Pre-Budget 2024 Submission

June 2023

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INTRODUCTION

Ireland, as a small open country, has a coherent and successful tax policy of being a location of choice for global businesses. As countries move to implement the OECD BEPS 2.0 Pillar Two GloBE[1] Rules, it is critical that Ireland differentiates itself from its competitors by enhancing its value offerings to businesses and individuals. It is also timely for the country to press on with the development of a vibrant and successful domestic enterprise sector.

In deciding how best to deploy the financial resources available, we recognise that the Government will have difficult decisions to make and that there is an overarching imperative to engage in prudent financial management. However, we do believe that there are a number of key areas where urgent actions are required to sustain the economy, stimulate growth and position the economy for long term success. In Budget 2024, our tax policy needs to address some key challenges facing the Irish economy, including the housing crisis, the cost of employment, the international war for talent, 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 2024 and Finance Bill 2023 in respect of each of these issues.

Housing

Ireland's ongoing housing crisis creates substantial challenges for Irish society and business, and its timely resolution is a matter of the utmost importance.

The availability of accommodation at affordable prices will have an adverse effect on the attractiveness of the country as a location for investment. Our housing crisis may well become the factor which will prevent certain workers and business from locating here.

In this submission, we have proposed measures to increase supply, help with affordability issues and support the rental sector.

Maintaining Ireland's competitive edge

The implementation of the OECD BEPS 2.0 Pillar Two GloBE Rules will fundamentally reshape the global tax landscape for the world's largest businesses. While Ireland's 12.5% rate of corporation tax will remain an attractive feature for many investors, it will be less important for some, who currently contribute a proportionally higher amount of tax revenues to the Exchequer.

1 Global Anti-Base Erosion Model Rules (the "GloBE Rules")

Many countries are re-examining their tax offerings and incentives in light of Pillar Two. Looking ahead, Ireland must ensure that it is best-in-class across a broader range of tax measures to be the choice for foreign direct investment. Such features will gain more prominence and have a much greater influence on future investment decisions.

Access to talent

Domestic businesses and the FDI sector require high performing employees for their businesses to thrive. Ireland has made a virtue of having available a deep pool of highly skilled workers with an excellent work ethic. If Ireland is to retain this good standing, it will need to pursue tax policies that encourage continuous learning and development and foster high levels of labour participation.

It is important that Irish domestic firms continue to be supported in recruiting and retaining highly skilled employees. In addition, Ireland's income tax system must continue to encourage individuals to upskill and reskill.

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 to ensure that the personal tax regime is reformed to accommodate the new working practices.

We believe that the personal tax regime should be made more attractive by reducing the effective rate of tax for employees and reducing the cost of employment for employers.

Ireland as an innovation hub

Ireland has an opportunity to enhance its reputation as a global centre of excellence for research and innovation and differentiate 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 regime would help the country to seize this opportunity.

Reducing the cost of doing business

It is critical that the cost of doing business in Ireland is minimised and that the administrative burden on businesses is low.

We would like to see steps taken to streamline the corporation tax regime by the introduction of a territorial regime and the removal of obsolete tax measures. We would also advocate for the removal of the requirement to apply transfer pricing rules to domestic transactions.

Addressing inflation

Inflation affects all aspects of the economy, from consumer spending to 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. The recent and sustained increase in price levels has evidenced the need for a statutory mechanism to ensure that Ireland's tax system is to a reasonable degree "inflation-proofed". Also, indexation should be introduced for CGT purposes to ensure that only real economic gains are subject to taxation.

Supporting enterprise and entrepreneurship

The impact of foreign direct investment on the Irish economy cannot be understated. However, the increasing changes 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. Entrepreneurial investment can be significantly influenced by targeted, pro-growth tax policies. Ireland's tax policy should better support Irish indigenous 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.

Domestic businesses and the FDI sector require high performing employees for their businesses to thrive. We have made several recommendations that we consider will encourage continuous learning and development by the national workforce, and foster high levels of labour participation, to ensure that companies operating in Ireland have access to the best talent.

It is also particularly important that the Irish tax system does not place an undue cost burden on companies with regard to compliance. This is a particular concern for SMEs who are already facing challenges in raising the finance needed to scale.

Supporting the green transition

Ireland is striving to limit climate change and achieve a goal of net-zero emissions by no later than 2050. Achieving this target will require behavioural change by government, individuals, and businesses and the realisation of gains from new technologies and practices.

Tax policy can be a powerful tool to promote sustainable behaviour by businesses and consumers. 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.

We believe that Ireland should look to ambitious policies, such as leading the way in the rollout of Sustainable Aviation Fuel in the EU and globally. With a long and innovative history in aviation, Ireland is well placed to be a leader in this space. Such a goal will require cross-Government engagement and suitable policy frameworks.

We have also identified tax measures which we believe should be introduced to encourage sustainable behaviour by mobilising private finance for green investment and incentivising the development and use of green technology and transport.

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. 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 on 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 employees 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 and create new businesses with resultant increases in corporate, income and consumption taxes.

EXECUTIVE SUMMARY

Housing

Ireland's ongoing housing crisis creates substantial challenges both for Irish society and the business community. In an environment where the country must work harder than before to attract mobile individuals and businesses, who have options to locate elsewhere, our housing crisis may discourage future investors and workers from relocating here unless urgent action is taken.

In this submission, we have proposed measures to increase supply, help with affordability issues and support the rental sector:

Measures to increase supply

- Reduce the VAT rate on new residential units
- Reinstate indexation relief
- Reform of Residential Zoned Land Tax
- Introduce tax incentives to encourage the conversion of office buildings to residential property
- Ensure that Land Value Sharing does not adversely impact the viability of residential development
- Reform Section 83D, SDCA 1999
- Introduce capital allowances for residential accommodation constructed by employers and rented to employees
- Amend the interest limitation rules to address the treatment of capitalised interest

Measures to help with affordability issues

- Reduce the VAT rate on new residential units
- Restore mortgage interest relief
- Extend the Help to Buy scheme beyond 2024
- Remove the rent credit sunset date of 2025
- Introduce a BIK exemption for employer provided accommodation for staff with income of less than €50,000

Measures to help the rental sector

- Reintroduce a controlled and targeted Section 23 style relief
- Reform the taxation of rental income
- Eliminate the close company surcharge for active residential landlords
- Reform and reinstate CGT rollover relief
- Extend business property relief (BPR)
- Amend the share buyback provisions to apply to rental businesses
- Support apprenticeships and training in the construction sector

Supporting Enterprise and Entrepreneurship

Incentivising and supporting domestic entrepreneurship must be a key focus of Irish tax policy, both as a means of stimulating economic growth and maintaining Ireland's reputation as an international hub for innovation and collaboration.

In this submission, we have proposed measures to support domestic entrepreneurship, promote employment and reduce the compliance burden for SMEs:

Supporting domestic entrepreneurship

- Enhance and simplify the Employment Investment Incentive Scheme (EIIS) to increase its uptake
- Extend Start-Up Relief for Entrepreneurs (SURE) to individuals who were previously self-employed
- Remove the 3% USC surcharge on self-employed individuals
- Introduce a 20% rate of CGT for founders, private investors, VCs and other angel investors in SMEs
- Introduce CGT rollover relief for investments in SMEs
- Enhance CGT entrepreneur relief and broaden its scope
- Limit taxation of dividends paid by active SMEs
- Apply the 12.5% tax rate to gains arising on the disposal of trading assets
- Enhance CGT Retirement Relief
- Disapply Ireland's transfer pricing regime to transactions between domestic taxpayers

Promoting employment

- Reform the Key Employee Engagement Programme (KEEP) to make it effective
- Make the Special Assignee Relief Programme (SARP) available to all businesses
- Support the recruitment of top tech talent in Ireland
- Support and encourage upskilling and continuous learning by the workforce
- Introduce tax relief for childcare costs
- Encourage the supply of creche spaces
- Introduce tax relief for certain personal wellness costs

Reduce the tax compliance burden on SMEs

- Simplify the corporation tax and VAT compliance process
- Continue to exempt SMEs from Transfer Pricing

Maintaining Ireland's Competitive Edge

Ireland must continue to be considered a location of choice for mobile talent and substantial business. While the 12.5% tax rate has served us well, Ireland must ensure that it is best-in-class across a broader range of tax measures.

In this submission, we have proposed enhancements to the corporation tax and personal tax regimes, measures to position Ireland as an innovation hub, actions to make it more efficient to conduct business in Ireland and measures to address the impact of inflation:

Enhancements to the corporation tax regime:

- Adopt a territorial regime
- Reform the capital allowances regime

Enhancements to the personal tax regime:

- Reduce the tax on employment by:
  - Increasing the entry point to the marginal income tax rate
  - Introducing an intermediate tax rate and band below the marginal rate
  - Capping the amount of income subject to PRSI
- Enhance SARP
- Simplify the taxation of share-based compensation
- Reform the taxation of personal investments
- Enhance tax relief for personal pension provision

Measures to position Ireland as an innovation hub

- Targeted improvements should be made to the R&D tax credit regime:
  - Increase the rate of relief to 35%, and to 50% for R&D carried out on green technologies
  - Speed up cash refunds where the credit for the period is less than €300k
  - Expand the list of qualifying fields beyond the existing science and technology categories
  - Increase the limit on the amount of allowable expenditure for outsourced activities
- Specific enhancement of SARP for skilled R&D professionals
- Reform the Digital Games Tax Credit

Actions to make it more efficient to conduct business in Ireland:

- Establish an Office of Tax Simplification
- Remove obsolete tax measures

- Adopt the minimum standard when transposing the Public Country-by-Country Reporting Directive
- Consult with stakeholders with respect to new legislation
- Improve the fairness of the tax appeal process
- Introduce an alternative mediation process for tax disputes

Measures to counteract inflation

- 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.

Supporting the Green Transition

Ireland has set itself ambitious climate goals[2] which will undoubtedly present challenges and opportunities for individuals, communities and businesses.

In this submission, we have proposed measures to incentivise sustainable aviation fuel manufacturing in Ireland, mobilise private finance for green investment, incentivise the development and use of green technology, support green agriculture, promote sustainable building and accelerate the transition to sustainable transport:

Incentivise sustainable aviation fuel (SAF) manufacturing in Ireland

- Introduce targeted tax incentives to encourage sustainable aviation fuel (SAF) manufacturing in Ireland

Mobilise private finance for green investment

- Enhance EIIS and CGT Entrepreneur Relief for investments in green economy enterprises
- Extend CGT Entrepreneur Relief to passive investors in qualifying green projects
- Increase the rate of EIIS relief for qualifying green investments
- Reintroduce relief under Section 486B, TCA 1997
- Increase the tax-free lump sum payable on retirement where some or all of the lump sum is derived from approved ESG funds
- Attract senior ESG fund managers to locate in Ireland by broadening the relief for carried interest provided for in Section 541C, TCA 1997
- Introduce an exemption from tax on interest earned by individuals from "green" bonds

Incentivise the development and use of green technology

- Increase the R&D tax credit rate to 50% for R&D carried out on green technologies
- Introduce a super deduction for expenditure on green technology and buildings and/or provide grants to assist in the purchase of green plant and equipment

Support green agriculture

- Extend CGT retirement relief to circumstances where a farmer makes their land available to deliver renewable energy
- Remove the restriction on the proportion of agricultural land on which solar panels can be installed while remaining eligible for CAT agricultural relief

Promote sustainable building

- 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

Accelerate the transition to sustainable transport

- Introduce a partial income tax credit for EV charging costs
- Apply a reduced rate of VAT to bicycles and electric bicycles, as permitted under the new VAT Directive approved in April 2022
- Reform the TaxSaver Commuter Ticket scheme to take account of hybrid working practices
- Delay the phasing out of the BIK exemption on electric vehicles to 2030

2 Reducing greenhouse gas emissions by 51% by 2030 and to reach net-zero emissions by no later than 2050.

01 HOUSING

Resolution of the housing crisis should remain top of the Government's policy agenda.

Ireland's ongoing housing crisis creates substantial challenges both for Irish society and the business community. In an environment where the country must work harder than before to attract mobile individuals and businesses, who have options to locate elsewhere, our housing crisis may discourage future investors and workers from relocating here unless we collectively solve this problem.

Unfortunately, there is no simple fix. All avenues should be explored to bring about a resolution. This will require a willingness to be innovative. We have outlined various proposals for consideration below.

Quite aside from the supply and affordability issues, there are other issues that need to be addressed in the residential property sector. Currently, there is a stock of residential property in Ireland that needs to be retrofitted and renovated to help Ireland meet its ambitious climate targets. The tax system can play a role in this regard by incentivising property owners to take action. In Section 4 of this submission, we have outlined various proposals which we believe would complement the Government's housing strategy.

In this section of the submission, we have focused on measures designed to increase supply, help with affordability and support the rental sector.

Measures to increase supply

Addressing the shortage of supply should be the key priority. We have suggested a range of measures below, which should encourage owners of land to commence residential development projects and/or release land to others who will.

Reduce the VAT rate on new residential units

The recently adopted European Union Council VAT Directive[3] gives Member States a greater level of 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 alter the economics of house building projects. It should encourage developers (and perhaps State bodies) to take on the other uncertainties present in the marketplace. It should also enable developers to reassess the viability of developing sites for residential development which were previously considered uneconomic.

Tax incentives to encourage the conversion of office buildings to residential property

It is a costly exercise to repurpose old commercial buildings for residential use, yet many very well located out of date commercial buildings are in existence needing deep retrofit. We recommend exploring an incentive, such as a Section 23 style relief for conversion expenditure on such projects.

3 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).

Reform of Residential Zoned Land Tax

The Residential Zoned Land Tax (RZLT) was introduced to encourage the development of housing and assist in meeting the Government's Housing for All targets. However, RZLT as it is currently structured poses severe challenges for many developments (particularly residential developments), undermining the policy objective behind the tax.

Specifically, RZLT as currently enacted will result in the tax applying even where a developer is doing everything in their power to bring forward development. This is having an adverse impact on developers' decisions to acquire land to develop residential property.

Homebuilders already face extraordinary challenges with respect to the supply of quality affordable housing. Delays within the planning system are hindering homebuilders from developing homes despite best efforts. Homebuilders are also facing unprecedented challenges with respect to the viability of residential developments, particularly new medium- and high-density developments. In order for the design of the RZLT to better align with its policy objectives, it needs to reflect the reality of the current planning system and the viability challenges faced by homebuilders.

Land Value Sharing

The proposed introduction of the new Land Value Sharing mechanism, as outlined in the latest Heads of Bill[4], creates further uncertainty, and potentially costs, for many developers. This is exacerbated by the suggestion in the latest Heads of Bill that the contribution would extend not just to newly zoned lands, but also to existing appropriately zoned land. While certain transitional rules are suggested, the contribution will regardless become payable by many homebuilders that bought land before the 30% Land Value Sharing contribution was envisaged. In some cases, this could have a significant impact on their viability, at a time when they are facing other significant commercial challenges. We strongly recommend that the Government engages with stakeholders before the enactment of this regime.

Reform of Section 83D SDCA 1999

The upfront stamp duty cost of acquiring land for development in Ireland is a significant financing hurdle for smaller professional landlords.

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. This refund mechanism, which requires an investor to bridge finance the refundable stamp duty, serves as a barrier to the acquisition of land for residential development.

Although we welcome the extension of the relief to 31 December 2025, we suggest that the 2% stamp duty rate be reinstated to avoid the unnecessary funding requirement. A clawback could be applied if the land is not subsequently developed into residential property within say 5 years from the date of purchase.

At a minimum, additional time should be allowed under Section 83D for the completion of the residential units, in recognition of resource constraints

4 gov.ie - General Scheme Land Value Sharing and Urban Development Zones Bill 2022 - https://www.gov.ie/ (published 13 April)

in the construction industry. The extended time will take account of the realities of the time taken to develop a site.

Tax relief for residential accommodation constructed by employers and rented to employees

The availability of adequate and appropriate housing for highly mobile talent and the employees of foreign multinationals is essential if Ireland is to remain a preferred location for foreign direct investment.

Consideration should be given to incentivising employers to develop housing for occupation by their employees by allowing industrial building allowances (IBAs) at an annual rate of 10% on the development cost.

Amend the interest limitation rule to address the 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 believe that the rules should be amended to provide that the deduction of such interest will not be restricted by the ILR 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.

Measures to help with affordability

Property price inflation, and the general impact of inflation on the cost of living, have combined with higher interest rates to make it more difficult than ever to afford a home. Additional tax measures are required to make housing more affordable and reduce the high housing cost burden.

Reduce the VAT rate on new residential units

A temporary, say 5-year, removal of the VAT cost on new houses, could play a very significant role in bringing more affordable supply to the market.

Restore mortgage interest relief

The ESRI noted in July 2022[5] that Ireland has experienced a marked drop in home-ownership rates in recent years. This has been particularly acute for younger-aged households, with the share of 25-34 year olds living independently who own their own home more than halving between 2004 and 2019, falling from 60 per cent to just 27 per cent.

Until recently, the key challenges faced by home buyers were the lack of supply and spiralling house prices. However, affordability has become a pressing issue for many with the recent rapid rise in mortgage interest rates. We therefore recommend that consideration be given to the re-introduction of mortgage interest relief for home loans.

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 2024. 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.

Remove the rent credit sunset date of 2025

The rent tax credit introduced in Finance Act 2022 should be made available on an indefinite basis (rather than the current sunset of 2025), given the significant rent burden borne by many households.

BIK exemption for employer provided accommodation

A shortage of adequate and appropriate housing is a barrier to the relocation and retention of skilled talent in Ireland. Given the current issues with the housing sector, many employers provide paid accommodation for their employees. We suggest that an exemption from BIK be introduced in respect of employer provided accommodation for staff with income of €50,000 or less, where it is provided free of charge or subsidised.

Consideration could be given to broadening the scope of the relief in the future.

Measures to help the rental market

The pressures in the housing market are not confined to home ownership. They also extend into the rental sector where there is a lack of properties available to rent. Many landlords are choosing to exit the sector.

According to the Daft.ie Rental Price Report for Q1 2023, fewer than 1,000 homes were available to rent on 1 May 2023, one of the lowest totals seen on the site since the start of the report in 2005.

To address 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. Measures are necessary, including tax measures, to encourage smaller landlords to enter and remain in the Irish rental market.

Reform the taxation of rental income

We believe that the existing Schedule D, Case V system of taxation of rental income, particularly in the context of professional or corporate property owners, is outdated and no longer fit for purpose.

5 https://www.esri.ie/system/files/publications/RS143.pdf

The taxation of professional landlords should be reformed to ensure that active rental businesses are taxed like trades under Schedule D, Case I principles. This would allow landlords to deduct a broader range of rental expenses than is currently provided for under Section 97, TCA 1997 (including Local Property Tax).

Eliminate the close company surcharge for active residential landlords

The application of the close company surcharge to rental profits incentivises corporate landlords to distribute such profits. As a result, the surcharge discourages corporate landlords from reinvesting profits in the acquisition of additional rental units.

Reintroduce a controlled and targeted Section 23 style relief

This would permit landlords to claim relief for expenditure incurred on the purchase, construction, conversion or refurbishment of a qualifying rental property against the rent received from that property and other Irish rental income.

Appropriate safeguards should be introduced with respect to the size, type, quality and location of property which would qualify. An example of one such safeguard could be the qualifying property must attain a minimum BER rating. Also, appropriate sunset provisions could be defined at the outset to avoid the issues which arose with the previous iteration of the scheme.

Reform and reinstate CGT rollover relief

Businesses should be allowed to claim CGT rollover relief when they dispose of real estate and re-invest the disposal proceeds in a replacement property to be used in the trade of the enterprise.

Not only would this free up land in city centre locations ideal for residential development, it would also enable businesses to move to more suitable locations.

Extend business property relief

The scope of CAT Business Property Relief (BPR) should be extended to include active property rental businesses. This would enable the creation of multi-generational rental businesses and encourage families to remain invested in the sector over a longer time horizon. This should bring additional stability to the rental sector.

Amend share buyback provisions to apply to rental businesses

Generally, the redemption, repayment or purchase by an unquoted company of its own shares is treated as giving rise to a distribution (like a dividend) in the hands of the shareholder and is subject to income tax where the shareholder is an individual. However, where the provisions of S176, TCA 1997 are met by a trading company or the holding company of a trading group, the transaction is treated as a capital disposal liable to CGT. To encourage the development of sustainable multi-generational property rental business, we recommend that S176, TCA 1997 be extended to active rental companies and holding companies of active rental companies.

Support apprenticeships and training in the construction sector

Many of our construction clients 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.

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

We welcome the commitment in the Housing for All plan to expand the current construction sector workforce.

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The rent tax credit introduced in Finance Act 2022 should be made available on an indefinite basis, given the significant rent burden borne by many households.

02 SUPPORTING ENTERPRISE AND ENTREPRENEURSHIP

A vibrant and successful domestic SME sector is important for Ireland's continued growth and success.

Incentivising and supporting domestic entrepreneurship must be a key focus for Irish tax policy, both as a means of stimulating economic growth and maintaining Ireland's reputation as an international hub for innovation and collaboration. The changes in the last few years in the global corporation tax landscape and the forthcoming changes with respect to the OECD BEPS 2.0 Pillar Two GloBE rules serve to re-emphasise the importance of developing a resilient domestic SME sector.

As stated in the Government's White Paper on Enterprise released in December 2022, it will be important in the years ahead that Ireland matches its ambition for continued strong FDI performance with a focus on strengthening Irish-owned firms. Key factors that impact on SMEs' ability to scale and grow are access to risk capital and talent. These are areas where the tax system can play a significant role with targeted tax incentives and reliefs.

Ireland has a range of targeted tax measures which are available to certain enterprises and individuals which generally aim to support investment, to encourage entrepreneurial behaviours and to reward and retain staff. We echo the Government's assessment that:

"there is scope to develop these further to increase take-up and improve impact by ensuring that schemes are not too restrictive or costly".[6]

Also, the income tax system needs to adapt to the new working patterns that have become prevalent since the Covid-19 pandemic. As outlined in Section 1 above, it is vital that a solution be found to the housing crisis to ensure that businesses and workers are not discouraged from living here and contributing to the Irish economy.

Outlined below are various recommendations to incentivise and support entrepreneurship and enterprise in Ireland.

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 highlight the importance of the Irish indigenous sector.

One of the barriers to SMEs scaling their business is access to finance, particularly risk finance. Incentives have been introduced over the years to assist SMEs in this regard. However, there is more that can be done. We have outlined our recommendations below.

Enhance and simplify the Employment Investment Incentive Scheme (EIIS) to increase its uptake.

EIIS is an important building block in assisting domestic SMEs to raise the capital required to grow and scale their businesses. We believe that the existing EIIS rules need to be simplified, and that greater certainty needs to be provided for companies and individuals participating in the scheme.

6 https://enterprise.gov.ie/en/publications/white-paper-on-enterprise-2022-2030.html

At present, the EIIS provisions are very complex and are difficult for start-ups to understand. The penalties for getting it wrong are material. Improving certainty for participating companies could substantially increase uptake of the relief. In this regard, we recommend that:

- 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 (Enterprise Investment Scheme) rules.
- The holding company rules should be amended to allow for subsidiary companies in a group to avail of the relief. This would enable groups to attract minority investors into 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. Relaxation of 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.

Additional reforms are required to make the scheme more attractive to investors. In this regard, we support the recommended enhancements to EIIS suggested in the Report of the SME Taskforce, including:

- Allow CGT losses for loss making EIIS investments[7].
- Offer full CGT relief on profits on EIIS investments made for a year[8].

Extend Start-Up Relief for Entrepreneurs (SURE) to individuals who were previously self-employed

Under SURE, an individual can obtain a deduction from their total income for investments of up to €700,000 (relief provided for up to €100,000 annually) made in a qualifying new venture.

This relief is only available to previously employed or unemployed individuals. Those that were previously self-employed are unable to claim the relief. This restriction to the scope of those who can qualify for SURE acts as a significant barrier to its effectiveness in meeting its intended purpose.

7 Report of the SME Taskforce - Action 1.6.1
8 Report of the SME Taskforce - Action 1.6.2

We recommend that the SURE scheme be extended to include new business founders who were previously self-employed.

Remove the 3% USC surcharge on self-employed individuals

It is important that the tax treatment of different categories of income earners are aligned. An employee is subject to a marginal income tax rate of 52% on income above €100,000, while a self-employed individual is subject to a 55% income tax rate due to the 3% USC surcharge. There does not seem to be a policy rationale for this difference in treatment.

The surcharge unfairly penalises entrepreneurs and self-employed individuals who have assumed the risks associated with starting a business. Retention of the surcharge is at variance with the Government's enterprise policy. The 3% USC surcharge that applies to non-PAYE income above €100,000 should be abolished, in line with the Programme for Government[9], particularly as Ireland seeks to position itself as a place for enterprise and entrepreneurship in the short to medium term.

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

We agree with the Report of the SME Taskforce that tax reform is required to grow investment in new start-ups and growing SMEs. In particular, we agree that:

"A taxation system that supports the creation and growth of new enterprises, and re-investment of entrepreneurial capital in Irish enterprise, is critically important to the growth of this sector.[10]"

We also welcome the Government's commitment in the White Paper on Enterprise 2022-2030 that:

"Our Capital Gains Tax (CGT) regime for those investing in unquoted enterprises will be reviewed, including consideration of the need to reflect the risk premium involved versus investment in other assets. This will make an important contribution to ensuring our entrepreneurship and angel investment landscape is competitive."[11]

We recommend that consideration be given to the following changes to the CGT regime to stimulate entrepreneurship and reward the associated risk taking:

- A reduced rate of CGT (say 20%) should be introduced for founders, private investors, VCs and angel investors who invest in non-real estate based SMEs, as recommended in the Report of the SME Taskforce.[12]
- Angel investors who reinvest capital gains in innovative SMEs should not be subject to CGT on the amount reinvested. France introduced this regime, the 'SME Innovation Account', in 2017 to increase funding to innovative entrepreneurs and SMEs.
- The following enhancements should be made to CGT Entrepreneur Relief:

  i. Increase the lifetime limit

  We believe that increasing the lifetime limit to €5 million would reduce the risk of Irish entrepreneurs basing themselves and their businesses abroad. This is particularly important where the 33% 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 invest capital into start-ups, enable entrepreneurship and support growth in Ireland's SME sector.

Limit taxation of dividends paid by active SMEs

Currently, an individual is subject to tax at a marginal rate of up to 55% on dividend income. At a time when Ireland is looking to stimulate the domestic indigenous sector and position itself as a place for entrepreneurs, a 55% tax rate on dividends does not reward risk appropriately.

In many cases, the promoters of SMEs 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).

An exit event involving a share disposal can be taxed at a rate of 10% under the Entrepreneur Relief rules. The differential between this CGT rate and the marginal rate of tax often tips the scales towards a sale. As a result, SMEs are often sold before they maximise their potential. This issue is also holding back the indigenous SME sector from producing more companies of international scale.

To address these issues, we recommend that:

- a flat income tax rate of 20% be applied to dividends received from SMEs that exist wholly or mainly to carry on a trade; and
- 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.

9 Programme for Government – Our Shared Future: https://www.gov.ie/pdf/?file=https://assets.gov.ie/130911/fe93e 24e-dfe0-40ff-9934-def2b44b7b52.pdf#page=null

10 https://enterprise.gov.ie/en/publications/white-paper-on-enterprise-2022-2030.html

11 https://enterprise.gov.ie/en/publications/white-paper-on-enterprise-2022-2030.html

12 SME Taskforce Report Action 1.4.1

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.

Enhancement of CGT retirement relief

CGT retirement relief is available where an individual aged 55 or over disposes of business or farming assets. The level of relief available varies depending on the age of the individual making the disposal and to whom the disposal is made.

Basing the amount of relief to be granted on the individual's age is unfair and the upper age limit of 66 may force a business to be prematurely passed on to the next generation. Accordingly, we request that the upper age limit of 66 be removed.

Disapply Ireland's transfer pricing regime 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.

Promoting employment

Access to highly skilled workers is critical to the ability of Irish companies to innovate and expand. Therefore, it is important that Ireland's personal tax system reflects policies that encourage high levels of labour force participation, and individuals to upskill and reskill. This should in turn lead to growth in the economy, increased tax revenues for the Exchequer and a more equitable society.

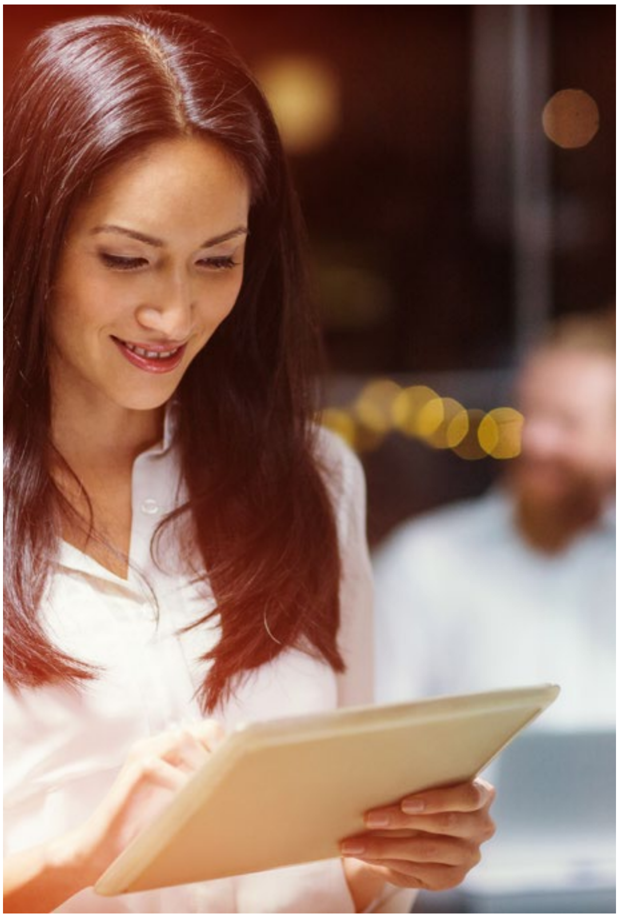
We agree with the sentiment expressed in the Government's White Paper on Enterprise 2022-2030 that:

"our personal tax regime needs to be conducive to attracting and retaining skilled individuals; this is important for both Irish-owned and foreign-owned FDI companies assessing Ireland as an investment location."[13]

To achieve this objective, we have identified areas where changes should be made to the personal tax system below:

Reform the Key Employee Engagement Programme (KEEP) to make it effective

KEEP is a focused 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 properly reflect the commercial structures used by SMEs or the working arrangements of their employees.



We welcome the changes to the scheme in Finance Act 2022. However, there are a number of vital changes which still need to be made to make the scheme effective. These include:

- Introducing safe harbour provisions with respect to the valuation of the shares and options to provide a level of assurance that a valuation will not be challenged where the requirements of the safe harbour were met.
- Increasing the annual limit of €100,000 and lifetime limit of €300,000.
- Making various amendments to the definitions to align the relief to the commercial structures of SMEs and working arrangements of their employees.

13 white-paper-on enterprise-2022-2030

Further detail on these recommendations can be found in our June 2022 submission to the Department of Finance consultation on the KEEP scheme.

Make SARP available to all 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. 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. Unlike multinationals, they are generally unable to source talent internally from other international offices. We agree with the recommendation in the Report of the SME Taskforce[14] 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. We strongly endorse the report's recommendation that the SARP regime be opened to new hires[15].

Support recruitment of top tech talent

Tech/Life Ireland[16] is an initiative of the Government of Ireland under the ICT Skills Action Plan. It is an international initiative focused on attracting talented and experienced tech experts to Ireland and the promotion of top tech career opportunities available in Ireland.

To complement the Tech/Life Ireland initiative, we recommend that a new incentive be introduced for Irish indigenous companies hiring tech experts. This would help level the playing field for smaller Irish companies to compete with larger multinational enterprises who can provide higher salaries to attract the best talent. Also, additional grant aid could be provided to such companies to assist in covering the cost of employment.

Support and encourage upskilling and continuous learning by the workforce

Ireland has built its reputation as a destination for foreign direct investment on the availability of a highly qualified and engaged work force.

However, as noted in the 2023 OECD Ireland Skills and Strategy Report[17], Ireland faces critical challenges including, amongst others, the green and digital transitions, slowing productivity growth and labour shortages that may negatively impact our ability to maintain strong economic performance and improvements in wellbeing. It is therefore essential that significant investments be made by the State with the aim of encouraging and facilitating individuals to upskill and reskill. This is an area where tax policy can play a role by incentivising desirable behaviours as set out below:

- A key aim of the STEM Education Implementation Plan to 2026[18] is to make Ireland a leader in STEM education by 2026. The plan notes that one of the ways in which this aim can be achieved is by increasing the number of individuals choosing STEM subjects in further education.

  The availability of STEM graduates is an important building block in assisting Ireland to become a R&D and innovation hub. We believe that additional supports would encourage individuals to pursue STEM focussed third level courses, particularly post graduate courses. Therefore, we recommend that an uncapped income tax credit be provided at the individual's marginal rate for the tuition fees that they incur in obtaining a third level degree (up to PhD level) in STEM subjects and other critical areas.

  Currently, the income tax credit is only available at the standard rate on the course fees over €3,000 subject to a maximum of €7,000.

- Membership of professional bodies and learned societies and organisations ensure that individuals maintain and develop their skills after they qualify. Encouraging continuous learning should also lead to higher productivity and innovation by firms.

  Currently, an employer can discharge professional subscriptions for an employee without giving rise to a taxable benefit where there is a legal requirement for that membership, or the employee can prove that they cannot complete their duties without the membership. Where the individual is a member of more than one professional body, the individual is only entitled to a deduction for the membership cost of one professional body.

  The existing rules are unduly restrictive. To ensure that Ireland continues to promote the highest professional standards and facilitates continuous learning to support business, we recommend that income tax relief (including a benefit-in-kind (BIK) exemption) should be available for: (i) membership subscriptions paid to recognised professional bodies and learned societies and organisations and (ii) related CPD costs, where the membership is relevant to the individual's employment.

Introduce tax relief for childcare costs

According to data published by the CSO[19], the female labour force participation rate stood at 58.9% in Q3 2022, an increase of 2.8% from the Q3 2019 figure of 56.1%. Some of this increase was likely driven by the changes in working patterns arising from the Covid-19 pandemic.

Notwithstanding this positive increase, female participation remains well behind that of males at 70.8% in Q3 2022. One of the barriers to increasing female participation is the prohibitive cost of childcare. We therefore recommend that consideration be given to the introduction of income tax relief for

14 Report of the SME Taskforce
15 SME Taskforce Report Action 2.6.4
16 https://techlifeireland.com/
17 OECD Skills Strategy Ireland18https://www.gov.ie/pdf
18 https://www.gov.ie/pdf/
19 cso.ie/en/releasesandpublications

the childcare cost for children below the age of 12. This should go a long way in helping to meet the Programme for Government objective of enabling higher female labour market participation.

Encourage the supply of creche spaces

The availability and cost of childcare is a barrier to female participation in the workforce.[20] Currently, there is a shortage of creche places in Ireland, with reports of a two-year waiting list.[21]

To encourage further supply of creche spaces, we recommend that Section 843B, TCA 1997, which provides for accelerated industrial building allowances (IBAs) for employer constructed creches and fitness centres, be extended to apply to non-employer provided creches. In addition, Section 285B, TCA 1997 which provides for accelerated capital allowances in respect of plant and equipment used in employer provided creches should also be extended to non-employer run creches.

Introduce tax relief for certain personal wellness costs

Millions of workdays are lost on an annual basis due to absenteeism on health grounds, at a very significant cost for the Irish economy in terms of productivity and the impact on the health services. Also, multiple studies have identified strong links between wellbeing and employee retention.

For both of these reasons, a greater focus on the physical and mental wellbeing of employees is needed. The requirement for a healthy workplace is no longer just a worthy ambition.

To promote wellbeing, we recommend that an income tax deduction be introduced for gym memberships and the costs of attending a broader range of accredited mental health practitioners. Where the cost is met by an individual's employer, it should not be treated as a BIK.

Reduce the undue tax compliance burden on SMEs

We support the Government's goal of ensuring that compliance with the tax regime is straightforward, transparent and imposes minimal cost and administrative burdens, which will also be an important factor for competitiveness.[22] It is particularly important that the Irish tax system does not place an undue burden on SMEs with respect to the cost of compliance, as this compounds the issues currently experienced with raising the appropriate finance needed to scale and grow.

Outlined below are recommendations to help ease some of the tax administrative burden faced by SMEs.

Simplify the 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 56 pages in 2022.

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[23] 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. Also, it would be in direct conflict with the Government's stated objective of supporting growth in SMEs and ensuring that the "tax system remains supportive of the SME sector".[24]

20 https://joint-research-centre.ec.europa.eu/

21 The Independent: Parents are warned of two-year wait to secure a creche place for their child

22 https://enterprise.gov.ie/en/publications/white-paper-on-enterprise-2022-2030.html

23 Adoption by the EU council on 18 February 2020

24 Programme for Government – Our Shared Future (2020)

03 MAINTAINING IRELAND'S COMPETITIVE EDGE

The impact of foreign direct investment on the Irish economy cannot be understated. To remain a location of choice to do business, Ireland must continue to enhance its offering.

Ireland's corporation tax rate of 12.5% stands as the third lowest in the OECD. This policy has served us well and has attracted substantial overseas investment into Ireland. However, the changes made to the international corporate tax landscape have brought into focus the need for Ireland to enhance other aspects of its tax offering to businesses and highly mobile talent. Ireland must ensure that it is best-in-class across a broader range of tax measures to be the location of choice for foreign direct investment. These will have greater prominence and have a much greater influence on future investment decisions.

We have identified a number of areas where change is needed to help Ireland retain its competitive edge. These fall into 5 broad categories:

1. Enhancements to the corporation tax regime.
2. Enhancements to the personal tax regime.
3. Positioning Ireland as an innovation hub.
4. Actions to make it more efficient to conduct business in Ireland.
5. Addressing the impact of inflation.

1. Enhancements to the corporation tax regime

The implementation of the OECD Pillar Two GloBE Rules, in accordance with the EU Minimum Tax Directive[25], will diminish Ireland's ability to compete for foreign direct investment based on the rate of corporation tax. However, there are a number of steps which should be taken to simplify the corporate tax regime and enhance the attractiveness of Ireland as a location to do business:

Adopt a territorial regime

Many of Ireland's key competitors have already introduced exemptions for foreign dividends and foreign branch profits. Ireland's existing worldwide basis of taxation under which credit is given for underlying foreign taxes is administratively burdensome and unattractive.

There is a logic and benefit to introducing an Irish participation exemption for foreign dividends and branch profits in light of the OECD Pillar Two GloBE measures. This would 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.

We advocate that Ireland introduces a territorial regime. In line with our response to the public consultation[26] on the territorial system, we propose the:

- introduction of an exemption for foreign dividends that would apply on a default basis with the taxpayer having the option to opt out of the exemption,
- introduction of a foreign branch exemption that will apply at the option of the taxpayer, and
- reform and expansion of the substantial shareholdings exemption under S626B (e.g. expand the "relevant territory" definition).

25 Council Directive (EU) 2022/2523

26 KPMG response to the consultation submitted on 7 March 2022

Insofar as there may be 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.

Reform the capital allowances regime

Productivity is a key driver of economic growth and resilience. Amongst other factors, productivity gains are driven by capital investment. Accordingly, businesses should be encouraged to continue to invest in capital equipment by enhancing the capital allowances regime.

In addition, the capital allowances regime should be amended to provide for flexibility for MNE Groups in scope of the Pillar Two GloBE rules.

Our recommendations for enhancements to the capital allowances regime are set out below:

i. Grant capital allowances for plant and machinery at a higher rate over a shorter period

Currently, capital allowances for capital expenditure incurred on the provision of plant and equipment for use in a trade are allowed over 8 years (i.e. at a rate of 12.5% per annum).

A number of key competitor jurisdictions (including the UK) have taken steps to enhance their regimes by providing super-deductions and / or accelerated capital allowances for capital expenditure. As a result, Ireland's offering in this respect has fallen behind. Consideration should be given to shortening the period over which the allowances are claimed to 5 years (i.e. at a rate of 20% per year).

ii. Allow greater flexibility in respect of capital allowance claims

Certain in-scope MNE Groups may have a preference to pay additional domestic Irish corporation tax rather than paying additional tax by way of a qualifying domestic top up tax (QDTT), both of which would result in an effective tax rate of 15% required under the EU Minimum Tax Directive and the GloBE Rules.

Such optionality would be fully consistent with EU Minimum Tax Directive and the GloBE Rules in that the core objective of both is to ensure that in-scope MNE Groups pay an effective rate of tax of at least 15%. Thus, Ireland should facilitate in-scope MNE Groups which have a preference to pay more domestic corporation tax rather than a QDTT.

The reasons for such preferences include:

- Simplification of administration i.e., some in-scope MNE Groups may prefer to only have to pay corporation tax rather than having to separately manage payments for both corporation tax and QDTT, where this would not lead to them being disadvantaged.

- Certainty regarding the ability to obtain a credit under the foreign CFC regime for domestic corporation tax payable in Ireland.
- Some in-scope MNE Groups may have deferred tax attributes which they would prefer to expend now rather than have a charge under QDTT.

Whether the MNE Groups concerned are subject to more domestic corporation tax or a QDTT should not alter the aggregate amount of tax they ultimately pay. However, providing this flexibility may help Ireland remain attractive and competitive compared to other jurisdictions with higher corporation tax rates, as those jurisdictions do not have to impose a QDTT[27].

In terms of how an in-scope MNE Group may decide to pay more corporation tax, a possible approach would be for it to choose not to claim (all of) the capital allowances to which it is entitled. This choice is already available under existing law and is subject to certain legislative provisions (discussed below). However, some minor modifications to the tax legislation may be needed to ensure that the desired flexibility is effectively achieved.

Under the current legislation, where a taxpayer is entitled to capital allowances but chooses not to claim them, the remaining tax-depreciated basis in those assets available for future capital allowances claims is nevertheless deemed to be reduced by the amount of allowances that could have been claimed but were not. This effectively prevents a taxpayer deferring capital allowances claims in one year and claiming them in a later year instead.

On the face of it, this would permit a taxpayer to permanently disclaim allowances if they wished to do so with the objective of paying more corporation tax such that their effective tax rate equals or exceeds the mandated 15% minimum rate under the EU Minimum Tax Directive and the GloBE Rules. However, there is a saving provision in the legislation which can apply where a taxpayer has a balancing event on the disposal of assets on which it was entitled to capital allowances but chose not claim them such that the above-mentioned deeming provisions applied. Under this saving provision, the balancing charge on that disposal cannot exceed the amount of capital allowances actually claimed (as opposed to the total amounts actually claimed and deemed claimed as previously described).

This saving provision is important for many taxpayers so as to avoid the imposition of tax where relief had previously not been claimed. However, for in-scope MNEs seeking to pay additional domestic corporation tax, this saving provision could also have the effect of partly rendering a disclaim of capital allowances ineffective on a permanent basis.

As a result, we would recommend that an amendment is enacted permitting taxpayers who disclaim capital allowances to elect (if they so choose) to disapply the saving provision in the balancing charge rules such that they may be subject to tax on the amount by which the consideration exceeds the tax depreciated value of the asset even where that is more than the allowances actually claimed[28].

2. Enhancements to 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. Therefore, Ireland's personal tax regime needs to measure up favourably with our competitors.

Our personal tax regime also needs to respond to the fundamental change to working practices that have emerged since the Covid-19 pandemic. Workers now have much greater flexibility regarding how and where they work.

We have a number of recommendations to enhance the attractiveness of the regime:

Reduce the tax on employment

The Irish personal tax system imposes a high personal tax burden on employees.

While our dual rate income tax system is one of the reasons why Ireland has one of the most progressive income tax systems in the EU and OECD, that progressivity comes at a price. The entry point to the higher 40% income tax band, at a level of income that is lower than the average wage[29] has a negative impact on employers seeking to attract high-value talent to move to Ireland, particularly with the increase in popularity of remote working. It also discourages labour force participation and the desire of individuals to upskill and seek out higher paying jobs. We note that our closest competitor, the UK, applies its 40% income tax rate to incomes in excess of approximately €56,500.

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

- Introducing an intermediate tax rate that would sit below the 40% rate (say 30%) and which would allow the entry point for the 40% rate to be increased.
- Implementing income caps for PRSI:
  - i. 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.
  - ii. Many countries also reduce the cost of employment for employers by capping the employer's contribution. We recommend that an earnings contribution cap be reintroduced of €100,000 for employers' PRSI.

27 As in-scope MNE Groups operating in those jurisdictions would pay corporation tax at a 15%+ effective tax rate

28 We have included suggested legislative wording in Appendix I

29 Based on average weekly income of €900.26 in Q4 of 2022 and the standard rate cut off of €40,000: CSO: Earnings and Labour Costs Q3 2022 (Final) Q4 2022

The impact of PRSI on the cost of employment should not be underestimated. In many competitor countries, the level of earnings upon which a social insurance charge is imposed is capped. For example, Austria, Canada, Germany, Greece, Luxembourg, and the Netherlands apply a monetary cap on contributions. In addition, some countries[30] provide for an income tax deduction for employee social security contributions.

Enhancement to the SARP regime

Internationally mobile executives play a significant role in creating job opportunities and commercial activity in our economy. They also contribute to the pool of skills necessary for businesses to develop and compete on an international stage.

However, the high personal tax burden on high earners in Ireland is potentially off-putting to executives who have the choice to work in other countries.

A key element of the Irish offering is the Special Assignee Relief Programme (SARP). We believe that several aspects of the relief need to be enhanced:

- Reduce the 'base salary' entry requirement from €100,000 to €50,000. This would better address situations where individuals receive variable pay such as commissions or share based remuneration as part of their package.
- Remove the €1 million cap on the amount of income that can benefit from the relief. Currently, this is limiting the effectiveness of the regime in attracting senior executives to live in Ireland, relative to other locations. The more senior the person that can be attracted here, the more value they will generate for the business and the economy more generally.
- For non-Irish domiciled individuals, SARP relief should be extended to include USC and PRSI, as well as income tax.
- 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.

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 best-in-class.

We recommend that the tax treatment of Restricted Stock Units (RSUs) be amended so that the amount of the benefit taxable in Ireland is apportioned by

30 Austria, Belgium, Finland, France, Greece, Italy, Japan, Luxembourg, Portugal, Sweden, Switzerland. Source: OECD

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.

Reform the taxation of personal investments

The taxation of personal investments in Ireland is very complex and has increasingly been raised as a negative by skilled individuals looking to relocate and take up employment here. Reform is required.

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 significant detail in the correct part of the investor's income tax return.

While an investor in conventional shares is entitled to tax relief for capital losses, an investor in regulated Irish and EU funds is not entitled to the equivalent 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 the treatment of taxpayers with respect to their investment choices. It is also important that the taxation of investments is simplified as undue complexity in this area will make Ireland unattractive for high value talent and could also act as a deterrent for those who have moved abroad and are considering a move back to Ireland.

In this regard, we welcome the Minister for Finance's commitment to establish a working group[31] to consider the taxation of investment products. We strongly recommend that a key aim of this group should be the simplification of the tax treatment of such products given the ever-increasing popularity of retail investment globally.

Enhance tax relief for personal pension provision

It is important that the personal income tax system continues to support individuals to make provision for their retirement.

In 2022, the CSO reviewed the extent of personal pension coverage[32] in Ireland. They found that 66% of persons in employment in Q3 of 2022 had some level of occupational or personal pension coverage. Worryingly, 33% of the National workforce had no pension arrangements in place.

In 2020, the Interdepartmental Pensions Reform & Taxation Group carried out an extensive review of the pension regime and pension savings to address income adequacy in retirement. According to their report[33], the State's policy objectives regarding supplementary pensions are not being achieved.

This is particularly worrying as it suggests that there will be a significant level of dependence on the State pension by our aging population in retirement. There is a need to encourage increased pension coverage and increased pension saving if we are to meet the policy objective that 70% of the workforce should have a supplementary pension with an income target of 50% of pre-retirement earnings[34]. Failure to meet this objective will inexorably lead to overdependence on the State pension and welfare provision.

While the planned Government Auto-Enrolment Retirement Savings Scheme should help to increase the level of pension coverage, the existing limitations on tax relief for personal pension contributions make it difficult to achieve a meaningful supplementary pension in retirement.

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 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 a deferral of taxation with all contributions and investment returns ultimately taxed on drawdown (with the exception of the permitted tax-free lumpsum of up to €200k).

We have made a number of recommendations below that should help enable the ambition set out in the National Pensions Policy Initiative Report to be met and help to alleviate the risk of overdependence on State pension provision.

Indexation of the earnings limit and standard fund threshold

The earnings limit is €115,000 and has been set at this level since 2011[35]. In addition, the standard fund threshold (SFT), which is currently set at €2 million has been at this level since 2014[36]. Given the increases in inflation, wage levels and the standards of living in Ireland, it is necessary that these limits be indexed to maintain the real value of the reliefs and thresholds.

31 As noted by the Minister for Finance during his Budget 2023 speech: gov.ie - Statement by Minister Donohoe on Budget 2023

32 Key Findings - CSO - Central Statistics Office

33 https://assets.gov.ie

34 National Pensions Policy Initiative Report of The Pensions Board to the Minister for Social, Community and Family Affairs untitled (pensionsauthority.ie)

35 The earnings limit was €254,000 in 2006, €262,382 in 2007, €275,239 in 2008 and €150,000 in 2009 and 2010

36 The standard fund threshold was initially introduced in 2005 and was set at 5 million. The €2 million limit applies from 1 January 2014

To help achieve this, we recommend that at a minimum the SFT and earnings limits be indexed to wage growth to preserve the level of relief available under the current system. It is worth noting that the UK Government announced in its Spring Budget on 15 March 2023 the abolition of their SFT equivalent, the Lifetime Allowance (LTA)[37].

It is important that these limits be set at levels which enable individuals to adequately provide for themselves in retirement. Ultimately, this should reduce their need to depend on the State when they retire.

Increase the pension contribution limit

Currently, the amount that an individual can contribute to their combined pension schemes in any one year is determined by the individual's age and their yearly salary / earnings, capped at €115,000.

This system does not take into consideration the changes in an individual's work patterns over their working life. Individuals are now more likely to transition between a higher number of occupations and periods of training and development over their lifetime, which can result in volatility in an individual's earnings.

As a result of this shift in working patterns, we advocate that the design of the contribution limits takes a whole of working life approach by permitting unused pension relief capacity to be carried forward.

Introduce tax relief for spousal contributions

At present, an individual is only entitled to income tax relief in respect of pension contributions made to their own pension scheme or arrangement. To increase pension coverage, consideration should be given to the introduction of tax relief for contributions made by an individual to the pension scheme or arrangement of their spouse or spousal equivalent.

For example, where the annual income of the spouse (or spousal equivalent) does not exceed €31,000[38] (e.g., where a spouse has taken on a role as an unpaid care giver), it should be possible for the other spouse to obtain tax relief for pension contributions made on their behalf.

37 The LTA is currently set at £1,073,100 and is to be abolished from April 2024: Abolition of Lifetime Allowance and increases to Pension Tax Limits - GOV.UK - https://www.gov.uk/

38 The current amount a married individual that is jointly assessed will have to earn to be entitled to the full standard rate band of €80,000

3. Position Ireland as an innovation hub

The roll out of the OECD BEPS Pillar Two rules will undoubtedly constrain the ability of countries to compete based on corporation tax rate alone. However, these changes also open up new potential areas of competition and opportunity for countries who have signed up to the agreement.

One such area is that of incentives, specifically the R&D tax credit, aimed at promoting and fostering innovation. Based on the European Innovation Scoreboard 2022[39] (published by the European Commission), which provides a comparative analysis of innovation performance in EU countries and regional neighbours, Ireland is rated as a "strong innovator", which is positive as it ranks the country just above the EU average. There is room for further growth, however, if Ireland wishes to join those ranked as "innovation leaders" such as Denmark, Finland, the Netherlands, and Sweden. To achieve this objective and maintain Ireland's reputation as a global centre of excellence for research and innovation, and separate itself from competitor jurisdictions, it is necessary that targeted improvements are made to the R&D tax credit regime.

Improve the R&D Tax Credit

When assessing the fiscal consequences of implementing our recommendations in this area, we would strongly encourage that a dynamic modelling approach be adopted. Otherwise the true benefits of taking these steps will not be reflected in the decision making process.

Our recommendations are as follows:

- Increase the rate of relief to at least 35%.

  Ireland's score in the 2022 European Innovative Scoreboard for R&D expenditure in the business decreased between 2015 and 2022[40]. In an era where Ireland is looking to increase expenditure on R&D[41], this trend in R&D spending by businesses must be reversed.

  An increase of the credit rate to 35% would make it more attractive for businesses to set up their research facilities in Ireland. This should create a knowledge spill over to Irish indigenous businesses and should create a positive feedback loop when seeking to attract further operations here[42].
- 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 currently experienced by claimants. In particular, this enhancement to the claims process would benefit SMEs who are most vulnerable to cashflow challenges.
- Increase the limit 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.
- Increase the R&D tax credit rate to 50% for R&D carried out on green technologies to help establish Ireland as a hub for green technology.
- Introduce a grant aid programme to encourage innovation in green technology.
- A technical amendment is required to Section 766(1)(a), TCA 1997 to insert: "wholly and exclusively for the purposes of R&D activities", in place of: "wholly and exclusively in the carrying on by it of R&D activities". The amendment is required 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 with respect to qualifying costs.
- Expand the list of qualifying fields beyond the existing science and technology categories. For example, the list of qualifying fields should be expanded to include specific reference to research into technologies such as artificial intelligence, machine learning, blockchain and other emerging technologies.

  At a competitive level, it is important to note that the UK recently amended its R&D regime to provide that "mathematics" will qualify as a science in its own right for the first time, and qualifying expenditure has been extended to include the costs of data licences and cloud computing used for R&D purposes. Given the evolving nature of R&D, it is crucial that the current list of qualifying fields is updated to ensure that Ireland's R&D tax credit regime remains best-in-class.

Enhance SARP to attract R&D skilled professionals to Ireland

In addition to the suggested enhancements to our R&D tax credit regime, we believe that targeted enhancements to the SARP regime aimed at attracting high value R&D professionals would further establish Ireland as a talent hub for innovation and research. The responses received to our very recent Research and Innovation Pulse Survey in conjunction with IRDG highlighted difficulties in recruiting key talent as the equal most significant factor impacting on respondents' ability to innovate.

We believe that key talent involved in R&D activities could be attracted to Ireland by applying an approach similar to that currently in place in Sweden, whereby 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.

39 https://research-and-innovation.ec.europa.eu/statistics/performance-indicators/european-innovation-scoreboard_en

40 Ireland country profile: European Innovation Scoreboard: https://ec.europa.eu/assets/rtd/eis/2022/ec_rtd_eis-country-profile-ie.pdf

41 As noted in the White Paper on Enterprise published in December 2022, the Governments aims to increase gross expenditure on R&D to 2.5% of GNI: https://enterprise.gov.ie/en/publications/publication-files/white-paper-on-enterprise-2022-2030.pdf

42 OECD (2008) The Global Competition for Talent: Mobility of the High Skilled https://www.oecd.org/innovation/inno/41362303.pdf

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 R&D tax credit regime aimed at reducing the tax burden of R&D professionals, these are little used due to their complexity 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.

Reform of the Digital Games Tax Credit

We welcome the introduction of the Digital Games Tax Credit (DGTC) and support its aim of making Ireland a world leader in the area of digital gaming. However, amendments are required to the mechanics of the credit to achieve this objective.

Multinational groups

With the advent of the OECD Pillar Two GloBE Rules, the DGTC needs to be modified to remain relevant to MNE groups. It needs to be modified to meet the definition of a "qualified refundable tax credit" under the OECD Pillar Two GloBE Rules. A similar amendment was made to the R&D Tax Credit in Finance Act 2022. The DGTC is currently available to companies first through an offset against corporation tax and then as a refundable tax credit once any corporation tax liability amount is fully offset. We suggest that the credit be amended such that it is refundable in the first instance, with the option to offset against tax liabilities. This will ensure that MNE groups in this sector are incentivised to choose Ireland as a place to do business. This amendment should also preserve the availability of US foreign tax credits under the 2021 US Regulations.

Amend the clawback provision

Where a DGTC claim is made by a company and it is subsequently found that the claim was unauthorised, a clawback may apply. The clawback may apply to either the claimant company, any director of the company, or any person who is a beneficial owner of the company (or any person able to directly or indirectly control more than 15% of the ordinary share capital of the company). While a clawback mechanism must exist with respect to unauthorised claims, this clawback should apply only to the claimant company. The potential personal exposure for directors and shareholders to a clawback of the DGTC presents a significant (and in many cases insurmountable) barrier for companies who could potentially claim the credit. We recommend that the clawback exposure be limited to the claimant company.

Amendments to the Knowledge Development Box

The Knowledge Development Box (KDB) was introduced by Finance Act 2015 to incentivise companies to commercially exploit intellectual property developed from R&D activity in Ireland.

With the advent of the OECD Pillar Two GloBE Rules, the KDB relief needs to be restructured to remain relevant to MNE groups. Consideration should be given to restructuring the benefit of KDB to be a refundable tax credit (similar to the R&D tax credit). It would be necessary to ensure that the credit meets the definition of a "qualified refundable tax credit" under the OECD Pillar Two GloBE Rules and satisfies the requirements for the availability of US foreign tax credits under the 2021 US Regulations.

4. Actions to make it more efficient 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:

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.

We propose that consideration be given to the establishment of an Office of Tax Simplification. We would highlight the success 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; CGT; 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 as mentioned 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 Anti-Tax Avoidance Directive (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.

Technical amendment to Section 138 TCA 1997 – treatment of dividends on certain preference shares

It is important that the Irish tax system does not unduly restrict the ability of companies to raise capital.

Generally, dividends received by an Irish resident company from another benefits from the franked investment income exemption. While, the exemption does not extend to certain preference dividends, there is an exception for dividends paid on shares which carry rights comparable to fixed rate preference shares quoted on a stock exchange in the State[43].

Given that many of the Irish public companies which previously served as comparators have transferred their listings to exchanges located outside of Ireland, a technical amendment should be made to the definition of preference shares in Section 138 TCA 1997 to reference "fixed-rate preference shares quoted on a recognised stock exchange".

Public Country-by-Country Reporting

The Directive requiring the publication of country-by-country reporting[44] seeks to enhance corporate transparency and public scrutiny of corporate taxes paid by MNEs carrying out activities in the EU. When adopting the Directive into Irish law, Ireland should 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 various options may lead to significant differences in how the Directive will impact the economic environment for companies operating in different jurisdictions. Furthermore, Irish companies compete not just within the EU but also on a global stage.

As outlined in our February 2022 response to the Department of Finance consultation on the transposition of the Directive[45], 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

43 Section 138, TCA 1997

44 Directive (EU) 2021/2101 .

45 KPMG Submission to the Department of Finance on 18 February 2022

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 hope that the Department of Finance will continue to actively engage with stakeholders.

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:

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.

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.

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 a 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[46]. 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.

5. Addressing the impact of inflation

According to the inflation figures published by the Central Statistics Office, prices rose by 7.2% in the year to April 2023. 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 the medium term.

Rising inflation has and will continue to hinder the ability of businesses to provide employment and has negative implications for the the purchasing power of an individual's income.

Therefore, it is important that there is an automatic statutory mechanism to provide for an automatic increase in tax reliefs, bands and credits. The UK introduced a mechanism in 1977, the "Rooker-Wise amendment" - to provide that the main personal allowances and income tax thresholds be increased in line with inflation, unless Parliament determines otherwise. 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:

a. Income tax bands and thresholds

b. USC and PRSI thresholds

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

d. CGT annual exemption

e. CAT group thresholds

f. CAT annual small gift exemption

It is also important that CGT indexation relief be reinstated. 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. 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.

"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

46 Committee of Public Accounts debate, Thursday, 8 July 2021

04 SUPPORTING THE GREEN TRANSITION

Ireland must take sufficient steps to achieve our climate goals and maintain attractiveness as a location for investment

Ireland has set itself ambitious climate goals[47] which will undoubtedly present challenges and opportunities for individuals, communities and businesses. While the achievement of these targets is imperative in the context of combatting climate change, it presents an opportunity to make Ireland a more attractive location for businesses and individuals striving to reduce their carbon profiles.

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

Incentivise sustainable aviation fuel (SAF) manufacturing in Ireland

The EU Renewable Energy Directive has set out requirements for the use of advanced biofuels, renewable energy, sustainable hydrogen and cross-border projects. Minimum requirements for SAF usage have been set by the EU which will increase over time, accelerating significantly from 2035 onwards. The Government should explore opportunities to develop sustainable biofuel and synfuel SAF production facilities in Ireland.

As demand for SAF is expected to grow exponentially, other countries have already introduced incentives to ramp up production. For example, the US has stimulated production by the introduction of SAF producer credits of up to $1.75 per gallon in the Inflation Reduction Act, on top of other incentives. Billions of dollars have also been made available to fund research and to help finance new production facilities.

SAF can be produced in any country. The production of SAF in Ireland would dovetail with Irish and EU goals for independent, sustainable energy production. The Government should implement a suitable policy framework and associated supports to facilitate SAF production in Ireland. Potential measures could include the introduction of producer credits to incentivise production and grants.

With a long history of innovation in aviation, Ireland should help lead the way in the rollout of SAF in the EU and globally.

Further detail on the opportunities for SAF production in Ireland are set out in the KPMG report commissioned by Aircraft Leasing Ireland (ALI).[48]

Mobilise 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 as follows:

47 Reducing greenhouse gas emissions by 51% by 2030 and to reach net-zero emissions by no later than 2050.

48 SAF Manufacturing in Ireland, KPMG, March 2023

- 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. At a minimum, CGT Entrepreneur Relief should be extended to allow passive investors in qualifying green projects to avail of the relief. Also, the rate of EIIS relief available for qualifying green investments should be increased.
- 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 at the renewable energy sector and other important green economy sectors.
- Pension funds have the potential to exert significant influence on the businesses that they invest in to implement environmentally and socially sustainable practices.

  A greater level of ESG focused investment by pension funds could be promoted by using tax policy to encourage pension funds to invest 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. This would provide a strong incentive for scheme members and managers to include ESG funds in their portfolios.
- Ireland should position itself as a location of choice for ESG investment funds. To achieve success, we need to attract senior ESG fund managers to locate in Ireland. This would have the added benefit of stimulating a transfer of further expertise and knowledge into the Irish fund management ecosystem.

Taxation policy has a role to play in making Ireland an attractive location for such executives. For example, consideration should be given to reforming the taxation of carried interest for managers of ESG funds. Carried interest is a common feature of the private equity fund industry and is designed to align the interests of managers with the performance of funds under management. Carried interest provisions typically provide managers and individual employees with a return (usually in the form of shares / units or bonuses) where certain hurdle rates have been met and capital commitments have been wholly or partly repaid to investors.

The receipt of carried interest by an individual is currently taxed as employment income and, therefore, is subject to income tax, PRSI and USC at marginal rates. Any gains arising on a subsequent disposal or redemption of shares / units in a fund received as carried interest comes within the "exit tax" regime for funds and is subject to income tax at 41%. There is a very limited exception to this which applies CGT treatment (at a rate of 15%) to carried interest for certain venture fund managers of qualifying venture capital funds structured as partnerships and which invest in certain R&D companies.

This relief should be widened to apply to carried interest earned by senior Irish resident employees of an ESG fund manager in respect of qualifying funds (with qualification being linked to an appropriate scheme of ESG taxonomies or an ESG labelling or rating system).

- The introduction of a tax exemption for interest earned by individuals from "green" bonds issued by enterprises to fund initiatives which contribute to meeting Ireland's ambitious carbon emissions targets.

Incentivise the development and use of green technology

Irish tax policy should support and encourage innovation targeted at developing green technologies and other solutions which will help the country to meet its ambitious climate action targets. In particular, Ireland should strive to establish itself as an international hub for R&D activities in the areas of sustainability and carbon emissions reduction. To date, Ireland has failed to attract substantial research investment in these areas. The measures which we propose are as follows

- Enhance the existing R&D tax credit 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.).
- To further encourage sustainable spending (outside the R&D space), expenditure on green technology and buildings should be incentivised by super deductions (150%), accelerated capital allowances and / or grants. For example, this could extend to expenditure on plant and machinery used to develop and improve the energy efficiency of a building, expenditure on IT equipment for remote working, expenditure on commercial hybrid and electric vehicles and charging stations, etc.

Support green agriculture

The agriculture sector presents some of the biggest challenges and opportunities for climate action in Ireland. Irish farmers (particularly those nearing retirement) should be supported where they decide to adapt their business and land in ways that contribute to Ireland's sustainability goals. Measures that merit consideration include:

- Enhancing CGT retirement relief to ensure that relief remains available in circumstances where a farmer makes their land available to deliver renewable energy through solar, wind or anaerobic digestion, or 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 will not be regarded as "agricultural land" where solar panels are installed on more than half the total area. This obstacle to adapting land usage to the production of renewable energy should be removed.

Promote sustainable building

As a result of positive changes to building regulations and market demand, newly constructed dwellings in Ireland are constructed to very high levels of energy efficiency. However, there remains a considerable challenge ahead to bring Ireland's older residential property stock up to comparable levels of efficiency and sustainability.

To assist with this challenge, the following measures should be considered:

- Introduce an income tax credit (similar to the previous home renovation incentive) for expenditure incurred to improve the energy efficiency of a dwelling.
- If not re-introduced more generally, re-introduce mortgage interest relief for borrowings used in the acquisition, improvement or repair of properties with a BER of B3 or better.

Accelerating the transition to sustainable transport

The National Development Plan set 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 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 be key to achieving the nation's broader climate goals. In this regard, we propose the following:

- 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 should be applied to bicycles and electric bicycles, as permitted by the new VAT Directive approved in April 2022.
- It is important that commuters continue to be encouraged to avail of public transport for their commute to and from their workplace. While the TaxSaver Commuter Ticket Scheme has been very effective, it needs to be reformed to cater for hybrid workers. It has ceased to be attractive for many hybrid workers to purchase a TaxSaver ticket as it was designed with daily commuters in mind.

  We would suggest that an income tax deduction against total income be introduced for an employee's cost of commuting to and from work where the individual uses public transport.
- Finance Act 2021 made provision for the phase-out of the partial BIK exemption for employer provided electric vehicles by 31 December 2025. Given Ireland's ambitious climate goals, the BIK exemption should be maintained at the current level and the sunset deferred until 2030.

APPENDIX

Section 288, Taxes Consolidation Act 1997 should be amended by the insertion of a new subsection

(7)

(a) Where a person elects to disclaim wear and tear allowances, balancing allowances, or initial allowances in respect of any item of machinery or plant under this subsection, then notwithstanding subsection (4)(b), the amount on which a balancing allowance or charge is to be made on that person in respect of an event or occurrence to which subsection (1) applies, may exceed the amounts of allowances referred to in subsection (4)(b) insofar as those amounts relate to wear and tear allowances, balancing allowances or initial allowances disclaimed under this subsection.

(b) An election under this section may be made by a person during the chargeable period or basis period concerned or as part of the filing of its income tax return or corporation tax return, as applicable, in respect of that chargeable period or basis period.

(c) An election to disclaim wear and tear allowances, balancing allowances, or initial allowances under this subsection may be made –

(i) in respect of a monetary amount, or

(ii) on the basis of a methodology or computational basis

specified in the election. In the case of an election to which (ii) applies, the election shall specify whether it is to apply only in respect of the first chargeable period or basis period to which the election applies or to that chargeable period or basis period and all subsequent chargeable periods or basis periods until such time as the election may be withdrawn.

In addition to the above change, while the current legislation and existing case law allow for a taxpayer to disclaim capital allowances on expenditure, it is not explicitly clear that a taxpayer has the flexibility to partially claim allowances on individual items of expenditure. While it is arguable that they can, it would be beneficial to eliminate any uncertainty by amending the relevant legislation to confirm that a taxpayer can claim up to the full allowance that they would be entitled to in a given year. This could be readily achieved by modifying Section 284(2)(ad) TCA 1997 as follows:

Notwithstanding any other provision of this subsection but subject to subsection (4), where capital expenditure is incurred on or after 4 December 2002 on the provision of machinery or plant, the amount of the wear and tear allowance to be made shall be an amount equal of up to 12.5 per cent of the actual cost of the machinery or plant, including in that actual cost any expenditure in the nature of capital expenditure on the machinery or plant by means of renewal, improvement or reinstatement; but this paragraph shall not apply in the case of—

(i) machinery or plant to which subsection (3A) relates,

(ii) machinery or plant which consists of a car within the meaning of section 286, used for qualifying purposes, within the meaning of that section, or

(iii) machinery or plant provided under the terms of a binding contract evidenced in writing before 4 December 2002 and in respect of the provision of which capital expenditure is incurred on or before 31 January 2003.

We believe that providing this flexibility to in-scope MNE Groups will help ensure that Ireland remains competitive as an investment jurisdiction for those groups while adhering to the principles and spirit of the EU Minimum Tax Directive and the GloBE Rules. The Government might also wish to consider other changes with this objective in mind.

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