Chapter 9

Human Capital and Talent

Tax recommendations for human capital and talent

1. Ireland's urgent skills gap warrants a comprehensive review of our high effective tax rates that apply above the average wage. A phased plan is needed to reform the overall shape of our personal tax system. This includes a review of our high marginal tax rates, the breadth of our tax base and the entry points to income tax, USC and PRSI.
2. A workable share-based employee scheme is also required for SMEs that would enable them to attract and retain the best talent. The UK's Enterprise Management Incentive (EMI) is a good model to consider – capital gains tax is payable by taxpayers when they sell their shares and have the funds to pay the tax. A simple administrative process for collecting the information and paying the tax due is an important element of any new scheme.
3. Entrepreneurs are the job creators of Ireland and personal tax disparities that require them to pay higher taxes than PAYE taxpayers should be removed. These include the additional 3% USC rate that they pay on income above €100,000 and the €700 lower tax credit they receive.
4. Consideration should be given to developing a new talent regime similar to the Special Assignee Relief Programme (SARP) but targeted at SMEs, so that they can attract the talent and skills they need from outside Ireland to grow their businesses.
5. Uncertainty about the tax treatment of travel expenses is creating concern and cost for many home workers, freelancers, employers with staff sent abroad to build the business and those dealing with the new working patterns of the modern world. Legislation in this area urgently needs to be brought up to date to deal with this issue.
6. Irish companies sending employees abroad for short-term visits often experience burdensome administrative difficulties when dealing with tax, payroll and double taxation issues. A new streamlined approach to these tax compliance issues is needed, complemented by further specialised Revenue support.

> “Talent is the single factor that shows the differences in prosperity between countries
>
> – National Competitiveness Council.[1]

Game on globally as companies compete for talent

The “war for talent”, often referred to by management in companies, is an all too real problem. Globally, the search is on, and Ireland is in the hunt for talent. According to a recent survey, 77% of CEOs worldwide say that they are worried about skills.[2]

Similarly, nearly six out of ten CIOs believe that skills shortages will prevent their organisation from keeping up with the pace of change[3] – one-third more than just three years ago.

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1 Peter Clinch, “Competitiveness Must Be at the Heart of a New Programme for Government”, *The Irish Times*, 21 April 2016; http://www.irishtimes.com/opinion/competitiveness-must-be-at-the-heart-of-a-new-programme-for-government-1.2618962.
2 PwC, 20th Annual Survey of CEOs Worldwide 2016.
3 Harvey Nash/KPMG, CIO Survey 2016.

The World Economic Forum (WEF)[4] is also concerned: "77% of the CEOs we surveyed voiced concern that skills shortages could hinder their organisation's growth, and 52% plan to hire more employees over the next year."

And the skills are not limited to just tech and digital; in fact, the talent gap is broad based, according to the WEF. "Despite greater automation in the workforce, CEOs realise they can't rely on digital skills alone. To innovate, they need good problem-solvers and people with creative skills and high emotional intelligence. These are also the hardest skills to find."

Ireland's skills search – the urgency

In 2017 57% of Irish entrepreneurs said that "recruiting experienced hires had been a challenge in the past year", with 43% saying they have struggled to compete for talent against larger companies.[5] This reflects the growing challenge for small and medium-sized businesses to match the benefits that larger employers can use to attract and retain talent.

Human Resources teams are finding it difficult; 67% are reporting a delayed or cancelled strategic activity or new market opportunity due to the skills shortage, and 81% found that the lack of availability of key skills was a top business threat to growth.[6]

The impact of the skills shortage in Ireland

Ireland's leading entrepreneurs[7] spell out the impact facing entrepreneurs and their companies going forward:

- The war for talent is impacting businesses large and small and must be addressed.
- This, coupled with the fact that basic salaries and share options for employees cannot be delivered tax-efficiently in Ireland, creates a further challenge for entrepreneurs, who must look at the whole package they can offer current and prospective employees in order to compete in the market.
- Larger companies have deeper pockets, and Ireland must level the playing pitch for entrepreneurial businesses, through initiatives such as more favourable treatment for the various employee share ownership programmes.

Real-life concerns in Ireland: thousands of roles need to be filled

Highlighting this issue is the finding by the Department of Jobs, Enterprise and Innovation that Ireland is also experiencing skills shortages in a number of occupations and sectors, including: chemical and biological scientists; biochemists; biotechnology technicians; production and process engineering; product development and design engineering; chemical engineering; risk and compliance skills in the business and financial sectors; and quantity surveyors and building information modelling skills in construction.[8] Many of the skills required are for the very areas where we have highlighted growth potential in Chapter 6 on exports. These are skills that are critical to the development of a company or sector, such as modern manufacturing, and the available talent pool may be quite small.[9]

4 WEF, "4 Concerns that Keep CEOs Awake at Night" (January 2017).
5 EY, Entrepreneur of the Year Alumni Survey 2017.
6 PwC, "Shaping Ireland's Future Talent Landscape: 2017", PwC HRD Pulse Survey.
7 Kevin McLoughlin, Partner Lead, EY, "Irish Entrepreneurs Continue to Invest in Future Growth, but the Cost of Doing Business in Ireland Identified as a Key Challenge" (3 April 2017).
8 Department of Jobs, Enterprise and Innovation, Enterprise 2025 Background Report.
9 Department of Jobs, Enterprise and Innovation, Enterprise 2025 Background Report.

Skills shortages in tech are also a reality. TechLifeIreland.com, an online hub to attract tech workers to Ireland, was established in June 2016 by the Department of Jobs, Innovation and Enterprise, IDA Ireland and Enterprise Ireland.[10] At the time of publishing, it lists over 2,800 vacancies across many ICT roles.[11]

This forms part of the overall strategy by the Department of Jobs, Enterprise and Innovation and the Department of Education and Skills.[12] The departments are working together with an ambitious target to meet 74% of demand through domestic supply by 2018. Their Expert Group on Future Skills Needs predicted that there will be a total of 44,500 job openings in the ICT sector over the period 2014–2018.

The Irish skills shortage is part of a wider, EU issue. Roberto Viola, Director General of DG Connect, European Commission, told *The Irish Times* on 30 November 2016 that the EU was at a point where there were 1m job vacancies in ICT.[13] The shortage is severe, but according to Mr Viola, the opportunities are "huge" if the gap can be addressed. Although the number of people with digital skills in Ireland has not increased in the past three years, Mr Viola told *The Irish Times* that "the Irish Government is doing a lot and has clearly identified this as a priority".

We have seen in the Chapter 6 on exports how knowledge-intensive sectors are driving growth, both in services and in manufacturing. The Irish Manufacturers Association focuses on how the talent issue is affecting its particular sector right now: "A lot of manufacturers struggle when it comes to accessing and retaining the skilled people they require. Ireland can be a world leader in quality manufacturing, but we need to get the business environment right...[We] must focus on maintaining business and input costs, at the same time ensuring that there is a tax system in place that helps manufacturers retain staff and also encourages skilled people to come back to Ireland."[14]

The need to attract talent from overseas

"Developing our own talent will always provide the vast bulk of our skills requirements and it is critical that there is sustained focus in this area. However, the reality is that there will be a requirement for enterprises in Ireland to source talent from overseas." This is according to the Department of Jobs Enterprise and Innovation,[15] which recognises the importance of attracting talent from overseas to meet our skills gap.

The World Economic Forum has said: "To find these employees, CEOs are increasingly tapping into a more diverse hiring pool – and looking across borders."[16]

Attracting talent from overseas is also important when it comes to developing start-up businesses and building entrepreneurial hubs. Russ Shaw, the founder of Global Tech Advocates, is clear that a key part of the success of the tech sector in London has been global and local talent coming together, sharing ideas and transferring knowledge. No single tech hub has all of the answers, so bringing in talent really helps to round out that knowledge base.[17]

As we compete against other countries to attract new talent to Ireland, we need to ensure that our overall offering is strong enough. Potential workers will consider taxation, as

10 See http://www.idaireland.com/newsroom/techlife_ireland/.
11 Figure taken on 26 June 2017.
12 ICT Skills Action Plan 2014–2018, http://www.hea.ie/sites/default/files/action_plan_ict_2014_4final_spr.pdf.
13 Elaine Edwards, "Shortage of Digital Skills an 'emergency' for Ireland and EU", *The Irish Times*, 30 November 2016; http://www.irishtimes.com/business/technology/shortage-of-digital-skills-an-emergency-for-ireland-and-eu-1.2887769.
14 Aviné McNally, Director of the Irish Manufacturers Association.
15 Department of Jobs, Enterprise and Innovation, Ireland's National Skills Strategy 2025.
16 WEF, "4 Concerns that Keep CEOs Awake at Night" (January 2017).
17 Silicon Republic, "Dublin Calling: Could Brexit Push London's European Start-up Talent Elsewhere?" (7 June 2017), https://www.siliconrepublic.com/careers/brexit-talent-fears-london-dublin.

well as education provision, the cost of living, childcare, leisure and recreational facilities, languages spoken etc. If they are from outside the European Economic Area, visas and work permit provisions are crucial.

Ireland's challenges with regard to "across the board skills"

The future of work in Ireland, Europe and globally is going to be defined by the rise of digitalisation. The European Commission's Director General of DG Employment, Social Affairs and Inclusion, Michel Servoz, spoke on the topic in Ireland in June 2017, saying that "skills are the number one issue for the EU". He also said that there were challenges for the Irish population, that it has very basic skills and that this is something that the Commission wants Ireland to focus on for the future. This is evidenced in publicpolicy.ie's report "Low Skills of the Irish Workforce".[18] It finds problems in two areas:

- The first concern is based on the findings of the OECD PISA programme,[19] that "Ireland's human capital stock is in line with, or slightly above the EU average, but well below the leading international performers."
- The second concern is highlighted by the OECD's Programme for the International Assessment of Adult Competencies (PIAAC),[20] which measures proficiency in a range of information processing skills: literacy, numeracy and problem solving in technology-rich environments in the 16–64 age group. It found that the mean proficiency scores for Ireland are "significantly below the average of the other OECD countries" and that, on most skills indicators, "Ireland ranks among the bottom quintile of the countries surveyed". The ranking is poor for older age cohorts but also, worryingly, for younger Irish people.

The OECD also found that almost 25% of workers in Ireland believe that they are under-qualified for their current roles and do not possess the necessary skills.[21]

The IMF in its "Ireland: Staff Concluding Statement of the 2017 Article IV Consultation" report[22] said: "Steps to complement the strong primary and secondary education system with vocational programs and broader training would help align educational paths with enterprise needs and contribute to lower disparities of skills, income, and employment across regions." It continued: "trade, tax or competition policies aimed at fostering performance in some industries may not be supported by policies ensuring these industries have the skills they need."

The National Competitiveness Council has also highlighted the importance of lifelong learning and upskilling: "Ireland has scope to improve participation levels in apprenticeship programmes and lifelong learning. Demographic change means increased investment in the sector is necessary over the medium term."[23]

Ireland has been named as one of nine European frontrunner countries in a new global report, *Digitizing Europe.*[24] The opportunities from digitisation are huge, and the report highlights the critical importance of being able to: "match the skills of our workforce to the skills required by the jobs that will emerge from new technologies. If this is not done properly, or if it is overlooked, a country's workforce may be left behind and become unable to provide the labour and competence that a digitized economy demands."

18 PublicPolicy.ie, "Low Skills of the Irish Workforce" (17 February 2014).
19 This focuses on the performance of the schooling system in different countries as measured by both the test scores of 15-year-olds and the enrolment rates in tertiary education. See http://www.oecd.org/pisa/.
20 See http://www.oecd.org/skills/piaac/.
21 OECD, *Getting Skills Right: Assessing and Anticipating Changing Skill Needs* (June 2016).
22 IMF, "Ireland: Staff Concluding Statement of the 2017 Article IV Consultation" (May 2017).
23 National Competitiveness Council, *Benchmarking Competitiveness: Ireland and the United Kingdom, 2017*, p. 9.
24 Boston Consulting Group, "Digitizing Europe: Why Northern European Frontrunners Must Drive Digitization of the EU Economy" (May 2017).

The tax environment for human capital and talent

Finding and keeping skilled human capital and talent are fundamental to growing Irish businesses to scale in the face of some major risks and uncertainties ahead.

So we must ask ourselves whether we have a personal tax system in Ireland that reflects the urgency of this issue in light of the global skills shortage and a shortage in Ireland.

As a country, we are now leaning very heavily on personal taxes paid by a relatively small group of people to fund our services. At the same time, we know that personal taxes are the second most damaging taxes for economic growth (after corporation tax).[25]

- Personal taxes account for 40% of Ireland's total tax yield[26] – up from 32% in 2008 (this is the point before the punitive taxes were introduced).
- The next highest-yielding tax is VAT, at 26%.[27]

Ireland's personal tax model: the challenges

1. Personal tax rates

Personal tax policy is important for both Irish entrepreneurs personally and for the staff whom they are struggling to employ and retain. Below we consider the tax issues for entrepreneurs themselves and those relating to their business employees.

(a) Personal tax for employees

A 52% marginal tax rate

- USC reductions in recent Budgets have been capped at €70,044, and the resulting marginal tax rate for key employees earning over €70,044 is 52%. Between €33,801 and €70,044 the marginal rate for employees is 49%.

The low entry point to the 40% income tax rate

- Workers on the average wage of approximately €35,000 are paying tax at the top, 40%, income tax rate because the entry point to the 40% rate is €33,801. Their total marginal rate is 49% including USC and PRSI. By comparison, the entry point to the 45% rate in the UK is Stg£150,000.
- The combination of this low entry point to the 40% income tax rate and the 49% marginal rate (52% above €70,044) creates very high effective tax rates for employees. Their effective tax rate is the amount of tax that they actually pay as a proportion of their total income.
- Employees have an effective tax rate of 18.9% at a salary level of €35,800, rising to 29.4% on a salary of €55,000 and to 39.5% on a salary of €100,000.
- As salaries increase, the highly progressive nature of our personal tax regime means that associated tax bills increase rapidly.

25 OECD, *Tax Policy Reform and Economic Growth* (Paris: OECD Publishing, 2010); http://dx.doi.org/10.1787/9789264091085-en.
26 Department of Finance, Fiscal Monitor (May 2017), p. 21. http://www.finance.gov.ie/sites/default/files/fiscal%20monitor%20May%202017.pdf
27 Department of Finance, Fiscal Monitor (May 2017), p. 21. http://www.finance.gov.ie/sites/default/files/fiscal%20monitor%20May%202017.pdf

The Multiples – How Progressivity Works				
Salary of €18,000 versus	**€25,000**	**€35,000**	**€75,000**	**€100,000**
Earning X times the salary of an individual on €18,000	1.4	1.9	4.2	5.6
Paying X times the tax of an individual on €18,000	5.6	12.5	51.2	76.7
Paying X more tax than an individual on €18,000	€2,768	€5,958	€25,619	€38,619

- These high rates and their highly progressive nature are damaging for productivity and remove the incentive for staff to earn bonuses and achieve promotion and higher salaries.
- Ireland's highest rate of income tax starts to apply at just below the average industrial wage; by comparison, the UK top marginal rate applies at 4.2 times the average industrial wage.[28]
- The global war for talent means that there is clear recognition that we are going to have to rely on foreign talent to help fill the thousands of vacancies in Ireland.

Recommendations on personal tax rates for employed talent

- Ireland's urgent skills gaps warrants a comprehensive review of our high effective tax rates that apply above the average wage. A phased plan is needed to reform the overall shape of our personal tax system. This includes a review of our high marginal tax rates, the breadth of our tax base and the entry points to income tax, USC and PRSI.

(b) Personal tax for entrepreneurs

Their marginal tax rate is 55%

- Entrepreneurs are generally either self-employed individuals or proprietary directors in their companies.
- Their marginal personal tax rate is 55% for earnings over €100,000.
- This is an increase of 8.5% from 46.5% in 2008.

Ireland's job creators pay a 3% levy above everyone else

- The marginal tax rate on Ireland's entrepreneurs and job creators is 3 percentage points higher than the equivalent rate on employees. This is because their top USC rate is 11% on income over €100,000 rather than the 8% paid by PAYE employees.

Their effective tax rates are also very high

- Because of the low entry point to the 40% income tax band (outlined above), coupled with the 55% marginal tax rate, Ireland's entrepreneurs pay very high effective tax rates.

They receive lower tax credits than PAYE employees

- The Government went some way further towards achieving more equal treatment for the self-employed in Budgets 2016 and 2017. However, some discrimination remains.
- Employees are entitled to a PAYE tax credit of €1,650.
- Entrepreneurs are entitled to an earned income tax credit of €950.

28 National Competitiveness Council, "Cost of Doing Business in Ireland" (June 2017), p. 5.

Recommendations on the personal income tax policy for entrepreneurs

- Entrepreneurs are the job creators of Ireland and personal tax disparities that require them to pay higher taxes than PAYE taxpayers should be removed. These include the additional 3% USC rate that they pay on income above €100,000 and the €700 lower tax credit that they receive.

2. High tax bills on share options

SMEs cannot compete with larger companies for highly skilled people in knowledge-intensive services and highly skilled modern manufacturing, sectors critical to an export growth plan.

We know from Irish Tax Institute research that skills are the priority issue from the strength of feeling among Irish businesses.

Share-based remuneration can play an important role in attracting and rewarding key employees at all stages of a business's development. Incentivising staff with equity can significantly reduce fixed labour costs and free up business cash-flow.

Research has shown that employee share ownership can be a key contributor to profitability, productivity and employment creation, with the resulting positive impact on economic growth and Exchequer yield.[29]

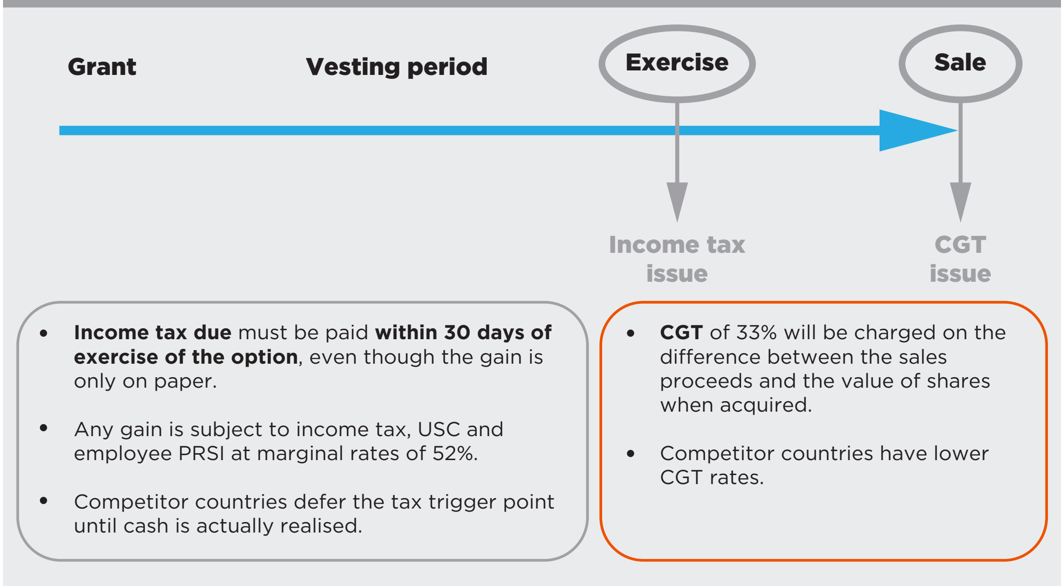
There are currently three types of Revenue-approved share schemes in Ireland, but they are very limited in practice:

- Approved Profit Sharing Schemes (APSS).
- Employee Share Option Trusts (ESOT).
- Savings Related Share Option (SAYE) schemes.

Although these provide some tax benefits to employees, their use is very limited in practice. Most SMEs and start-up businesses that want to reward employees using shares need the flexibility to make these awards to key staff on a selective basis. They cannot afford to award equity to all employees on similar terms, and that is what is required with the Revenue-approved share schemes above.

As a result, most companies have to use unapproved share schemes to reward employees, and these schemes result in high tax costs for those employees and a very unusual "income tax bill upfront", even though the employees own the shares only on paper.

Life cycle of a share option



29 "Sharing Success: The Nuttall Review of Employee Ownership" (July 2012).

Employees are liable to income tax, USC and employee PRSI at their full marginal rate (up to 52%), immediately on the receipt of a share award or on the exercise of a share option.

The employee is also liable to CGT at 33% on any subsequent disposal of the shares.

The combination of this double charge to tax (both at high tax rates) makes equity less attractive to employees by significantly reducing the value of their share awards.

Start-ups and SMEs therefore face five major challenges in promoting share ownership:

- There may be no market for their shares.
- Calculating the tax due can be difficult due to problems in valuing the shares in the absence of a ready market.
- Employees must pay tax on the receipt of shares or on the exercise of share options. They may have to fund this tax on a "paper gain" from their own resources or from borrowings.
- A repurchase of shares (buy-back) by the employer can give rise to an income tax liability for the employee on disposal of the shares (rather than CGT), due to the legislative rules on share buy-backs.
- Income tax due on the exercise of a share option must be paid within 30 days through the self-assessment system, rather than payroll. Complying with this tight reporting and payment deadline can be difficult, especially for individuals who are used to paying their income tax liability through the PAYE system.

Targeted share-based remuneration schemes for SMEs and start-ups

Countries such as the UK have identified that SMEs and start-ups are at a disadvantage in offering share-based remuneration and need greater supports. The UK has designed a share scheme specifically targeted at helping SMEs and start-ups to attract key staff.

Spotlight on the UK's Enterprise Management Incentive (EMI)

The UK's EMI is designed to help small companies and start-ups to attract and retain key employees. It is commonly used in the technology sector. It affords companies a high level of flexibility in choosing how the terms of the options will operate.

Share options with a market value of up to Stg£250,000 can be granted tax-free to employees of independent trading companies that have fewer than 250 employees and gross assets not exceeding Stg£30m. Certain requirements on working time must be met, and the employee cannot control 30% or more of the shares in the company.

There is no charge to income tax and National Insurance Contributions on the exercise of an EMI option, provided it is granted at market value. CGT is payable once the shares are ultimately sold. However, the UK's entrepreneurs' relief, which allows for a CGT rate of 10%, is available on the sale of EMI shares (subject to the lifetime limit on gains of Stg£10m).

Recommendations on employee share schemes

- A workable share-based employee scheme is also required for SMEs that would enable them to attract and retain the best talent. The UK's EMI is a good model to consider – capital gains tax is payable by taxpayers when they sell their shares and have the funds to pay the tax. A simple administrative process for collecting the information and paying the tax due is an important element of any new scheme.

3. Special Assignee Relief Programme

The Special Assignee Relief Programme (SARP) provides income tax relief to a particular group of employees who are assigned to work in Ireland from another group company abroad. Some important features of this relief are:

- It is an assignment relief, so that it applies only to individuals already working for an international group abroad for six months who are then assigned to Ireland – it does not apply to new hires.
- SARP relief is available only for employees earning more than €75,000, and it works to reduce the excess salary by 30%.
- SARP relief does not apply to USC or PRSI.

There were 586 SARP claims made in 2015, with a cost to the Exchequer of €9.5m.[30]

There are some other detailed criteria that apply. However, the combination of the "international assignment" feature and the high salary entry level effectively precludes Irish SMEs from using the relief. The SMEs who are export focused and producing products and services in knowledge-intensive areas need to be able to access international talent.

Given the high marginal tax rates payable by talented individuals whom these SMEs are trying to attract, combined with the lack of any workable share option scheme, this restriction on the SARP means it cannot be used by scaling businesses to find key talent.

Recommendation

- Consideration should be given to developing a new talent regime similar to SARP but targeted at SMEs, so that they can attract the talent and skills they need from outside Ireland to grow their businesses.

4. Tax compliance complexities in a modern working world

a. Tax rules on travel and subsistence expenses

b. Tax compliance for employees travelling abroad on short-term visits

The vast majority of taxpayers worry about their tax affairs and want to get things right. They do not want to stumble into non-compliance, resulting in a Revenue audit with possible interest and penalties. This truth is borne out by the overall tax compliance rates in Ireland, which regularly reach levels in the high 90s.[31]

Simplicity and certainty are very important in helping businesses to be tax compliant.

At a recent European Commission/IIEA event,[32] Michel Servoz, Director General of DG Employment, Social Affairs and Inclusion at the European Commission, highlighted the changing nature of the world of work. Right across the EU, countries are experiencing huge increases in the levels of self-employment or combined traditional employment/self-employment among their citizens. He remarked that this is due to:

- Digitalisation;
- The way economies are being organised; and
- The desire for flexibility by workers.

30 SARP Analysis 2015, p. 5. http://www.finance.gov.ie/sites/default/files/SARP%20Analysis%202015.pdf
31 Revenue, Annual Report 2016 (April 2017).
32 Joint European Commission/Institute of International and European Affairs event, Inclusive Growth – Recommendations for Ireland and Europe, 2 June 2017.

However, new and complex working patterns create challenges for countries and for tax administrations. Tax rules and tax practices can struggle to keep up with the complexities of the modern working world and the evolving working patterns of employees.

Businesses across Ireland currently face two particular areas of difficulty:

- Understanding how to apply the tax rules for employee travel and subsistence expenses; and
- Dealing with the tax compliance obligations when sending employees abroad for short periods of time.

a. Tax rules on travel and subsistence expenses

At one time, all workers would have been employed in businesses based in one office from 9am to 5pm each day. There would have been limited travel requirements to fulfil in their roles.

However, work patterns have transformed in the past ten years in Ireland, as they have globally. Individuals are expected to travel and be generally more mobile in their roles both across Ireland and in foreign markets, seeking new business opportunities. Also, the rise in technology capabilities has led to more individuals working from home-based offices. Businesses with employees who do not operate out of one fixed base can struggle to understand how to apply the tax rules on travel and subsistence expenses. Currently, small businesses that have to operate from a home-based office but travel to clients' premises experience similar difficulties.

Freelance work has also grown exponentially in the past ten years. These individuals are engaged by businesses on short-term contracts, and it can be very difficult for them to understand how to account correctly for their travel expenses.

Tax legislation governing these expenses was written almost 100 years ago, and the case law that applies is of a similar vintage. It is very difficult to apply these rules to modern fact patterns.

The current legislation does not deal adequately with the challenges of modern working patterns, and this is reflected in the wide array of Revenue guidance, some of which is conflicting.

Revenue has issued seven separate pieces of guidance on travel expenses over the last number of years, and the area is shrouded in complexity.

i. Employees' Motor/Bicycle Expenses[33]
ii. Employees' Subsistence Expenses[34]
iii. Tax treatment of the reimbursement of Expenses of Travel and Subsistence to Office Holders and Employees[35]
iv. Exemption in respect of certain expense payments for resident relevant directors[36]
v. Exemption in respect of certain expense payments for relevant directors[37]
vi. Reimbursement of travel and subsistence by intermediaries [38]
vii. Revenue's Contractors' Project [39]

33 Revenue Leaflet IT 51.
34 Revenue Leaflet IT 54.
35 Revenue Statement of Practice SP IT/02/2007.
36 Revenue eBrief 43/2017.
37 Revenue eBrief 8/2016.
38 Revenue eBrief 30/2013.
39 Revenue eBrief 48/2013.

Although the new Revenue website[40] has attempted to consolidate these separate pieces of guidance into one manual,[41] the tax treatment of travel expenses paid to contractors has not been dealt with in the updated manual.

The Government carried out a consultation on this difficult issue in July 2015, to which the Institute made a comprehensive submission, along with others.

Legislative changes have been introduced both for "foreign" and (in a more restrictive way) for Irish non-executive directors (NEDs) on foot of this consultation. However, the law needs to be updated to address the tax regime for travel and subsistence expenses on a broader basis than NEDs alone.

At the time of writing, we are still awaiting the publication of a Feedback Statement on this consultation.

Recommendations on travel expenses

- Uncertainty about the tax treatment of travel expenses is creating concern and cost for many home workers, freelancers, employers with staff sent abroad to build the business and those dealing with the new working patterns of the modern world. Legislation in this area urgently needs to be brought up to date to deal with this issue.

b. Tax compliance for employees travelling abroad on short-term visits

As outlined in Chapter 6 on exports, the need for Ireland to grow its export market is one of urgency, and sales and business development teams are crucial to the overall mission at a national level. This is why the particular tax issue below is of such importance.

When an Irish company sends an employee overseas to work for a short period, it can trigger an obligation to deduct payroll taxes in the foreign country, even though the employee continues to be subject to Irish PAYE on his/her salary.

Revenue introduced a "real-time" credit regime in 2015, which allows employees to claim a credit for an estimated amount of foreign tax against their Irish PAYE liabilities for each pay period. Although this "real-time" approach is welcome, the mechanism for calculating the relief is unnecessarily complex.

Employees must provide information on their total income for the year to their local tax district before Revenue can calculate their effective tax rate and corresponding estimated credit. The employee's Tax Credit Certificate is then amended to reflect the estimated foreign tax credit. This can potentially create time delays and cash-flow implications for employees who suffer double taxation.

The UK has a more streamlined approach to real-time relief for outbound employees. Under its "Appendix 5" procedures, the UK PAYE liability is reduced each pay period by the amount of foreign tax paid. The employer notifies HMRC upfront that it wishes to avail of this procedure, provides HMRC with details of the relevant employees and updates HMRC on any changes during the year. A year-end review is carried out by HMRC to adjust for any tax under-/overpayments.

A more streamlined approach, similar to that in the UK, would be welcome in Ireland.

Recommendations on employees travelling abroad on short-term visits

- Irish companies sending employees abroad for short-term visits often experience burdensome administrative difficulties when dealing with tax, payroll and double taxation issues. A new streamlined approach to these tax compliance issues is needed, complemented by further specialised Revenue support.

40 Launched on 7 June 2017.
41 Part 05-01-06, http://www.revenue.ie/en/tax-professionals/tdm/income-tax-capital-gains-tax-corporation-tax/part-05/05-01-06.pdf.