UPDATE

Irish Budget 2021: the Impact on Irish and International Business

Introduction

On 13 October 2020, the Irish Minister for Finance delivered the Irish Budget 2021. The stated objective of the Budget is to address the twin challenges of COVID-19 and Brexit. The total fiscal package announced of €17.75 billion is the largest ever in the history of Ireland.

This summary highlights the more significant measures for our Irish and international clients. The tax measures are targeted at the domestic economy primarily and are intended to increase investment in Irish companies and alleviate the impact of COVID-19 disruption.

For international investors, the Minister restated the stability of the Irish tax regime and in particular the 12.5% corporation tax rate. He also provided important clarification on the implementation of the interest limitation rules under the EU Anti-Tax Avoidance Directive.

Investment and Entrepreneurs

The Minister announced that the Department of Finance will initiate an assessment of how the Employment and Investment Incentive ("EII") Scheme can be enhanced. The assessment will commence in Q4 2020 and will review how the scheme can provide improved support for start-ups, attract capital from a broader range of investors and include energy-efficient projects. The opportunity to better utilise the EII Scheme to promote the use of domestic Irish risk capital, in tandem with international investors remains very attractive, particularly in context of the challenges faced by businesses as a consequence of COVID-19. EII funds are currently restricted to being established under an outdated form of fund vehicle. Calls have been made for the EII Scheme to be accessible to the type of modern, regulated partnership structures which investors, both domestic and international, are more familiar with. The Maples Group has been involved in this initiative since its commencement and will continue to monitor the ongoing process.

The Department of Finance will also coordinate with a group comprised of representatives including the Ireland Strategic Investment Fund ("ISIF") and the European Investment Bank. This group will report on proposals to leverage European capital and establish an equity fund to invest in domestic, high innovation enterprises. The Government will provide an initial €30 million in funding through ISIF to support the scheme and leverage matching funding for early stage seed and growth capital.

Despite speculation prior to the Budget announcement, Irish capital gains tax rates have not been altered. However, there has been a small amendment to Capital Gains Tax Entrepreneur Relief which provides for a 10% rate of tax on the first €1 million of gains on disposals of qualifying assets. This amendment allows an entrepreneur who has held at least 5% of the ordinary shares in a qualifying company for a continuous period of any three years to qualify for relief. Previously, a person had to own at least 5% for a continuous period of three years in the five years immediately prior to the disposal. This measure will facilitate founders who wish to introduce additional capital, rather than sell as they can suffer additional dilution to their shareholding without losing the relief.

Corporation Tax

There were a small number of changes with regard to corporation tax. The Minister highlighted the ongoing work with the OECD BEPS Framework to address the tax challenges of digitalisation. The Minister recognised that such changes present challenges for Ireland through a possible reduction in the level of profits taxable within the jurisdiction. However, the Minister recognised the desire to ensure that Ireland's tax regime for intellectual property is fully consistent with international best practice.

The Irish Knowledge Development Box relief will be extended for a further two years until the end of December 2022. The Knowledge Development Box is an OECD-compliant intellectual property regime that supports businesses in retaining and exploiting assets that have resulted from R&D activities in Ireland. This regime is significant for Ireland's position as a centre for intellectual property development and management, and this extension provides greater certainty for businesses, in the more challenging environment presented by the impact of COVID-19, over the next number of years. The Corporate Tax Strategy Paper recently published by the Government indicated that a two year extension would facilitate a more detailed review with respect to the cost and claimants of the relief.

The Minister also announced the development of a tax credit for the digital gaming sector, with a view to supporting qualifying activity from January 2022 onwards. Ireland is already a hub for this growing and dynamic industry. The move has been generally welcomed by those in the creative and digital arts industry in Ireland.

An amendment has been introduced to the rules applicable to disposals of intangible assets acquired from 14 October 2020 to facilitate a clawback of capital allowances on disposal. Prior to this amendment, a clawback of capital allowances does not arise if the intangible asset is held for more than five years.

As part of Ireland's commitment to international tax reform, the Minister has noted that Ireland will continue to transpose and enact provisions giving effect to the EU Anti-Tax Avoidance Directive (ATAD). Importantly, and in line with previous guidance, the Minister indicated that next year Ireland will make progress on the introduction of interest limitation rules, and this is expected to become law on 1 January 2022. These are expected to be the subject of advance consultation with industry and we will be involved at all levels on these important series of changes.

Real Estate

No increase in Irish stamp duty or to the taxation of Irish real estate funds was announced. However, the Stamp Duty Residential Development Refund Scheme is being extended. This scheme provides for a refund of a portion of the stamp duty paid on the acquisition of non-residential land where that land is subsequently developed for residential purposes. It had been due to expire on 31 December 2021. However, it will now be extended to operations commenced by 31 December 2022, and the time allowed between commencement and completion of a qualifying project is being extended by six months to two-and-a-half years. The last possible eligible completion date will be 30 June 2025.

The Help to Buy Scheme July Stimulus measures have also been extended to the end of 2021. The Scheme gives first time buyers a tax rebate of 10% of the value of the property up to a maximum of €30,000.

The accelerated capital allowances scheme for energy efficient equipment has been extended for a further three years. In addition, the energy efficiency criteria for the scheme will be re-assessed over the coming year to ensure the categories of equipment availing of the scheme remain appropriate and reflect the most up-to-date efficiency standards.

VAT

A reduced VAT rate for the hospitality and tourism sector, from 13.5% to 9%, will be reintroduced with effect from 1 November 2020 until 31 December 2021.

COVID-19 Related Measures

To alleviate the cash flow pressures on self-employed taxpayers to pay the balance of their 2019 tax liabilities and preliminary tax for 2020, the tax debt warehousing provisions will be extended to such tax. This will allow taxpayers to defer payment for a period of a year with no interest applying. The rate will be 3% and no surcharge will be applied.

The COVID-19 Restrictions Support Scheme ("CRSS") was also announced. This is a novel scheme which involves Revenue providing funds to businesses whose trade has been very significantly impacted or temporarily closed as a result of the COVID-19 restrictions. In order to qualify, the business turnover must be 20% or less than the turnover for the corresponding period in 2019. Payments will be calculated on the basis of 10% of the first €1 million in turnover and 5% thereafter, based on average VAT exclusive turnover for 2019. It will be subject to a maximum weekly payment of €5,000. The scheme will generally operate when "Level 3" restrictions or higher is in place and will cease when restrictions are lifted. This currently includes the accommodation, food and the arts, recreation and entertainment sectors. The scheme will operate on a self-assessment basis and qualification will require a business to demonstrate that their turnover has been severely impacted.

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