EVERSHEDS SUTHERLAND

Providing guidance

The Irish Exit Tax Regime

A new exit tax regime was introduced by Finance Act 2018 in line with Ireland's commitments under the EU's Anti-Tax Avoidance Directive (the "ATAD"). The new regime was implemented, firstly by way of financial resolution with effect from 10 October 2018 on the announcement of Budget 2019 (ahead of the time required by the ATAD, 1 January 2020), and then permanently enacted by Finance Act 2018.

The primary change is that the circumstances in which an exit tax may arise under Irish law have been expanded. Where a charge arises in these circumstances, exit tax is payable at the rate of 12.5%, subject to an anti-avoidance provision under which the capital gains tax rate (currently 33%) may apply.

The Irish Revenue Commissioners ("Irish Revenue") issued new guidance on 11 July 2019 (the "Guidance") setting out an overview of the exit tax rules and how the same should operate in practice. The Guidance can be accessed **here**.

The Guidance focuses on the following specific aspects of the new exit tax regime:

1. The events which give rise to a charge to exit tax
2. Exclusions from the charge to exit tax
3. The rate of exit tax
4. The circumstances in which a deferral of exit tax can apply

The Guidance clarifies a number of aspects in relation to the operation of the new regime, in particular, the interaction of the exit tax and tax losses, and the impact for roll-over relief where a charge to exit tax arises. Helpfully, Irish Revenue have also outlined the circumstances (including some illustrative examples) which it considers falls outside the anti-avoidance provision and, as such, should not give rise to the imposition of the higher capital gains tax rate.

Key contacts

If you would like any further information in relation to the revised exit tax regime, please feel free to contact a member of our Tax Group.

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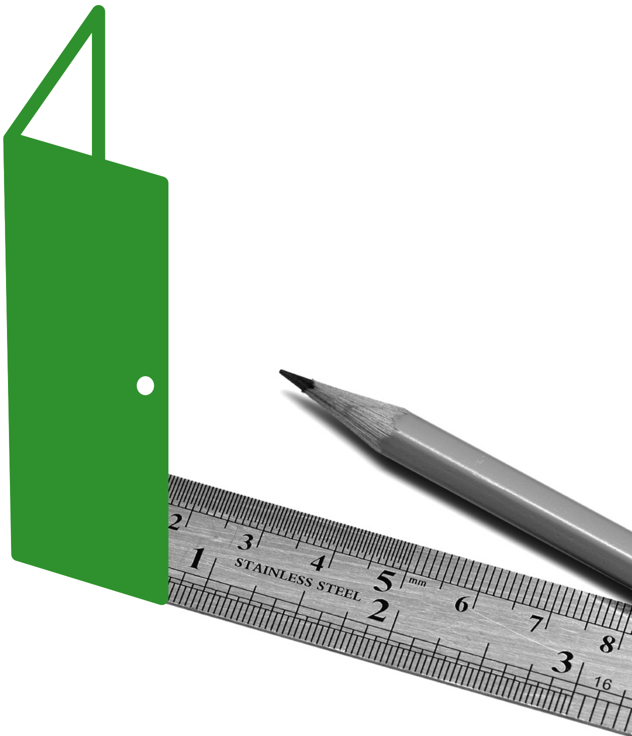

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