincentivised, even where that real estate is not immediately needed by the owner.

[4] Directive (EU) 2022/542 - adopted by the Council of the 222006/112/EC and Directive (EU) 2020/285 as regards rates of value added tax (VAT).



Incentivise local investment in residential development

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 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.

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 the investment focus 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 recommend that legislation be introduced to:

- Apply Case I principles to the calculation of rental income for large scale rental businesses.
- Apply the 12.5% trading corporation tax rate to active rental businesses.
- Eliminate the close company surcharge for active residential landlords.
- Extend CAT Business Property Relief (BPR) to 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 or conveyances 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.

Reform of Section 83D SDCA 1999

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 (SDCA) 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 upfront cost associated with this acquisition. We suggest that the 2% stamp duty rate be reinstated, as noted above.

Section 83D should also be extended beyond 31 December 2022. Furthermore, additional time should be allowed for the completion of the residential units in recognition of resource constraints in the construction industry.

Extend Help to Buy relief

The Help to Buy relief is currently available with respect to first-time buyers who either buy or self-build a new residential property before 31 December 2022. We strongly recommend that the Government extend the Help to Buy relief beyond this date, as we believe that the relief is effective in providing assistance to first-time buyers to acquire property.

Support apprenticeships and training in the construction sector

We strongly support proposals to provide additional incentives and supports to assist in training and apprenticeships for trades and skilled personnel in the construction sector.

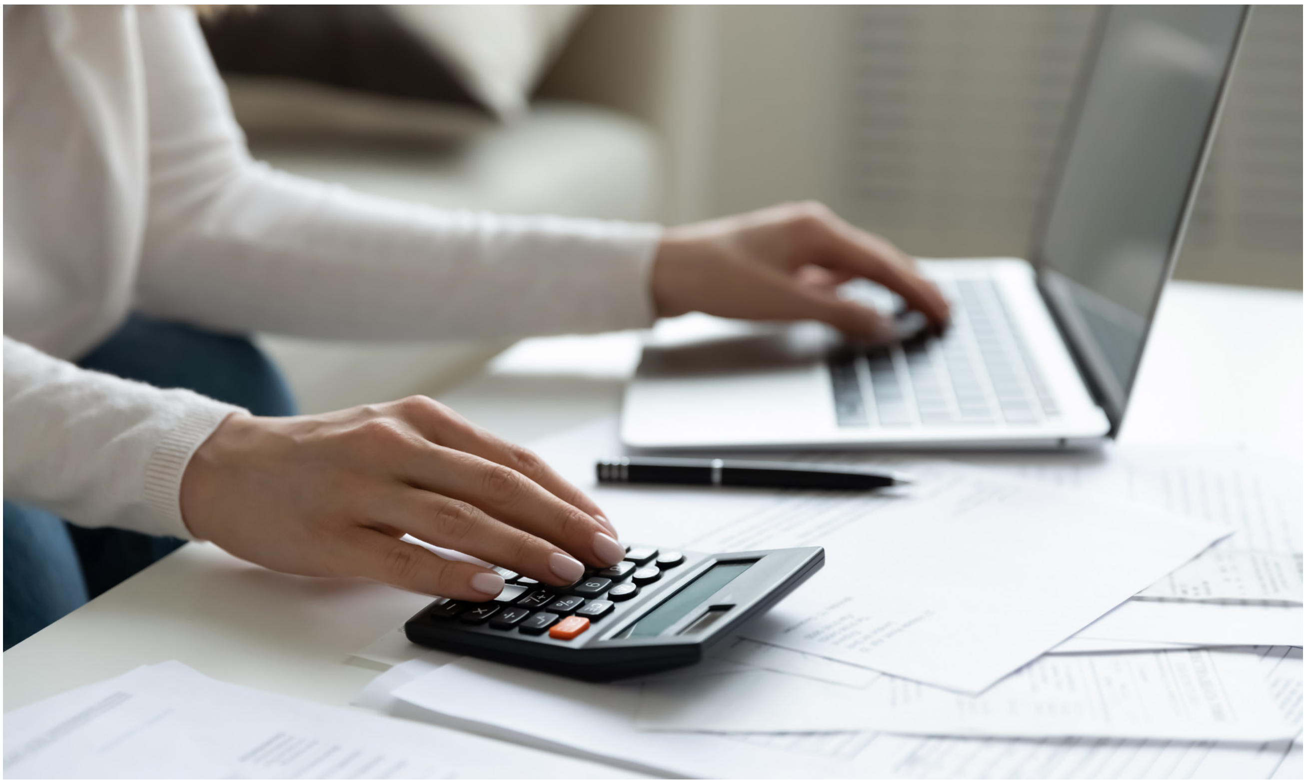
Many of our clients in the construction sector have observed that there is currently a shortage of skilled tradespeople and apprentices in Ireland, and that this is having a significant impact on construction activity. Given the urgent need to increase the supply of housing in Ireland, it is essential that all necessary supports are implemented to incentivise hiring and training of apprentices in order to ensure that this demand may be met in the future. In this regard, we welcome the commitment in the Housing for All plan to expand the current construction sector workforce.

Amend interest limitation rule for treatment of capitalised interest

The interest limitation rule (ILR) included in Finance Act 2021 introduced a €3 million de minimis threshold for excess interest expense.

Property developers typically capitalise interest incurred on building projects on their balance sheet throughout the course of the project, with the capitalised interest unwound to the income statement when the project is completed.

Under the ILR, where the interest expense unwound exceeds €3 million in that accounting period, a restriction may apply to the amount of deductible interest expense notwithstanding that not all of the interest was incurred in that accounting period. We recommend that relief be provided such that the interest expense is not restricted in the year of unwind to the extent that the restriction would not have applied in the accounting period during which the interest was capitalised.



3. Make it more efficient and less costly to conduct business in Ireland

Going forward, it will be important to proactively seize opportunities to make it more efficient and less costly to conduct business in Ireland. To that end, we have identified several steps which should be taken to simplify the operation of the corporate tax regime for business.

Adopt a territorial regime

Ireland must continue to provide a competitive tax offering to encourage foreign direct investment into Ireland and facilitate growth of Irish indigenous businesses. The worldwide taxation regime with credit given for underlying foreign taxes is administratively burdensome to comply with.

Many of our key competitor countries have exemptions for foreign dividends and foreign branch profits. In line with our response to the consultation on the territorial system[5], we propose that Ireland introduces:

i. a participation exemption for foreign dividends that will apply on a default basis with the taxpayer having the option to opt out of the exemption, and

ii. a foreign branch exemption that will apply at the option of the taxpayer.

Implementation of these changes would allow businesses to benefit from reduced administrative complexity and have greater certainty with regard to the amount of Irish tax payable on their profits.

Insofar as there are concerns that a participation regime could facilitate base erosion or profit shifting, the measures introduced in response to BEPS provide more than adequate protection against this risk.

There is a logic and benefit to introducing a participation exemption for foreign dividends and branch profits at a time when the BEPS 2.0 Pillar Two measures are in sight. Firstly, it will avoid the imposition of multiple levels of taxation on the same underlying profits which will have been subjected to at least the minimum level of tax. It will also assist multinational groups who are considering what restructuring they may need to do on foot of the BEPS proposals to understand the benefits of establishing or retaining Irish entities in their structure.

Apply the 12.5% rate to gains arising on the disposal of trade assets

Currently, corporate trading profits are taxed at a rate of 12.5% while gains arising to companies on the disposal of capital assets employed in a trade are taxable at an effective rate of 33%. It would simplify the operation of the corporation tax regime if the 12.5% rate also applied to such gains.

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

Ireland should strive to provide a clear and simple tax system for businesses. While the Finance Act 2021 re-write of the domestic transfer pricing rules (which provides for an exclusion from transfer pricing for certain domestic non-trading transactions) was a positive step forward, it should have gone further.

The imposition of transfer pricing on certain transactions (including trading transactions) undertaken between related parties in Ireland gives rise to an unnecessary administrative burden and cost.

Given that some other EU countries do not impose this burden for domestic transactions (e.g. Germany), we recommend that the Irish transfer pricing regime be simplified by removing domestic transactions from the scope of the transfer pricing rules.

Public Country-by-Country Reporting

The Directive requiring the publication of country-by-country reporting[6] seeks to enhance corporate transparency and public scrutiny of corporate taxes paid by MNEs carrying out activities in the EU. In adopting the Directive into Irish law, Ireland must balance achieving the Directive's objective with preventing in-scope businesses from being placed at a commercial disadvantage.

Although all Member States will be required to adopt the Directive, the implementation of varying options may lead to significant differences in how the Directive will impact the economic environment for companies operating in different jurisdictions. Furthermore, Ireland competes not just within the EU but also on a global level.

As outlined in our February 2022 response to the Department of Finance consultation on the transposition of the Directive[7], we consider that Ireland should not go beyond the minimum standards set out in the Directive. In addition, the domestic measures should not apply earlier than the stated deadline, i.e., from the commencement date of the first financial year starting on or after 22 June 2024, to ensure companies have adequate time to plan and prepare the necessary resources required to comply with the measures.

Tax certainty will 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 whereby Ireland provides certainty and clarity with respect to its tax legislation and tax policy will be crucial when seeking to attract FDI in the future.

Consultation with stakeholders

We welcome the expanded use of public consultations by the Department of Finance with respect to significant tax changes. Such consultations ensure that fundamental or large-scale changes to the Irish tax system are flagged well in advance and stakeholders are given the opportunity to provide feedback prior to the implementation of such changes.

We recommend that the Department of Finance continues to actively engage with stakeholders. Preferably, draft legislation should also be included in consultations.

Establish 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 for 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 has only increased given the significant changes in Ireland's tax legislation in recent years, as well as those changes which may yet be required as a result of further reform of the global tax landscape.

In this regard, we propose that consideration be given to the establishment of an Office of Tax Simplification. We would highlight the successful establishment of such an office in the UK, which has advised on the simplification of various areas of UK tax, including inheritance tax; employee benefits and expenses; capital gains tax; and everyday tax for small businesses.

As a specific example of the potential value-add that such an office could bring, Ireland's offshore funds 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.

Remove obsolete measures

Another key area where the Office of Tax Simplification could add immediate value is in reviewing existing tax measures that have become unnecessary or obsolete as a result of the implementation of measures under BEPS and EU ATAD.

In our view, a review of opportunities to remove unnecessary or obsolete provisions should start with the extraordinarily complex interest deductibility rules. With the introduction of the EU ATAD interest limitation measures, many of the complex interest deductibility provisions in Irish tax law have become redundant.

Absent such a review and removal of obsolete provisions which go beyond the requirements of international standards, Ireland's tax regime risks becoming uncompetitive.

Improve the fairness of the tax appeal process

An effective and efficient dispute resolution process is essential to fostering confidence in the tax system. Fairness is a key characteristic of an effective dispute resolution process.

Finance Act 2020 introduced two amendments to the appeal process which are unbalanced and manifestly unfair to taxpayers:

i. An Appeal Commissioner's power to dismiss an appeal

Finance Act 2020 amended Section 949AV TCA 1997 to permit an Appeal Commissioner to dismiss an appeal where either party to the appeal fails to comply with a direction for a Statement of Case or an Outline of Arguments.

This provision lacks balance, as it can only operate to penalise a taxpayer. Given that it is the taxpayer who appeals a tax assessment, the dismissal of an appeal would favour the Revenue's position. 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, and the Appeal Commissioner were to dismiss the appeal, it would result in the additional liability to tax becoming due and final on the taxpayer, which is clearly unfair.

In order to restore balance, we recommend that Section 949AV TCA 1997 be amended to empower an Appeal Commissioner to uphold an appeal where Revenue fails to comply with a relevant direction.

ii. Interest on tax refunds

Section 69 of Finance Act 2020 denies the payment of interest on the refund of tax where a taxpayer successfully appeals an assessment, having paid the disputed tax to Revenue.

This can be contrasted with a scenario where a taxpayer loses an appeal having not paid the disputed tax. In those circumstances, the taxpayer is subject to interest at a rate of c. 8% per annum on the amount of the underpayment.

This approach is unfair to taxpayers. Also, Revenue are not incentivised to expedite the resolution of tax disputes as 100% of the interest risk rests with the taxpayer.

A fairer and more balanced approach would be to treat Revenue and the taxpayer in the same manner, with the same rate of interest applying to both sides.

Where the matter is a genuine technical dispute, there is a good case that this rate should be 0%. Where the position taken by either side is held by the court to be frivolous or vexatious, there is a good case that the rate should be something like Euribor + 2% - a rate often used for default in payment in commercial contracts.

Introduce an alternative mediation process for tax disputes

We support the comments made by the Chairperson of the Tax Appeals Commission, Ms Marie-Claire Maney, regarding the creation of a mediation and alternative dispute resolution process for disputes between Revenue and taxpayers[8] . We agree with Ms Maney's comments that such a process could only assist and facilitate in bringing more appeals to a conclusion at an earlier stage. In this regard, we would welcome further consideration of the proposal by Government.

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[5] KPMG Submission made to the Department of Finance on 7 March 2022

[6] Directive (EU) 2021/2101

[7] KPMG Submission to the Department of Finance on 18 February 2022.

[8] Committee of Public Accounts debate, Thursday, 8 July 2021

04. Tax measures to counteract inflation

A key issue facing the Irish Government, and most other Governments, is how to dampen the impact of rising inflation on individuals and businesses.

Rising inflation has the potential to hinder the ability of businesses to maintain and grow employment and contribute to the general prosperity of the country. The tax regime has a role to play in partially shielding individuals and businesses from the full impact of rising inflation. We have set out a number o recommendations below which we believe would reduce the inflationary pressure to increase wages and help businesses continue to invest for the long term.

Adjustment of tax bands and thresholds

In the upcoming budget, it will be important that tax bands and thresholds are adjusted for inflation to prevent 'bracket creep', where increases to nominal wages and salaries to keep up with rising prices pull certain taxpayers into higher tax brackets even though they have not experienced an increase in 'real' income.

We welcome the commitment in the Government plan for Budget 2023 to focus on the need to adjust income tax bands and credits so that workers are not 'dragged' into higher levels of taxation by virtue of wage inflation[9]. However, it will be important not to stop there. A broader inflationary adjustment of tax bands and thresholds is required, which should also include the following:

a. USC and PRSI thresholds

b. Pension thresholds for contributions, the tax-free lump sum and the Standard Fund Threshold (SFT)

c. CGT annual exemption

d. CAT group thresholds

e. CAT annual small gift exemption

Given that inflation is likely to be with us for the foreseeable future, we also believe it is time for the law to provide for the automatic indexation of tax bands and thresholds on an annual basis.

As noted by the Economic and Social Research Institute (ESRI) in their submission to the Committee on Budgetary Oversight in February 2022[10], the absence of a rule for increasing tax credits and bands in line with inflation or earnings growth has negative implications for household purchasing power, poverty, and income inequality.

We recommend that a statutory mechanism be introduced to provide for the automatic indexation of tax bands and thresholds, with the option for the Government to press "pause" on the automatic indexation, if needed, for example, due to budgetary constraints. This is the approach followed in the UK arising from the "Rooker-Wise" amendment in 1977. We believe that this would be a balanced approach as it would ensure that the real value of tax thresholds, bands and credits are not eroded by inflation, while also maintaining the Government's discretion to respond to economic shocks.

We believe that our proposal for the introduction of an automatic indexation mechanism would complement the Government's policy in other areas. For example, in the Pensions Roadmap[11], the Government has already committed to the development of proposals that will "institute a process whereby future changes in pension rates of payment are explicitly linked to changes in the consumer price index and average wages".

Reinstatement of CGT indexation relief

Until 2003, relief was allowed for the impact of inflation in computing a capital gain arising on the disposal of an asset. This ensured that tax was only imposed on 'real' gains.

Budget 2003 included proposals to deny relief for inflation occurring after 31 December 2002[12]. This change was introduced at a time when the prevailing rate of inflation was under 2% and the CGT rate was 20%.

Given the current high inflationary environment and the relatively high CGT rate of 33%, it is time to reintroduce relief for inflation. This is especially relevant for assets with a long life such as real estate.

It is fundamentally unfair that CGT is payable on anything other than a 'real' gain. In a time of inflation, taxing nominal gains raises the effective CGT rate (which is already very high) on 'real' gains and can impose taxation in cases of real economic losses.

Reform of the capital allowance regime

Quite aside from its adverse impact on day-to-day business costs, inflation will have an impact on the willingness of business to make long term investments in capital assets.

Therefore, it is more important than ever to encourage businesses to invest for the long term. A slow down of investment will result in a reduction in productivity and competitiveness which will inexorably lead to a reduction in employment.

One way to encourage businesses to keep investing in capital assets would be to enhance the capital allowance regime by shortening the period over which capital allowances are available.

Currently, capital allowances for capital expenditure incurred on the provision of plant and equipment for use in a trade are allowed over 8 years. As the effects of inflation mean that the real value of the deduction is eroded over time, we suggest shortening the 8-year period over which wear and tear allowances are allowed for expenditure on plant and machinery to 5 years[13].

[9] Summer Economic Statement 2022

[10] Statement by Dr Claire Keane (ESRI): 2022-02-02_opening-statement-dr-claire-keane-senior-research-officer-economic-and-social-research-institute_en.pdf (oireachtas.ie)

[11] A Roadmap for Pensions Reform 2018 - 2023

[12] As noted in the Minister for Finance (Charlie McCreevy's) Budget speech on 4 December 2022: https://assets.gov.ie/193921/c4407f3f-a8f8-4755-a6e7-4075e7f72d49.pdf

[13] Wear and tear allowances were previously allowed over 5 years in 2001 and 2002

05. Encouraging and supporting domestic entrepreneurship

While much attention is focused on how Ireland might best continue to attract international investment and remain competitive, increasing challenges in the international tax landscape serve to re-emphasise the importance of fostering the development and growth of our domestic SME sector.

Entrepreneurs, both domestic and foreign can, and do, move location based on the business and taxation environment. 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 also to maintain Ireland's reputation as an international hub for innovation and collaboration. This can be achieved by ensuring that Ireland's tax policy supports Irish indigenous businesses and SMEs to access risk capital and talent, which are significant constraints for entrepreneurs seeking to establish and grow businesses of scale.

If the Tánaiste's stated ambition that more Irish companies with so-called unicorn status[14] be developed is to be realised, entrepreneurs will require further support from the tax regime to overcome those constraints. It is also necessary that the Irish tax system is not unduly burdensome for SMEs given the limited resources (financial, human capital, etc.) available to them. To this end, we recommend:

1. Incentivising risk finance

Enhance the Employment Investment Incentive Scheme (EIIS)

EIIS is an important building block in assisting SMEs raise the capital required to grow and scale their businesses. However, further reform is required to make the scheme more attractive to investors. In this regard, we welcome and echo the recommended enhancements to EIIS suggested in the SME Taskforce Report., including:

- Allow CGT losses for lossmaking EIIS investments[15].
- Offer full CGT relief on profits on EIIS investments made for a year[16].

More broadly, it will be crucial that the EIIS rules are simplified, and that greater certainty is provided for companies and individuals participating in the scheme. At present, the provisions of the EIIS 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 EIIS provisions be amended so that where a company has provided correct and complete information to Revenue, a confirmation that it is eligible for EIIS 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 would also ensure that individuals are not prevented from availing of EIIS due to unduly strict rules.

Introduce changes to Ireland's CGT rules to encourage investment in SMEs

We agree with the statement made 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.

To accomplish this objective, we recommend:

- A reduced rate of CGT (say 20%) be introduced for founders, private investors, VCs and Angel Investors who invest in non-real estate based SMEs, as recommended in the SME Taskforce Report [17].

- The following enhancements to the CGT Entrepreneur Relief:

  i. Increase the lifetime limit

  We believe that increasing the lifetime limit to €5 million 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.

  ii. 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.

A reduced tax rate for dividends for SME shareholders

One issue holding back the indigenous SME sector from producing more companies of international scale is that the promotors often need to sell up before maximising the potential of their businesses. The high tax cost of extracting cash from their businesses often plays a central role in the decision to sell.

In many cases, the promoters of an SME will have invested their life savings in their company. Often, long before the company has reached its full potential, a financial need will arise to take something off the table (whether to buy a home or otherwise). As it stands, absent a sale of shares, a promoter will be subject to income tax, USC and PRSI at a marginal rate of 52%[18] if they realise part of their investment by taking a dividend. In contrast, an exit event involving a share disposal can be taxed at a rate of 10% under the Entrepreneur Relief rules. This differential often tips the scales towards a sale.

We recommend the introduction of a special reduced tax rate of 10% for dividends received by shareholders of SME companies who would otherwise qualify for Entrepreneur Relief on a sale of their shares. On a subsequent sale of the shares, the amount of the gain qualifying for Entrepreneur Relief could be reduced by the amount of dividends received by the individual which qualify for the 10% rate.

2. Level playing field in attracting and retaining talent

Reform of the Key Employee Engagement Programme (KEEP)

KEEP is a focussed share option programme, intended to help SMEs attract and retain talent in a highly competitive labour market. One of KEEP's aims is to help level the playing field between small and large enterprises in terms of the hiring and retention of staff. However, the scheme as currently drafted does not accurately reflect the commercial structures used by SMEs or the working arrangements of their employees.

In our response to the May 2022 consultation[19], we suggested various amendments to KEEP that we believe would address the most common reasons given by our SME clients when deciding not to implement KEEP to incentivise their key employees. These include:

- Amending the annual and lifetime limits.

- Making various amendments to the definitions to align the relief to the commercial structures of SMEs and working arrangements for their employees.

- Providing that CGT treatment will apply on a buyback of KEEP shares.

- Increasing the tax relief available by amending the Entrepreneur Relief provisions to provide that the 10% CGT rate will apply to a disposal of KEEP shares

- Removing the requirement for KEEP options to be issued at market value and introduce safe harbour provisions in relation to valuation of KEEP options and shares.

- Restructuring the penalty for late returns.

Make SARP available to all 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 further above.

However, the SARP regime is currently closed to many Irish indigenous businesses as it does not apply to new hires and these businesses may not have the same option as multinationals to source talent internally from other international offices. We agree with the recommendation of the SME Taskforce Report[20] that a more level playing field should be created between indigenous businesses and large multinational 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 be opened to new hires[21].

3. Reduce the undue tax compliance burden on SMEs

Corporation tax and VAT compliance process

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

We believe that minimising compliance costs and the administrative burden of tax compliance on businesses, particularly SMEs, should be a key focus in the years ahead.

With respect to VAT compliance, changes have been agreed at an EU level[22] to allow Member States to increase their VAT registration thresholds for SMEs to a maximum of €85,000 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.

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.

The provisions extending the scope of transfer pricing to SMEs remain subject to the issue of a Ministerial Commencement Order.

We are strongly of the view that these provisions should never be commenced. There is no obligation on Ireland to do so under EU law or under commitments given to the OECD. Doing so would impose costly compliance burdens on largely 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. This would appear to be in direct contradiction to the Government's stated objective of supporting growth in SMEs and ensuring the "tax system remains supportive of the SME sector[23]".

[14] Tánaiste Speech to the Institute of International and European Affairs on 23 March 2022: gov.ie - Speech by Tánaiste Leo Varadkar, The Future of Ireland's Industrial Policy, IIEA Zoom Webinar - https://www.gov.ie/

[15] SME Taskforce Report Action 1.6.1

[16] SME Taskforce Report Action 1.6.2

[17] SME Taskforce Report Action 1.4.1

[18] And as high as 55% where the USC surcharge of 3% applies.

[19] KPMG Submission made to the Department of Finance on 17 June 2022

[20] Report of the SME Taskforce: National SME and Entrepreneurship Growth Plan (2021): https://www.gov.ie/en/publication/e19ff-report-of-the-sme-taskforce-national-sme-and-entrepreneurship-growth-plan/

[21] SME Taskforce Report Action 2.6.4

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

[22] Adoption by the EU council on 18 February 2020: https://www.consilium.europa.eu/en/press/press-releases/2020/02/18/vat-council-adopts-simplified-rules-for-small-businesses/

06. Ireland as an innovation hub

While the OECD Pillar Two GloBE rules will constrain a country's ability to compete based on corporation tax rate alone, the rules also create new potential areas of competition and opportunity for countries who have signed up to the agreement.

One such area is that of incentives, specifically incentives such as the R&D tax credit, aimed at promoting and fostering innovation, and SARP, aimed at attracting and retaining mobile talent.

Ireland can enhance its reputation as a global centre of excellence for research and innovation and separate itself from competitor jurisdictions by ensuring that its incentive offerings are best-in-class to encourage global businesses to establish substantial operations here with a highly skilled workforce. This, in turn, would create a knowledge spill over to Irish indigenous businesses and should also create a positive feedback loop when seeking to attract further operations here.

To establish Ireland as an international innovation hub, it is important that targeted improvements are made to the R&D Tax Credit (RDTC) regime.

Improvements to the R&D Tax Credit

In this regard we recommend:

- An increase in the rate of the relief to at least 35% for the first €1 million of qualifying R&D expenditure.

- An automatic refund of cash claims by compliant taxpayers for claim amounts below a de minimis threshold of, say, €300,000. 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. This enhancement to the claims process will also benefit SMEs who in particular experience cashflow issues.

- An increase in the limits on the amount of allowable expenditure on outsourced activities to third parties to the greater of 25% of a company's non-outsourced R&D expenditure or €250,000.

- An increase in the R&D tax credit rate to 50% with respect to R&D carried out on green technologies to establish Ireland as a hub for green technology.

- 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", in order 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.

- An expansion of the list of qualifying fields beyond the existing science and technology categories. For example, we recommend that consideration be 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.

R&D Tax Credit - Multinational Groups

It is vital that the RDTC regime complies with the OECD Pillar Two GloBE rules and the US Regulations to ensure that Ireland is successful in its pursuit to remain attractive to global businesses.

In this context, we recommend:

- A review of the mechanism by which the RDTC is refundable, to ensure it meets the conditions to be a "qualified refundable tax credit" under the OECD Pillar Two GloBE rules and the new 2021 US Regulations.

  The definition of a "qualified refundable tax credit" requires the credit to be designed in such a way that it must be paid as cash or available as a cash equivalent within four years of satisfying the condition to receive the relief. The current RDTC regime provides in most instances that the tax credit will be refundable within four years. For certain companies that are loss making with insufficient payroll liabilities (rarely seen in practice), in accordance with the application of the relevant tax legislation[24], they will not be eligible to obtain the refund within four years. We therefore request that both restrictions (i.e. payroll and corporation tax) contained in section 766B be removed.

- Also, the consequences of the RDTC regime for companies seeking to claim a foreign tax credit has changed under the US Regulation released in 2021. These changes may disincentivise US parented groups from carrying out research and development activities in Ireland.

  Where a RDTC regime does not meet the 'exclusion' criteria contained in the Regulation, any reduction in Irish corporation tax due to relief under the RDTC regime will not be available as a foreign tax credit in the US. Prior to this change, the amount of Irish corporation tax creditable in the US was the liability payable before R&D tax credit relief.

  In order to ensure that the R&D tax credit is treated as not reducing corporation tax for the purposes of US foreign tax credit rules, the RDTC regime must provide the taxpayer the option to claim the R&D tax credit relief as a cash refund in the year of claim. Alternatively, the regime could be amended to allow the company to directly offset the refund amount against its payroll tax liability in the year of claim.

Enhance SARP to attract R&D skilled professionals to Ireland

In addition to the above enhancements to Ireland's RDTC regime, we believe that targeted enhancements to the SARP regime aimed at attracting high value 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 would propose that a similar approach be applied in Ireland, whereby the remuneration of employees engaged in R&D would be 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.

While we acknowledge that there are existing measures included in the RDTC regime aimed at reducing the tax burden of R&D professionals, these are little used due to the complexity of these measures and the administrative difficulty associated with their implementation. Therefore, it would be important that the proposed enhancement to SARP be structured with administrative ease in mind.

For completeness, in the section of this document dealing with how Ireland can maintain its competitive edge, we have also made other personal tax recommendations (including other changes to SARP) with a specific goal of making Ireland competitive when attracting people to live and work here.

[24] Section 766B Taxes Consolidation Act (TCA) 1997, which limits the R&D refund amount to the greater of the company's payroll liabilities and the aggregate corporation tax liabilities over the previous 10 years

07. Promoting sustainability

Ireland has an ambitious goal of reducing greenhouse gas emissions by 51% by 2030 and to reach net-zero emissions by 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 for Ireland to maintain its attractiveness as a location, particularly as both businesses and individuals are striving to reduce their carbon profiles.

We believe that tax policy can be an instrument of change in this area where it encourages sustainable behaviour from individuals and businesses. We have set out some measures which we believe should be introduced to encourage sustainable behaviour.

Mobilising private finance for green investment

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.

A fundamental challenge faced by early and growth stage enterprises in the green economy is the ability to attract and retain the risk capital required to build their business. In this regard, we propose:

- The introduction of an exemption from tax on interest earned by individuals from "green" bonds issued by enterprises to fund initiatives which contribute to meeting Ireland's ambitious carbon emissions targets.
- Ireland's existing tax reliefs for investors, principally EIIS and CGT Entrepreneur Relief, should be enhanced for investments made in enterprises in the green economy. We believe that CGT Entrepreneur Relief should be extended to allow passive investors in qualifying green projects to avail of the relief. Also, investment in the green economy should be incentivised by increasing the rate of EIIS relief available for qualifying green investments.
- Relief under Section 486B TCA 1997 (which provides for tax relief for companies that 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.
- Pension funds have the potential to exert significant influence on businesses to implement environmentally and socially sustainable practices. A greater level of ESG focused investment by pension funds could be promoted by crafting tax policy to incentivise and support investment in sustainable businesses.
- 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.
- To help position Ireland as a hub for ESG investment management, we recommend that the relief for carried interest provided for in Section 541C TCA 1997 (which applies a capital gains tax rate of 15% for individuals) be broadened to apply to carried interest earned by the senior Irish tax resident employees of an ESG fund manager.

Incentivising the development and use of green technology

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.

We propose an enhancement of the existing RDTC regime to allow for a 50% tax credit for expenditure incurred on R&D activities undertaken in relation 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.).

Supporting green agriculture

The agriculture sector presents some of the biggest challenges and opportunities for climate action in Ireland. Irish farmers should be supported where they decide to adapt their 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 usage and business to more sustainable practices. This challenge could be alleviated by:

- 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, increases wetlands or plants native trees.
- 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.

Supporting sustainable buildings

Due to a mixture of regulatory requirements and market demand, newly constructed buildings in Ireland are generally constructed to achieve very high levels of energy efficiency.

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 suggested measures:

- Introduce an income tax credit for expenditure incurred on improving a home's energy efficiency rating.
- Reintroduce mortgage interest relief for borrowings used in the acquisition, improvement or repair of properties with a BER of B3 or better.
- 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.
- 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.
- Apply a reduced rate of VAT to environmentally friendly products such as solar panels and renewable energy sources as permitted under the new VAT Directive approved in April 2022.

Accelerating the transition to 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 that the transport sector is estimated to have 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 for EV charging costs.
- A reduced rate of VAT is applied to bicycles and electric bicycles as allowed under the new VAT Directive approved in April 2022.

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