UPDATE

Irish Budget 2023 – Implications for International and Irish Business

Introduction

The Irish Minister for Finance presented the Budget 2023 (the "Budget") on 27 September 2022. This is the annual statement on the proposed Irish government tax measures and budgetary expenditure.

Similar to other European countries, the Budget takes place in the context of an inflationary environment. Ireland is well placed economically due to the strength of its employment and corporate tax base. The Minister announced several reviews and initiatives to preserve and enhance Ireland's reputation as a stable and attractive jurisdiction for international business.

In this briefing, we examine the tax measures contained in the Budget and their implications for international and domestic business.

Investment Funds and Financial Services

There will be a review of the tax treatment of the institutional real estate sector. The review will focus on Irish real estate investment trusts ("REITs") and authorized Irish real estate funds ("IREFs"). IREFs have been the subject of several changes since 2016. The Minister noted that institutional investment has played a key role in the provision of housing in recent years. The review is likely to focus on the sustainable tax yield from REITs and IREFs as the Irish property sector continues to mature and develop.

There will also be a review of 'section 110 companies'. These are companies which qualify for specific treatment under the Irish tax code (section 110 of the Taxes Consolidation Act). They are typically used for finance and capital markets transactions. The detail of the review has not been published yet. There is widespread recognition of the value generated by Ireland's structured finance industry in the context of the European CLO and RMBS markets. Industry groups will be seeking to ensure any reforms improve and modernise the regime in a positive manner.

In addition, the Minister announced a working group to consider the taxation of funds, life assurance policies and other investment products. There is speculation that this review will be limited to the treatment of Irish investors in such products.

The Maples Group will be involved in all of these reviews and will be engaged with our clients, industry groups and the relevant authorities.

The Minister announced that the Irish bank levy has been extended for a further year. However, the Minister will review it following the publication of the report of the Retail Banking Review in November 2022.

Corporation Tax and International Business

The Minister acknowledged the contribution the international corporate sector makes to the Irish economy, both in terms of tax payments and employment. A number of announcements indicate the Government's desire to continue to preserve the stability of the sector.

The Minister noted Ireland's commitment to OECD two-pillar solution to address the tax challenges arising from the digitalisation of the economy. Ireland has been one of the signatories to the OECD / G20 Inclusive Framework agreement to reform the international tax framework in October 2021. Ireland will remain engaged on these initiatives in the EU and internationally as the discussions continue.

In a move welcomed by the Irish technology and start-up section, the existing Research and Development ("R&D") tax credit will be aligned with the definition of a "qualified refundable tax credit" for Pillar 2 purposes. This will ensure that the R&D tax credit regime is not treated as reducing corporation tax for the purpose of the minimum effective tax rate.

Similarly, changes were announced to the hugely important Knowledge Development Box (KDB) which will be extended to 1 January 2027. There will be an increase to the effective rate from 6.25% to 10%. This is due to take effect, subject to a ministerial order, once agreement is reached at the OECD / G20 level on the implementation of the Pillar 2 rules.

The Minister noted that, in the context of international tax reform, serious consideration was being given to moving towards a territorial tax system. This could lead to a reduction in the administrative burden for Irish companies with international operations and bring Ireland's corporation tax code in line with other OECD countries and EU Member States.

The Minister indicated that Ireland aims to introduce a tax on "windfall" profits of energy companies as part of an EU-wide initiative. However, if this is not possible, the Minister indicated Ireland will introduce its own measures. This position is likely to evolve as the EU discussions progress.

Income Tax and Employment

The Special Assignee Relief Programme, a tax benefit for employees moving to Ireland, is being extended until 2025. However, the qualifying income threshold is increased to €100,000. Only income above this threshold will benefit from the scheme. Similarly, the Foreign Earnings Deduction, which provides relief from income tax for employees tax-resident in Ireland who temporarily travel out of Ireland to carry out duties of employment in certain qualifying countries, will be extended to the end of 2025.

In a series of measures designed to address increases in the cost of living, the Minister announced a change to the income bands to which the higher rate of income tax (40%) applies. It will now apply to income above €40,000 for a single person. This is an increase of €3200 and amounts to a tax cut of €640 for individuals. The Minister announced a small increase (€75) to the main personal income tax credits. There will also be a small adjustment to the Universal Social Charge bands.

In a very welcome move, the Key Employee Engagement Programme ("KEEP"), an option scheme aimed at small and medium enterprises, will be extended until the end of 2025. A number of enhancements to the regime were announced including measures to facilitate the buy-back of KEEP shares by the issuing company and increasing the company limit from €3,000,000 to €6,000,000. A number of changes which concern group structures and qualifying employees which were initially legislated for in 2019 will now also be commenced following European Commission approval.

The Minister announced the commencement of a review on the introduction of an intermediate or third rate of income tax (possibly at 30%). This analysis will conclude by the summer of 2023 with January 2024 being the earliest possible introduction date. The government has also indicated that a wider review of income tax will take place and it will aim to set out a medium-term road map for personal tax reform.

The Small Benefit Exemption, which allows an employer to provide limited non-cash benefits or rewards to their workers without the payment of income tax, PRSI and USC is increased from €500 to €1,000 per annum.

Real Estate

A Vacant Homes Tax will be introduced to increase the supply of homes for rent or purchase to meet demand. The tax will apply to residential properties which are occupied for less than 30 days in a 12-month period. There will be a number of exemptions for certain forms of vacancy. The tax will operate on a self-assessment basis and will be administered by the Revenue Commissioners. The tax will be charged at a rate equal to three times the property's existing basic local property tax rate ("LPT"). If a property is subject to €1,000 per annum LPT, the rate of the Vacant Homes Tax will be €3,000 per annum.

Budget 2022 announced the introduction of a Residential Zoned Land Tax. This has yet to commence however the Minister announced that local authorities will publish maps of zoned land within the scope of the tax. A person will have the opportunity to apply to their local authority to have the zoning status of their land amended as part of a variation process.

The Residential Development Stamp Duty Refund Scheme will be extended to the end of 2025. This is a scheme whereby a portion of the stamp duty paid on the acquisition of non-residential land is refunded where that land is subsequently developed for residential purposes. The net minimum stamp duty payable after a refund is 2%, whereas the normal rate for non-residential property is 7.5%.

Those involved in construction will note that a new Concrete Products Levy is being introduced on concrete blocks, pouring concrete and certain other concrete products. This will apply from 3 April 2023 at a rate of 10%.

The Help-to-Buy scheme in its current enhanced form has been extended for a further two years until 21 December 2024.

In a widely flagged move, the Minister announced a new €500 annual tax credit for those who are paying rent on their principal private residence.

Climate Change and Energy

The Carbon Tax will increase. This results in an increase in the price for petrol and diesel at petrol pumps, however, this will be offset by a reduction in other levies on such fuels, such that no overall price increase will ensue for consumers.

A Temporary Business Energy Support Scheme is being introduced to assist businesses with their energy cost over the winter months. It applies only to trading companies (taxable under Schedule D Case I), which are tax compliant and which have experienced a significant increase in their natural gas and electricity costs. A monthly cap of €10,000 per trade will apply and an overall cap will apply on the total amount which a business can claim.

VAT

The 9% VAT rate which is currently in place to support the tourism and hospitality sectors will continue until 28 February 2023. The rate of VAT on newspapers will be reduced to zero from 1 January 2023.

Further Information

For further information, please reach out to your usual Maples Group contact or any of the persons listed below.

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