Irish Budget 2014 delivered 15 October 2013

The Minster for Finance, Michael Noonan announced the Irish Budget for 2014 this week on the 15 October 2013, ahead of its usual December release, it is expected that the Finance Bill will be released by the 1st of January 2014.

We have summarised below the main points of interest of the budget which will be of relevance to our clients. This newsflash is not intended as a full review of the Irish Budget 2014.

Personal Tax

Income tax

- Income Tax, Universal Social Charge and PRSI for various categories of income earners remain unchanged
- Maternity Benefit decreases from €262 to €230 per week from 1 January 2014 on new claims
- Tax relief on health insurance premiums will be capped at €1000 per adult and €500 per child
- Unemployment benefit will be reduced to €100 per week for new applicants aged under 25

Start Your Own Business (SYOB)
An exemption from Income Tax up to a maximum of €40,000 per annum will be provided for a period of two years, to individuals who set up a qualifying, un-incorporated business, having been unemployed for a period of at least 15 months prior to establishing the business.

Top Slicing Relief will no longer be available from 1 January 2014 in respect of all ex-gratia lump sum payments.

Employment Incentive
Removal of the 30% relief on restriction for investments of up to €150,000 per annum by high earners in the Employment and Investment Incentive which invests funds in Irish Small and Medium Enterprises, for three years.

Investment Incentive
Capital allowances and losses on plant and machinery used in manufacturing trades which are claimed by passive investors will be included as a specified relief for the purposes of the high earners' restriction.

Tax Relief on Loans to Acquire an Interest in a Partnership
This relief will be withdrawn on a phased basis over 4 years. Relief will not be allowed for new loans taken out from 15 October 2013. Existing claimants will retain the relief, on a reducing rate basis until 1 January 2017.

Film Relief
Extends the definition of 'eligible individual' to include non EU talent, in conjunction with the introduction of a withholding tax, this change is Subject to EU State Aid approval and a commencement order.

Its aim is to attract major film productions and high-end television shows to Ireland by improving Ireland's attractiveness to international movie stars. These types of productions are job intensive and can often give a knock-on boost to the tourism sector.

Tax on Savings

Deposit Interest Retention Tax
The rate of retention tax that applies to deposit interest is being increased to **41%** whether payments are made annually or more frequently than annually (previously 33%) or are made less frequently than annually (previously 36%).

Exit Taxes on Life Assurance Policies and Investment Funds
The rate of exit tax that applies to life assurance policies and investment funds, is being increased to **41%** whether payments are made annually or more frequently (previously 33%) or are made less frequently than annually (previously 36%).

The increased rates will apply to payments, including deemed payments, made on or after 1 January 2014.

Corporation Tax

Corporation Tax Rate
Ireland remains committed to our competitive 12.5% tax rate on active trading income including worldwide branch and dividend income of Irish resident companies

R&D Tax Credit
The Research and Development ('R&D') Tax Credit regime has been reviewed in 2013.
Base Year
Finance Act 2012 provided that the first €100,000 of qualifying R&D expenditure would benefit from the tax credit without reference to the 2003 base year and Finance Act 2013 increased this amount to €200,000. The amount of expenditure so allowed is now being increased to €300,000.
Outsourcing
The amount of expenditure on R&D outsourced to third parties which is allowed to qualify for the credit is limited to 10% of the total amount of expenditure on R&D qualifying for the credit in a given year. This limit is being increased from 10% to 15%
Key Employee
Since 2012, a company with an entitlement to the R&D Tax Credit can surrender a portion of the credit to employees who meet the definition of a 'key employee'. Subject to certain conditions, the employee can use the benefit of the tax credit to reduce their own income tax liability. Other amendments are being made to this element of the scheme to remove some barriers to uptake.

REITs (Real Estate Investment Trusts)
Real Estate Investment Trusts (REITs) are to be included in the Immigrant Investor Programme.

Following the successful launch of the REIT product in Ireland it has been agreed with the Department of Justice to propose the inclusion of REITs as an investment option in the Immigrant Investor Programme to encourage investment in REITs.

REITs are listed companies, used to hold rental property, which provide a return for investors similar to that of direct investment in property. Qualifying income and gains of a REIT will be exempt from corporation tax at the level of the REIT company. Instead, the REIT is required to distribute profits annually, for taxation at investor level.

VAT

Standard rate of VAT will remain at **23%**

Retention of the 9% reduced VAT rate
The 9% reduced VAT rate, which was introduced in 2011 as part of the Government Jobs Initiative for tourism related services, was due to revert to 13.5% on 31 December 2013 but the 9% VAT rate is being retained.

Increase in VAT Cash Accounting Threshold
The annual VAT cash receipts basis threshold for small to medium businesses is being increased from €1.25 million to €2 million with effect from 1 May 2014. This change will assist businesses in the areas of cash-flow and administration.

Increase in the Farmer's Flat-Rate Addition from 4.8% to 5%
The farmer's flat-rate addition will be increased from 4.8% to 5% with effect from 1 January 2014. The flat-rate scheme compensates unregistered farmers for VAT incurred on their farming inputs.

VAT Anti-Fraud Measures

(i) Disallowance of input VAT – Businesses which have not paid for supplies (in full or part) within a six month period will be required to repay the VAT claimed on those supplies.

(ii) Quick reaction mechanism – Allows Revenue to apply an emergency and temporary reverse-charge measure to certain goods or services to address sudden and massive VAT fraud.

(iii) Requirement to keep specific records – Provision is being made to allow Revenue issue a notice requiring businesses to procure specific information in circumstances where Revenue has reasonable grounds for believing that the records specified might assist in identifying VAT fraud.

The aim is to protect compliant business from unfair competition by tackling the shadow economy and to assist small businesses in the area of cash flow by encouraging prompt payments.

Stamp Duty

Exemption for transfers of shares listed on Enterprise Securities Market of Irish Stock Exchange
The Enterprise Securities Market (ESM) is the Irish Stock Exchange's market for growth companies. It has been specifically designed to meet the funding needs of companies at earlier stages in their development. Transfers of such shares will be exempt from Stamp Duty on share transfers (1% on other shares). This section is subject to a commencement order.

Capital Gains Tax

Property purchase incentive
The relief from CGT (in respect of the first 7 years of ownership) for properties purchased between 7 December 2011 and 31 December 2013 introduced in Budget and Finance Act 2012 is being extended by one year to include properties bought to the end of 2014. Where property purchased in this period is held for seven years the gains accrued in that period will not attract CGT.

CGT entrepreneurial relief
A new CGT incentive is being introduced to encourage entrepreneurs (in particular "serial" entrepreneurs) to invest and re-invest in assets used in new productive trading activities.
The measure will apply where an individual, who has paid capital gains tax on the disposal of assets, makes investments in a new business in the period 1 January 2014 to 31 December 2018 and subsequently disposes of this investment no earlier than three years after the date of investment. The CGT payable on the disposal of this new investment will be reduced by the lower of (i) the CGT paid by the individual on a previous disposal of assets in the period from 1 January 2010 and (ii) 50% of the CGT due on the disposal of the new investment. Commencement of this measure is subject to receipt of EU State Aid approval.

CGT Retirement Relief
CGT retirement relief is being further extended to disposals of leased land in circumstances where, among other conditions, the land is leased over the long-term (a minimum lease of 5 years) and the subsequent disposal is to a person other than a child of the individual disposing of the farmland. The purpose of the measure is to encourage older farmers who have no children to whom to transfer their farm to lease out their farmland over the long term to younger farmers.

Ireland's Tax Policy

The Appeal System for Tax Matters
This change is to reform the role, functions and structure of the Office of the Appeal Commissioners, who hear appeals against assessments, decisions and determinations of the Revenue Commissioners on a variety of taxes, and of the tax appeals system. The aim is to ensure an enhanced and cost effective appeal mechanism for tax cases, providing transparency and increased certainty for the taxpayers.

The Minister of State also announced that:

"The reform proposals are intended to provide additional rights for stakeholders, including taxpayers, professional advisers and the Revenue Commissioners. I am cognisant, however, that constructive comment from those who currently engage with the Appeal Commissioners would be beneficial. To ensure that all of those affected might have an input into the eventual policy decision in this matter, I have decided to engage in a short and focused public consultation process."

The public consultation will be open for submissions from 16 October 2013, and will close on 16 January 2014.

Ireland's International Tax Policy

Ireland's International Tax Charter

Ireland has published an International Tax Charter to set out the principles and strategic objectives that guide Ireland's approach to international corporate tax issues.

<table>
<tr><td colspan="2">Ireland's International Tax Charter
Ireland is committed to maintaining an open, transparent, stable, and competitive corporate tax regime.
We achieve this by:
- Maintaining a rate of 12.5% on active trading income and 25% on passive non-trading income for all domestic and international businesses
- Considering any proposed changes to our tax legislation in terms of their impact on sustainable jobs and economic growth</td></tr>
<tr><td>Ireland is committed to full exchange of tax information with our tax treaty partners
We achieve this by:
• Responding to requests for information in an efficient manner
• Providing information in as comprehensive a manner as possible taking account of the nature of the request
• Complying fully with our responsibilities and obligations set out in tax treaties and other bilateral and multilateral agreements</td><td>Ireland is committed to global automatic exchange of tax information, in line with existing and emerging EU and OECD rules
We promote this by:
• Timely transposition of relevant EU legislation into Irish law
• Full participation in OECD developments, making appropriate provision in Irish law as necessary
• Promoting the use of automatic exchange of information with tax treaty partners</td></tr>
<tr><td>Ireland is committed to actively contribute to the OECD and EU efforts to tackle harmful tax competition
We achieve this by:
• Active participation in the EU's Code of Conduct and the OECD's Forum on Harmful Tax Practices
• Rejecting introduction of measures in national legislation which could constitute harmful tax competition
• Eliminating any measure in national legislation in the event that it were found to be harmful</td><td>Ireland is committed to engage constructively and respectfully with developing countries in relation to tax matters including by offering assistance wherever possible
We achieve this by:
• Supporting international efforts to build developing country capacity to benefit from enhanced global tax transparency.
• Promoting the extension of Country-by-Country Reporting to areas beyond the "extractive" sector and greater international reporting to competent</td></tr>
</table>

• Active participation in the OECD Base Erosion and Profit Shifting project	authorities • Offering financial support to regional initiatives to strengthen tax administrations in Africa. • Strengthening the Public Financial Management systems of developing countries

Stateless companies and tax evasion

As part of Ireland's International tax reform agenda countering tax fraud and aggressive tax planning, Ireland will seek to change the residency laws applying to so called "Stateless" companies which are not tax resident in any state. These changes are to be effective from the 1st January 2015 and details are yet to be released.

Under current Irish tax law, Irish registered companies, incorporated in Ireland, which are managed and controlled from other jurisdictions, are not tax resident here. Such companies, resident here but controlled and managed from offshore locations such as Bermuda and the Cayman Islands, form part of the international tax structures of major multinationals such as Google and Microsoft. Although they may pay low corporation tax in Ireland, they are not "stateless" in terms of tax residency and are outside the scope of the measures proposed by Mr Noonan according to a spokesman for Mr Noonan's Department of Finance.

Good Governance and Transparency

Ireland has a statute-based 12.5% rate applied to a broad base, which includes the worldwide foreign branch income and foreign dividend income of resident companies. All companies operating in Ireland are fully chargeable to corporation tax at the 12.5% rate on the trading profits earned from their Irish operations.

A statute-based 25% rate of corporate tax applies to investment / non-trading income to guard against 'brass-plate' operations with low substance and to reinforce the role of Ireland's corporation tax regime in fostering active, substantial, trading operations here

Base Erosion and Profit Shifting "BEPS" project

Tax planning by companies often relies to a great extent on mismatches between the domestic rules of different countries. It is clear that these issues cannot be addressed at national level alone - a co-ordinated international response is required. This is now being addressed in the OECD's 'Base Erosion and Profit Shifting' project, in which Ireland is taking an active part.

The purpose of the project is to better align the right to tax with real economic activity. While Ireland already does this whereby profits charged in Ireland reflect substantive operations here, Ireland is fully supportive of solutions that would extend the alignment of tax and real economic activity internationally.

Ireland is committed to working with OECD partners to address aggressive international tax planning.

EU Code of Conduct Group examining harmful tax practices in the EU

Ireland's participation in the EU and OECD's efforts to counter harmful tax practices is reflected in the following agreements:

1. A mandate was adopted to enable the EU Commission to negotiate with Switzerland, Andorra, Liechtenstein, Monaco and San Marino on a revision of the bilateral savings tax agreements. The existing agreements need to be updated.

2. Agreement by ECOFIN (Council of Economics and Finance Ministers) on comprehensive Council Conclusions on tackling aggressive tax planning, tax fraud and tax evasion.

3. Agreement was reached on a VAT Anti-fraud package. This involves two Directives (Quick Reaction Mechanism and Reverse Charge Mechanism) and commitments in relation to the improvement of the VAT system. This agreement will significantly enhance Member States' ability to tackle very serious VAT fraud.

4. Agreement was reached on the Fiscalis 2020 Programme. This administrative cooperation programme is an important tool for Member States revenue authorities in the fight against tax fraud and evasion.

5. Agreement was achieved by Ministers to enhance the current level of automatic exchange of information at EU and international level. This political commitment resulted in a revised proposal from the EU Commission published in June for an amendment to the Administrative Cooperation Directive.

Extend Ireland's exchange of information Network with International partners by ratifying three new international tax agreements

These are the double taxation agreement with Ukraine, and tax information exchange agreements with Montserrat and Dominica; which provide for information exchange on request between the Revenue Commissioners and the tax authorities of the other country, further broadening Ireland's comprehensive network of information exchange.