EVERSHEDS SUTHERLAND

Mapping out the road

The future of Ireland's corporation tax regime

On 5 September 2018, the Irish Government released 'Ireland's Corporation Tax Roadmap' (the "Roadmap") which sets out the future of Ireland's corporation tax regime in the context of the EU's Anti-Tax Avoidance Directive ("ATAD") and the OECD's Base Erosion and Profit Shifting ("BEPS") project and ecommendations.

In the foreword the Irish Government reiterated its commitment to maintaining Ireland's 12.5% corporate tax rate and transparent tax regime, while continuing to make the necessary adaptations required by an ever-evolving international tax system.

We have outlined below Ireland's commitments under the ATAD and BEPS as set out in the **Roadmap**.

5 September 2018

Measure	Implementation date	Status	Comments
Controlled Foreign Company ("CFC") Rules	1 January 2019	Public consultation underway with a view to legislation in Finance Bill 2018 (announced October 2018)	Currently, CFC rules do not exist in Irish law. It is intended that CFC rules will be introduced in Finance Bill 2018, which will come into effect for accounting periods beginning on or after 1 January 2019. Under these CFC rules, undistributed income arising to a non-Irish resident subsidiary from non-genuine arrangements put in place for the essential purpose of obtaining a tax advantage will be regarded as CFC income of the Irish parent company.
Exit taxation	On or before 1 January 2020	Legislation to be introduced in Finance Bill 2018 or Finance Bill 2019 to take effect no later than 1 January 2020	Ireland currently has a limited exit tax regime. The ATAD exit tax is significantly broader in scope and will impose a tax charge on any unrealised capital gains arising where a company migrates or transfers assets outside of Ireland.
Digital taxation	Not applicable	Ongoing discussions at EU and OECD level	The current focus at EU level is on the European Commission's digital taxation proposals. In this respect, the Irish Government issued reasoned opinions to the European Commission that the EU's digital tax proposals were in breach of the EU's principle of subsidiarity. Ireland's position is that global solutions are needed to address this global issue. Ireland will continue to actively engage on these matters with our fellow Member States, and the related debate ongoing at OECD level, so that we have a system of international taxation that is appropriate to meet the challenges and opportunities that arise from the digitalization of the economy.
Interest Limitation Rules	On or before 1 January 2024 Timing of implementation to be determined following further consultation with the European Commission	Public consultation is planned to commence in the third quarter of 2018	The ATAD interest limitation rule operates by limiting the allowable tax deduction for interest payments in a tax period to 30% of EBITDA (ie earnings before interest, tax, depreciation and amortisation). The general implementation date for the interest limitation rule is 1 January 2019, but a derogation is provided (which Ireland is seeking to avail of) such that member states having national targeted rules which are equally effective at preventing BEPS risk as the ATAD interest limitation ratio may defer implementation until agreement on a minimum standard for BEPS Action 4 is reached at OECD level, but no later than 1 January 2024. Ireland considerers its existing provisions to be at least equally effective as the ATAD interest limitation rules and will continue to engage with the European Commission in this regard.

Hybrid Mismatch rules	1 January 2020	Public consultation is planned to commence in the third quarter of 2018	The hybrid mismatch rules are intended to counteract tax mismatches where the same expenditure item is deductible in more than one jurisdiction, or where expenditure is deductible but the corresponding income is not fully taxable.
Transfer pricing update	To be confirmed	Public consultation planned for early 2019 Legislation is expected to be introduced in Finance Bill 2019 (announced Autumn 2019)	This update is expected to include adoption of the 2017 OECD Transfer Pricing Guidelines into Irish law. It is intended to launch a public consultation in early 2019 and this may include consideration of whether any additional changes to Ireland's tax code are needed to ensure the country's transfer pricing rules are fully effective in ensuring tax is paid where value is created and do not facilitate the transfer of profits to jurisdictions other than where value-creating activity takes place.
Territorial regime	Not applicable	Public consultation planned for early 2019	Ireland currently has a worldwide tax regime (ie a company resident in Ireland is subject to tax on its worldwide income and gains). It is intended that a public consultation will be launched in early 2019, seeking further input on the alternative options of moving to a territorial regime or conducting a substantial review and simplification of the existing rules for the computation of double tax relief.
Multilateral Instrument ("MLI")	Implementation date will be determined following ratification of the MLI	The final legislative steps required to allow Ireland to complete the ratification of the MLI will be taken in Finance Bill 2018	The most important changes to Ireland's treaties under the MLI will be the introduction of strong anti-avoidance rules that should prevent treaty benefits being claimed inappropriately.

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How Eversheds Sutherland can help

At Eversheds Sutherland, we provide innovative, client-focused, local and international tax expertize through our comprehensive international network that gives access to market leading tax experts from all around the world. We are one of the few international full service law firms with this bench strength in tax, allowing us to more efficiently handle the most intricate tax matters and offer a seamless multi-jurisdictional tax advisory service to our domestic and international clients. The firm has a global footprint of over 5,000 people, including 700 Partners and 2,800 lawyers, spanning 66 offices in 32 countries and is active in every major economy and in every area of taxation.

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EDUB.1987 10/17