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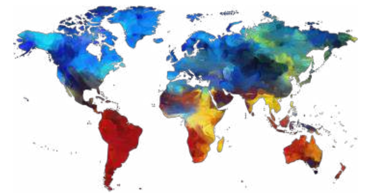
Comparative Guide
Corporate Tax - Ireland



1. Basic Framework

1.1 Is there a single regime or is the regime multi-level (eg, federal, state, city)?

Ireland has a single corporate tax code, operated and maintained by the Irish Revenue Commissioners (known as 'the Revenue'), which applies on a national level equally to all companies.

One exception to this is the rate charge. This is payable by owners of property to their local council and is based on a formula which depends on the annual rental value of the property and the funds required to meet the council's budgeted expenditure.

1.2 What taxes (and rates) apply to corporate entities which are tax resident in your jurisdiction?

Ireland has three rates of corporation tax: a 12.5% rate, a 25% rate and a 33% rate.

The 12.5% rate applies to the trading profits of a company which carries on a trade in Ireland. There is no precise definition of what constitutes a 'trade' for this purpose. As a general rule, it requires people on the ground in Ireland carrying out real economic activity on a regular or habitual basis, and normally with a view to realising a profit.

The corporation tax rate of 25% applies in respect of passive income, profits arising from a possession outside of Ireland (ie, foreign trade) and profits of certain trades such as dealing in or developing land.

Irish-resident companies are liable to corporation tax on 'chargeable gains' arising on the worldwide disposal of assets; the gain is taxable at the capital gains tax rate of 33%.

1.3 Is taxation based on revenue, profits, specific trade income, deemed profits or some other tax base?

A company's profits for tax purposes will follow its accounts, provided that they are prepared in accordance with generally accepted accounting principles, subject to specific adjustments required by Irish tax legislation.

Some of the main adjustments required by legislation include revenue expenses which are not incurred wholly and exclusively for the purposes of the trade, which are not deductible from the company's taxable profits.

While accounting-based depreciation of assets is not generally deductible, tax-based depreciation can be taken into account for 'plant and machinery' and 'industrial buildings', subject to meeting certain conditions.

Corporate Tax Comparative Guide

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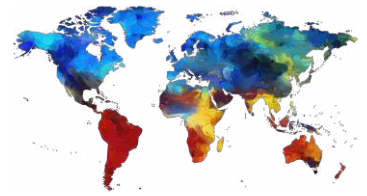


1.4 Is there a different treatment based on the nature of the taxable income (eg, gains on assets as opposed to trading income or dividend income)?

Yes, different treatment applies depending on the nature of the taxable income, as follows:

- A rate of 12.5% applies to the trading profits of a company which carries on a trade in Ireland.
- A rate of 25% applies in respect of passive income, profits arising from certain possessions outside of Ireland (ie, foreign trade) and profits of certain trades such as dealing in or developing land.
- A rate of 33% applies to Irish-resident companies on the worldwide disposal of assets and to non-resident companies on disposals of 'specified assets' (for further detail please see question 4.3).

While dividends received by Irish companies from abroad are subject to tax at the rates set out above, dividends received from other Irish companies are not subject to tax, as they are considered to be franked investment income.

1.5 Is the regime a worldwide or territorial regime, or a mixture?

Corporation tax is charged on the total or worldwide profits of Irish resident companies. Profits constitute income from all sources, with the addition of chargeable gains.

Companies that are not resident in Ireland but are carrying on a trade in Ireland through a branch or agency are subject to corporation tax in respect of the trading profits of the branch or agency, in addition to chargeable gains from the disposal of 'specified assets' (outlined in further detail in question 4.3) and Irish-based assets used for the purpose of the Irish branch/agency.

1.6 Can losses be utilised and/or carried forward for tax purposes, and must these all be intra-jurisdiction (ie, foreign losses cannot be utilised domestically and vice versa)?

If a company sustains trading losses in an accounting period, they can be offset against other trading income in the same accounting period or the immediately preceding accounting period.

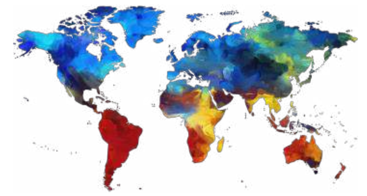
Any unused trading losses may be offset against non-trading income, including chargeable gains, on a value basis.

The unused trading losses can be carried forward indefinitely against trading income in succeeding accounting periods; however, the losses must be utilised at the first available opportunity.

Trading losses incurred by a foreign branch of an Irish resident company can be included in the company's tax computation in the same way as domestic trading losses, as an Irish company is chargeable to tax on its worldwide income.

Group relief is also available for surrender between members of the same group. A group for these purposes broadly encompasses 75% subsidiaries and can include companies resident in an EU state or a jurisdiction with which Ireland has concluded a double tax agreement. However, the ability for a foreign subsidiary to surrender group relief to an Irish company is subject to strict conditions, such as the following:

- The surrendering state is an EU/European Economic Area member state;
- The loss is deemed to be a 'trapped loss' (ie, it is not available for use in any prior or subsequent accounting period by the overseas subsidiary); and
- The loss could be available for surrender by means of group relief if the company were resident in Ireland.



1.7 Is there a concept of beneficial ownership of taxable income or is it only the named or legal owner of the income that is taxed?

Irish law has the same concepts of legal and equitable ownership of property as English law. This means, for example, that the beneficiary of a bare trust will be the beneficial owner of the income from that trust.

Apart from the particular case of bare trusts and nominees, the person legally entitled to income should also be regarded as the beneficial owner of that income, regardless of any other legal arrangements the legal owner has entered into or any use to which it puts the income it receives. In this regard, Irish law has not adopted the 'international fiscal meaning' of beneficial ownership contained in the English Court of Appeal decision in *Indofood International Finance Ltd v JP Morgan Chase Bank NA London Branch* [2006] STC 1195. In that case the court considered that for a company to meet the typical beneficial ownership condition of a double tax treaty, it must have 'the full privilege to directly benefit from the income'. This concept is not currently a feature of Irish law.

1.8 Do the rates change depending on the income or balance-sheet size of the taxpayer?

No, a corporate taxpayer will be subject to the rates set out in question 1 irrespective of income or balance-sheet size.

1.9 Are the entities other than companies subject to corporate taxes (eg, partnerships or trusts)?

A partnership is not a separate legal entity distinct from its members and therefore the partnership itself does not pay taxes. However, the partnership is treated as a separate entity for the purposes of computing the partnership's taxable profits, capital allowances and charges. Once calculated, they are apportioned among the partners in accordance with the partnership agreement. If no such partnership agreement exists, profits and losses are apportioned among the partners equally.

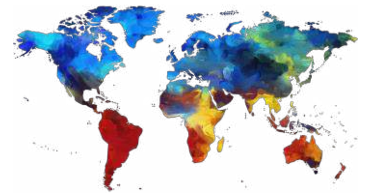
Similarly, a trust is itself not subject to taxes, but the trustees are treated as a 'body of persons' for tax purposes and are therefore liable to account for tax on trust profits, file tax returns, pay preliminary tax and so on.

2. Special regimes

2.1 What special regimes exist (eg, for fund entities, enterprise zones, free trade zones, investment in particular sectors such as oil and gas or other natural resources, shipping, insurance, securitisation, real estate or intellectual property)?

There are a number of special regimes and incentives in Ireland, including the following.

- Securitisation: Securitisation companies are Irish resident special purpose companies that hold and/or manage 'qualifying assets' (which include financial assets). They are used in a wide variety of financial transactions, such as securitisations, repackagings, bond issues, investment platforms and reinsurance vehicles. The securitisation company is subject to tax, so will typically be entitled to the benefit of Irish double tax treaties. Its taxable profits can be reduced by debt funding, including the issue of profit participating securities.
- Regulated funds: Ireland has a special regime for regulated investment fund which ensures that the fund itself is exempt from all Irish tax on its income and gains. Tax typically arises for the investors only to the extent that they are Irish resident individuals. Various domestic withholding tax and stamp duty exemptions are available for Irish investment funds.
- Research and development credit: See question 3.2.
- Capital allowances for intellectual property: See question 2.5.



The Irish tax code also contains a number of specific reliefs and incentives for companies involved in shipping, financial services, property development, forestry, farming and mining businesses.

2.2 Is relief available for corporate reorganisations or intra-group transfers of companies and other assets? Please include details of any participation regime.

Where shares are transferred as part of a *bona fide* scheme of reconstruction or amalgamation and certain additional conditions are met, no capital gains tax arises for the disposing shareholder and the acquiring shareholder is deemed to have received those shares on the same date and at the same cost as the old shares. The relief will apply only where the company acquiring the shares has, or as a result of the transaction will have, control of the target or where the share-for-share exchange results from a general offer made to the members of the target.

Transfers of chargeable assets within a capital gains tax group can be made on a tax-neutral basis. A group for this purpose comprises 75% effective subsidiaries of a principal company and can include companies resident in an EU state or a jurisdiction with which Ireland has concluded a double tax agreement.

With regard to stamp duty – a tax on certain instruments (primarily written documents) – subject to certain conditions, group relief may be available and reconstruction or amalgamation relief from stamp duty may apply on a share-for-share exchange that is a *bona fide* reconstruction or amalgamation.

Ireland has a participation exemption for capital gains. Where an Irish company disposes of shares in a company resident in an EU state or a jurisdiction with which Ireland has concluded a double tax agreement in which it has held at least 5% of the ordinary shares for more than 12 months, any gain should be exempt from capital gains tax. The subsidiary must carry on a trade, or else the activities of the disposing company and all of its 5% subsidiaries taken together must amount to trading activities.

2.3 Can a taxpayer elect for alternative taxation regimes (eg, different ways to calculate the taxable base, such as revenue-based versus profits based or cash basis versus accounts basis)?

As outlined in question 1.3, a company's profits for tax purposes will normally follow its accounts.

It is possible, however, to elect for the tonnage tax regime whereby, as an alternative to charging corporation tax on certain profits of a qualifying shipping company, a tax charge is levied each year instead on the tonnage of the ships operated by the company.

2.4 What are the rules for taxing corporates with different functional or reporting currency from that of the jurisdiction in which they are a resident?

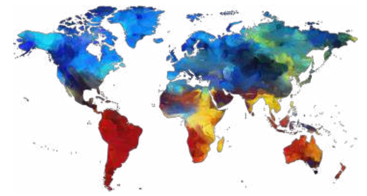
Different rules may apply depending on whether a transaction or a balance is considered to be trading or non-trading.

In practice, when preparing corporate tax returns, the Central Bank of Ireland's average foreign exchange rate for the period in question can be used to translate the taxable profits for that period.

2.5 How are intangibles taxed?

Companies carrying on a trade in Ireland can claim a tax deduction on capital expenditure incurred on the acquisition or development of certain 'specified intangible assets' for the purposes of their trade.

The allowances will typically follow the accounting write-down, but the company can elect for a fixed write-down period of 15 years (7% per annum and 2% in year 15). The allowances can be offset against income generated from managing, developing or exploiting the intangible assets or income from selling goods or services that derived their value from the intangible assets. Allowances are capped at 80% of the trading income derived from the intangible assets.



Allowances can be claimed where the intangible asset is acquired from another party (including an affiliate, where arm's-length pricing rules apply). In the context of transfers of intangible assets between Irish group companies, allowances can be claimed where an election is made to opt out of certain capital gains tax group relief provisions.

Where the intangible asset is held for more than five years, there is no clawback of the allowances on a disposal (unless the asset is sold to a connected company that wishes to claim allowances). This is an important measure, as traditionally the risk of a future 'recapture' of capital allowances can be problematic for companies with a high spend on capital.

There is an exemption from Irish stamp duty on the transfer of specified intangible assets.

Ireland has also recently established a Knowledge Development Box. This relief applies to income from qualifying patents, computer programs and, for smaller companies, certain other certified intellectual property. The result of the application of this relief is that a company's qualifying profits will be subject to tax at a rate of 6.25%.

2.6 Are corporate-level deductions available for contributions to pensions?

Employers qualify for tax relief when they make pension contributions to approved pension schemes on behalf of their employees. Relief will be granted only for actual payments made to the scheme. Therefore, any accruals for pension contributions will not qualify.

Equally, only the employer's ordinary annual contribution will qualify. Any payment in excess of this amount (referred to as a 'special contribution') will not be allowed in the accounting period in question, but will need to be spread over a number of years. The spread of the special contribution is determined by dividing the special contribution by the normal contribution, subject to a maximum of five years.

2.7 Are taxpayers from different sectors (eg, banking) subject to different or additional taxes or surtaxes?

A surcharge of 20% applies in respect of 'estate and investment' income retained by 'close' companies. In general terms, close companies are companies which are controlled by five people or fewer. A surcharge of 15% will also be applicable in respect of retained professional income in cases of close 'professional' service companies.

Value added tax (VAT) is an EU transaction-based tax that is chargeable on the supply of goods and services in Ireland by a taxable person. The rate of tax is 23%, but certain services, including 'financial services', are VAT exempt (outlined in further detail in question 8.1).

Incorporated businesses operating in certain industries may be subject to additional taxes, such as relevant contracts tax and professional services withholding tax. In addition, incorporated businesses are required:

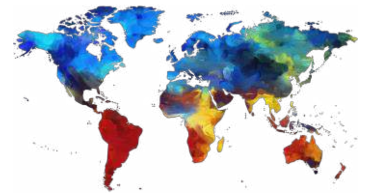
- to operate income tax withholding on payments to employees and directors of the company (pay-as-you-earn income tax);
- to withhold tax at 20% from payments of interest, dividends and certain royalties (unless exempted); and
- to pay social insurance contributions in respect of employees.

2.8 Are there other surtaxes (eg, solidarity surtax, education tax, corporate net wealth tax, remittance tax)?

For corporates, other than the rate charge discussed in question 1.1, there are no surtaxes.

2.9 Are there any deemed deductions against corporate tax for equity?

There are no deemed deductions against corporate tax in Ireland for equity.



3. Investment in capital assets

3.1 How is investment in capital asses treated – does tax treatment follow the accounts (eg, depreciation) or are there specific rules about the write-off for tax purposes of investment in capital asses?

There is a separate set of rules for computing capital gains in Ireland. Those rules are broadly as follows:

- Costs of acquisition and disposal are deducted from disposal proceeds;
- Enhancement expenditure is generally deductible where such expenditure is reflected in the value of the asset; and
- The application of capital losses carried forward may reduce the amount of gain.

The rate of tax imposed upon capital gains is currently 33% and therefore differs from the rate imposed on business profits (12.5% for trading income, 25% for investment income).

Generally, book depreciation is not deductible for Irish tax purposes. Instead, tax depreciation (known as capital allowances) is permitted on a straight-line basis in respect of capital expenditure incurred on assets used by the company. Plant and machinery are depreciated at 12.5%. For certain IP assets and for leased assets with a life of less than eight years, tax depreciation can follow the book depreciation.

3.2 Are there research and development credits or other tax incentives for investment?

Yes, Ireland operates a research and development (R&D) tax credit. This credit is calculated at 25% of qualifying expenditure and is used to reduce a company's corporation tax liability. A company may qualify for the R&D tax credit if the following criteria are satisfied:

- It is within the charge to corporation tax in Ireland;
- It carries out qualifying R&D activities in Ireland or the European Economic Area; and
- The expenditure does not qualify for a tax deduction in another country.

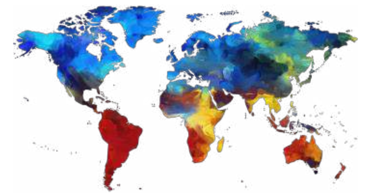
In addition, the company must have engaged in qualifying R&D activities which involve systemic, investigative or experimental activities in the field of science or technology and involve one or more of the following categories: basic research, applied research, experimental development, scientific or technological advancement, and resolution of scientific or technological uncertainty.

Ireland has also established a tax relief known as the Knowledge Development Box. This relief applies to income from qualifying patents, computer programs and, for smaller companies, certain other certified intellectual property. The result of the application of this relief is that a company's qualifying profits will be subject to tax at a rate of 6.25%.

Ireland operates several other investment tax incentives. These include accelerated tax depreciation allowances for energy-efficient equipment and an established tax regime for securitisation companies and investment funds.

3.3 Are inventories subject to special tax or valuation rules?

There are no special tax or valuation rules for inventories. Any method of computing the value of stocks and work in progress which is recognised under generally accepted accounting principles is an acceptable method of valuation, provided that the method is consistently applied and does not conflict with taxing statutes as interpreted by case law.



3.4 Are derivatives subject to any specific tax rules?

The underlying principle is that in arriving at a company's taxable profits, reliance must be placed on the accounting principles adopted in the financial statements. Unrealised gains or losses on derivatives included in the profit and loss account are charged to tax where they are trading in nature.

A credit derivative may also qualify for hedge accounting treatment. If a hedged item is not regarded as a capital item but was issued for trading purposes, any fair value movements on the item should be taxable or deductible, as the case may be.

Where the item hedges a capital asset or liability, the appropriate treatment will generally be to treat it as non-trading (and subject to the higher rate of tax) or subject to capital gains tax depending on the circumstances. In this case profits will be taxed on realisation.

4. Cross-border treatment

4.1 On what basis are non-resident corporate entities subject to tax in your jurisdiction?

Non-Irish tax resident companies are not subject to corporation tax unless they are carrying on a trade through an Irish branch or agency, in which case they will be subject to Irish tax on the following items:

- the trading income arising directly or indirectly through or from the branch;
- income from property or rights used by or held by or for the branch; and
- such gains as, but for the Corporation Tax Acts, would be chargeable to capital gains tax in the case of a company not resident in Ireland (see next paragraph).

Non-Irish tax resident companies are liable for gains arising on the disposal of assets situated in Ireland that are used, held or acquired for business carried on in Ireland through a branch or agency and on certain 'specified assets', including:

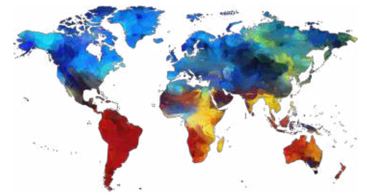
- land and buildings in Ireland;
- minerals and mining rights in Ireland; and
- unquoted shares or securities deriving their value or the greater part of their value directly or indirectly from the above assets.

4.2 What withholding or excise taxes apply to payments by corporate taxpayers to non-residents?

Dividends: Dividend withholding tax (DWT) at the standard income tax rate of 20% applies to dividends and distributions made by Irish tax resident companies.

However, there are a wide range of exemptions from DWT where the dividend or distribution is paid by the tax resident company to certain persons (provided in most cases that certain declarations are completed), including:

- another Irish tax resident company;
- a company resident in an EU state or a jurisdiction with which Ireland has concluded a double tax agreement and which is not controlled by Irish residents;
- a company that is under the control, directly or indirectly, of a person or persons which are resident in an EU state or a jurisdiction with which Ireland has concluded a double tax agreement and are not controlled by persons not so resident;
- a company whose shares are substantially and regularly traded on a recognised stock exchange in an EU state or a jurisdiction with which Ireland has concluded a double tax agreement, or a company which is a 75% subsidiary of such a company or is wholly owned by two or more such companies; and



- a company resident in another EU member state with at least a 5% holding in the Irish paying company (under the EU Parent Subsidiary Directive (90/435/EEC).

Relief under a double tax treaty with Ireland may also be available.

Interest: Payments of 'yearly' interest by an Irish corporation to a non-resident are normally subject to withholding tax at 20%. There are wide exemptions from this requirement, the most notable of which include payments:

- between 'associated companies' under the EU Interest and Royalties Directive;
- by a company in the ordinary course of its trade or business to a company resident in an EU state or a jurisdiction with which Ireland has concluded a double tax agreement (provided that the payments do not relate to an Irish branch or agency of the lender), where that state imposes a tax that generally applies to interest receivable in that state by companies from sources outside that state;
- on quoted Eurobonds; or
- by an Irish 'Section 110 company' to a person resident in an EU state or a jurisdiction with which Ireland has concluded a double tax agreement, other than where it relates to an Irish branch or agency.

Royalties: Royalties are not generally subject to withholding tax, unless paid in respect of an Irish patent.

4.3 Do double or multilateral tax treaties override domestic tax treatments?

Yes, double or multilateral tax treaties alter the tax treatment provided for by the respective laws of Ireland and the other country concerned, insofar as they affect persons that are to be relieved from double taxation. This essentially means that tax treaties override domestic tax treatment.

4.4 In the absence of treaties, is there unilateral relief or credits for foreign taxes?

Yes, Irish tax legislation provides for unilateral credit relief where a parent company which is resident in the state receives a dividend from its subsidiary in respect of which tax has been paid in a country with which Ireland does not have a tax treaty.

There is also unilateral credit relief for interest withholding tax suffered in countries with which Ireland does not have a tax treaty; this credit falls to be taken into account in computing the trading income of the recipient company.

In addition, Ireland operates unilateral credit relief in respect of foreign tax suffered by a branch of an Irish resident company in a jurisdiction with which Ireland does not have a double tax treaty.

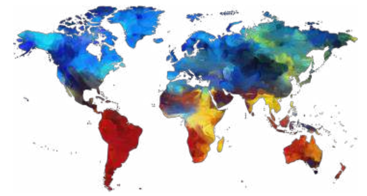
As regards capital gains tax, Ireland allows a unilateral credit for tax paid on foreign capital gains in a country with which Ireland has a tax treaty, where that treaty does not cover taxes on capital gains because it was agreed before the introduction of capital gains tax in Ireland.

Ireland also offers unilateral credit relief for foreign withholding tax on royalty income and leasing income

4.5 Do inbound corporate entities obtain a step-up in asset basis for tax purposes?

The concept of an inbound corporate entity does not really exist under Irish law. Instead, there are two ways in which a non-Irish incorporated company may seek to become subject to taxation in Ireland.

The first option is for the non-Irish incorporated entity to establish itself as Irish tax resident. To do this, the entity will be required to move its central management and control to Ireland. A number of factors will be considered in determining whether a business is centrally managed and controlled, and this determination does not follow a 'bright-line' test. However, a key factor is the location of the meetings of the board of directors and the make-up of such board. If a company becomes subject to Irish tax by virtue of having moved its tax residence to Ireland, it will not obtain a step-up in asset basis for tax purposes. The legal ownership of the assets will not have changed and the Irish tax authorities will



look to the asset basis at acquisition in calculating any tax liability.

Alternatively, a non-Irish incorporated entity may incorporate a new company in Ireland and transfer its assets to this newly incorporated entity. Such an Irish incorporated company will be automatically regarded as tax resident in Ireland, provided that certain conditions are satisfied. In this instance, the legal title to the assets is being transferred from the non-Irish incorporated entity to the Irish incorporated company and this may result in a step-up in asset basis, depending on the structure of the acquisition and in particular whether certain Irish tax reliefs have been availed of in effecting the transfer.

4.6 Are there exit taxes (for disposed-of assets or companies changing residence)?

Ireland is required to comply with rules contained in the EU Anti-Tax Avoidance Directive. In compliance with the directive, Ireland has introduced a new exit tax regime which came into effect from 10 October 2018. This regime applies exit tax at a rate of 12.5% on any unrealised gains arising where a company migrates or transfers assets such that it leaves the scope of Irish taxation. Some exemptions are provided for in the legislation, including where a migrating company continues to carry on a trade in Ireland.

5. Anti-avoidance

5.1 Are there anti-avoidance rules applicable to corporate taxpayers – if so, are these case law (jurisprudence) or statutory, or both?

Ireland has a number of general anti-avoidance rules (GAAR) in legislation. These provisions effectively give the Revenue the power to apply the 'substance over form' principle in an area where the courts have refused to apply it. These provisions are designed to counteract certain transactions which have little or no commercial reality, but are carried out primarily to create an artificial tax deduction or to avoid or reduce a tax charge. They are a hybrid of the non-tax purpose and step transaction doctrines. Different sections will apply depending on the date of the transaction – that is, whether it commenced pre or post 23 October 2014.

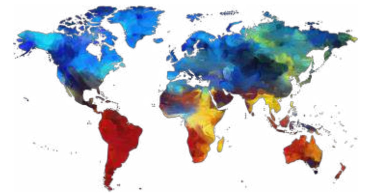
Under these sections, the Revenue can form an opinion that a transaction is a tax avoidance transaction and issue a notice to the taxpayer which withdraws the tax advantage.

Irish legislation also contains specific anti-avoidance provisions which are intended to deny the benefit of a loss, relief or exemption which may otherwise be available when a particular type of transaction or series of transactions is undertaken. The targeted anti-avoidance rules are typically used by the Revenue to tackle more specific or limited types of transactions than those to which the GAAR applies.

Where a person enters into a tax avoidance transaction that gives rise to a tax advantage contrary to general or specific anti-avoidance provisions, that person shall be liable to pay a surcharge equal to 30% (20% for transactions which commenced on or before 23 October 2014) of the amount of the tax advantage. However, no surcharge is payable by a person which has made a valid protective notification. In addition, a taxpayer can avail of a reduced surcharge amount if a 'qualifying avoidance disclosure' is made to the Revenue.

If a taxpayer has entered into a tax avoidance transaction and has claimed the benefit of a tax advantage contrary to the GAAR, there is no time limit on when the Revenue can:

- conduct enquiries as to whether the transaction is a tax avoidance transaction;
- withdraw the tax advantage by, for example, amending an assessment; or
- collect or recover any amount of tax.



5.2 What are the main 'general purpose' anti-avoidance rules or regimes, based on either statute or cases?

Please see question 5.1.

5.3 What are the major anti-avoidance tax rules (eg, controlled foreign companies, transfer pricing (including thin capitalisation), anti-hybrid rules, limitations on losses or interest deductions)?

Ireland introduced controlled foreign companies (CFC) rules from 1 January 2019. Ireland implemented the 'Option B' model of CFC rules as described in the EU Anti-Tax Avoidance Directive – an approach which attributes undistributed income arising from non-genuine arrangements structured for the essential purpose of obtaining a tax advantage. The Irish legislation provides that an arrangement shall be regarded as non-genuine if:

- the CFC would not have owned the assets or undertaken the risks that generated the income if it were not controlled by a company;
- it is that latter company in which the significant people functions relevant to those assets or risks are carried out and are instrumental in generating the controlled company's income; and
- it would be reasonable to consider that the relevant Irish activities were instrumental in generating that income.

Like other EU member states, Ireland is required to implement an interest limitation rule in accordance with the directive. This will limit 'exceeding borrowing costs' in a tax period to 30% of earnings before interest, taxes, depreciation and amortisation. The implementation date is 1 January 2019, but Ireland is seeking to defer this, as permitted by the directive, until 2024 on the basis that existing Irish rules are equally effective. However, the European Union has indicated in a notice dated 7 December 2018 that a more stringent ratio-based approach will be taken, which means it is unclear whether deferral by Ireland will be permitted.

Directive-compliant hybrid mismatch rules must be implemented by Ireland by 1 January 2020, with the exception of anti-reverse hybrid rules, which must be implemented by 1 January 2022.

5.4 Is a ruling process available for specific corporate tax issues or desired domestic or cross-border tax treatments?

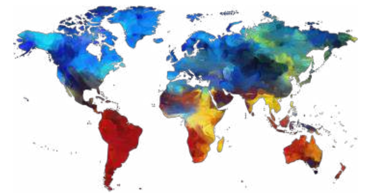
The Revenue can provide opinions/confirmations in respect of tax matters where the issues are complex, information is not readily available or there is genuine uncertainty in relation to the applicable tax rules as set down in the legislation.

An opinion/confirmation provides the Revenue's view of the application of tax law to a particular transaction or situation and assists the taxpayer in filing a tax return as required under law.

Many opinions/confirmations provided by the Revenue relate to one-off transactions and the question of their continuing validity does not arise. Where, having regard to the matter on which it is provided, an opinion/confirmation is capable of being relied on by a taxpayer for a period of time, it is Revenue policy that the maximum period for which it may remain valid without being reviewed is five years. However, in some cases, a shorter period of validity may be specified.

A taxpayer that wishes to continue to rely on an opinion/confirmation beyond this five-year period must apply to the Revenue s for its renewal or extension.

An opinion/confirmation will remain valid only for so long as the facts and circumstances on which it is based have not changed and the relevant legislation and practice remain in place. It can be reviewed by the Revenue at any time, with a view to amendment or withdrawal, in light of changes in the relevant facts or circumstances or where, in the absence of such changes, the Revenue decides to reconsider its position.



5.5 Is there a transfer pricing regime?

Ireland first introduced transfer pricing in 2011. The Irish transfer pricing regime applies only to trading transactions involving the supply and acquisition of goods, services, money or intangible assets between associated persons or companies. As such, in order for the rules to apply, one of the parties to the transaction must be an Irish company subject to tax at the 12.5% rate in Ireland.

The rules require that transactions between associated persons take place at arm's length, and the principles in the Organisation for Economic Co-operation and Development Transfer Pricing Guidelines for Multinational Enterprises and Tax Administration must be followed when analysing whether a transaction has been entered into at arm's length. There is an exemption for small and medium-sized enterprises.

If the Revenue determines that a transaction was not entered into at arm's length and has had the effect of reducing profits or increasing losses within the charge to Irish corporation tax at 12.5%, an adjustment will be made by substituting the arm's-length consideration for the actual consideration.

5.6 Are there statutory limitation periods?

If the Revenue considers that a complete tax return has not been made, or if no return was made where one should have been made, the inspector may issue an assessment which includes estimates of the tax which is considered due. The assessments cannot be issued more than four years after the end of the tax year in question.

If the taxpayer has not met the condition of making a full and true disclosure of all material facts, there is no time limit and an assessment can be made at any time in these circumstances.

6. Compliance

6.1 What are the deadlines for filing company tax returns and paying the relevant tax?

Corporation tax returns must be submitted within nine months of the end of the tax accounting period in order to avoid a surcharge (maximum of €63,485) or a restriction of 50% of losses claimed (maximum of €158,715).

Corporation tax payment dates are different for 'large' and 'small' companies. A small company is one whose corporation tax liability in the preceding period was less than €200,000.

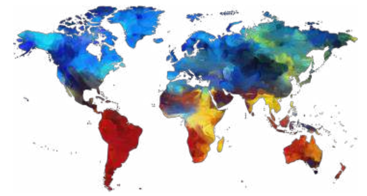
For large companies, the first instalment of preliminary tax totalling 45% of the expected final tax liability, or 50% of the prior period liability, is due six months from the start of the tax accounting period.

The second instalment of preliminary tax is due 31 days before the end of the tax accounting period. This payment must bring the total paid up to 90% of the estimated liability for the period.

The balance of tax is due when the corporation tax return for the period is filed (ie, within nine months of the end of the tax accounting period).

Small companies are required only to pay one instalment of preliminary tax. This is due 31 days before the end of the tax accounting period

The company can choose to pay an amount of preliminary tax equal to 100% of the corporation tax liability for its immediately preceding period or 90% of the estimated liability for the current period, with the final instalment falling due when the corporation tax return is filed.



6.2 What penalties exist for non-compliance, at corporate and executive level?

Interest is due at a daily rate of 0.0219% on late payments or payments that are not made in full. The interest is calculated by multiplying the amount of tax a company has underpaid by the number of days the tax is late by the interest rate.

If the return is submitted after the deadline, the company will also have to pay a surcharge of:

- 5% of the tax due up to a maximum of €12,995 if filed within two months of the filing date; or
- 10% of the tax due up to a maximum of €63,485 if filed more than two months after the filing date.

If the return is submitted after the deadline and the company has no tax liability, there will be restrictions. Claims for excess capital allowance, loss relief or group relief will be restricted by reference to the length of the delay in filing.

6.3 Is there a regime for reporting information at an international or other supranational level (eg, country-by-country reporting)?

In line with international standards, Ireland has implemented the automatic exchange of information to contribute to the exchange of information regarding non-Irish resident taxpayers with the tax authorities in the taxpayer's country of residence.

Regulations implementing country-by-country reporting have applied in Ireland since 1 January 2016. Groups with an Irish presence and turnover exceeding €750 million are required to generate reports which are then shared by the Revenue with relevant foreign tax authorities.

The US Foreign Account Tax Compliance Act and the Common Reporting Standard have both been implemented into Irish national law and financial account information supplied by Irish financial institutions will be shared with relevant foreign tax authorities.

7. Consolidation

7.1 Is tax consolidation permitted, on either a tax liability or payment basis or both?

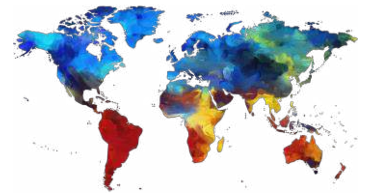
The concept of consolidated tax grouping for corporation tax purposes does not exist in Ireland. Trading losses may be offset on a current year basis against taxable profits of another group company.

Both the claimant company and the surrendering company must be within the charge to Irish corporation tax. To form a group for corporation tax purposes, both the claimant company and the surrendering company must be resident in an EU state or a jurisdiction with which Ireland has concluded a double tax agreement. In addition, one company must be a 75% subsidiary of the other company or both companies must be 75% subsidiaries of a third company. The 75% group relationship can be traced through companies resident in an EU state or a jurisdiction with which Ireland has concluded a double tax agreement.

8. Indirect taxes

8.1 What indirect taxes (eg, goods or service tax, consumption tax, broadcasting tax, value added taxes, excise taxes) could a corporate taxpayer be exposed to?

Value added tax (VAT) is a transaction tax based on EU directives as implemented into Irish law. It is chargeable on the supply of goods and services in Ireland and on goods imported into Ireland from outside the European Union. Persons in business in Ireland generally charge VAT on their supplies, depending on the nature of the supply. The standard VAT



rate is 23%, but lower rates apply to certain supplies of goods and services, such as:

- 13.5% – for example, on supplies of land and property; and
- 0% – for example, on certain food and drink, books and children's clothing.

The supply of certain services, including financial services, is exempt from VAT.

VAT incurred will generally be recoverable as long as it is incurred by a taxable person (ie, a person that is, or is required to be, VAT registered) for the purpose of making taxable supplies of goods and services. VAT incurred by a person that makes exempt supplies is not recoverable.

Customs duties are payable on goods imported from outside the European Union.

Excise duty applies at varying rates to mineral oils, alcohol and alcoholic beverages, tobacco products and electricity, and will also apply to certain premises and activities (eg, betting and licences for retailing of liquor).

There is an insurance levy on the gross amount received by an insurer in respect of certain insurance premiums. The rate is 3% for non-life insurance and 1% for life insurance. There are exceptions for reinsurance, voluntary health insurance, marine, aviation and transit insurance, export credit insurance and certain dental insurance contracts.

8.2 Are there transfer or other taxes dues in relation to the transfer of interests in corporate entities?

Generally, a document is chargeable to stamp duty, unless exempt, where the document both:

- is listed in Schedule 1 to the Irish Stamp Duties Consolidation Act 1999 (the principal head of charge is a transfer of any Irish property); and
- is executed in Ireland or, if executed outside Ireland, relates to property situated in Ireland or to any matter or thing done or to be done in Ireland.

The transferee is liable to pay stamp duty and a return must be filed and stamp duty paid within 44 days of execution of the instrument.

Stamp duty is charged on the higher of the consideration paid for, or the market value of, the relevant asset at the following rates:

- shares or marketable securities – 1% (in some cases, a rate of 6% applies to shares that derive their value from Irish land);
- non-residential property – 6%; and
- residential property – 1% on consideration up to €1 million and 2% on the excess.

There are numerous reliefs and exemptions, including:

- group relief on transfers between companies where the transferor and transferee are 90% associates at the time of execution and for two years thereafter;
- reconstruction relief on a share-for-share exchange or share-for-undertaking transaction, subject to meeting certain conditions; and
- exemptions for transfers of intellectual property, of non-Irish shares and land, loan capital, aircraft and ships.