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5 November 2020

Dear Dr Quinn,

### **Department of Enterprise, Trade and Employment Statement of Strategy 2021–2023**

The Irish Tax Institute is grateful for the opportunity to contribute its views on the future strategic direction of your Department for your consideration in the preparation of your Statement of Strategy for 2021-2023.

The backdrop to your Strategy review could hardly be more momentous. Covid-19 continues to wreak havoc on our economy and our SME sector and small business owners are bearing the brunt of this most unpredictable virus.

Compounding the uncertainty caused by the pandemic is the real and present danger of the UK leaving the EU at year end without a trade deal and the prospect of far-reaching changes to international corporate tax rules in 2021. Both of these potential eventualities pose particular challenges in the years ahead for your organisation, our members, and the businesses they advise.

In this context, the Institute has a number of recommendations for your consideration as you formulate your strategy for the next three years.

#### **A Plan for SME Growth.**

A key focus for the Institute is the use of the tax system to advance the Government's industrial policy objectives and specifically to develop our indigenous business sector which is most exposed to the risks posed by the pandemic and Brexit.

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At the time of its publication just over a year ago, we welcomed the OECD Review of SME and Entrepreneurship Policy, which had been requested by your Department. We had shared our views on business taxes with the authors of the Report and we agreed with their analysis that our indigenous sector has weak management skills and lacks the business dynamism and innovation required to build productivity and growth.

The Report recommended a unified SME and Entrepreneurship strategy document to increase policy visibility. This recommendation is echoed in the New Programme for Government commitment to establish an SME Growth Taskforce to design a long-term strategy for the sector beyond Covid-19.

We would suggest that the establishment of such a taskforce to implement the recommendations of the OECD Report should be a top priority for your Statement of Strategy for the coming three years.

### **A Tax System to Support Entrepreneurship**

The Institute welcomes the business tax measures introduced by Government in recent years but more needs to be done to refine these measures and make them more accessible and effective for SMEs.

For example, the Institute raised specific issues in various consultations during 2019 on:

- Key Employee Engagement Programme (KEEP) – to help SMEs to attract and retain highly skilled employees
- Employment Investment Incentive (EII) – aimed at incentivising investment in small businesses whose funding options are limited
- Start Up Relief for Entrepreneurs (SURE) – to assist individuals who start their own businesses
- R&D Tax Credit – to encourage companies to carry out research and development in Ireland
- CGT Entrepreneur Relief – a lower rate of CGT to foster entrepreneurship in Ireland

We acknowledge the relaxation of the ownership rule for Entrepreneur Relief included in Budget 2021, but further changes are needed to make the measure competitive with similar tax incentives in other jurisdictions, including our nearest neighbour.

The Institute also believes the overall rate of CGT, currently 33%, should now be reviewed in light of the low receipts which came in at just 1.8% of the total tax take in 2019. It is reasonable to ask if the high rate of CGT is having a dampening effect on investment, productivity and growth in the SME sector.

The Institute shares the view expressed by the Tax Strategy Group in 2018 that a reduction in the CGT rate could result in an improved environment for business which would enhance economic growth, increase transactions and raise more revenue for the State.

We suggest that your Statement of Strategy should commit your Department to a lead role in a cross-government approach to improve the effectiveness and the competitiveness of our small business taxes, in line with the commitment in the Programme for Government

### **A Business Environment with Tax Certainty**

The importance of certainty and clarity in the tax system is recognised by both the IMF and the OECD. Tax certainty can be delivered through improved tax policy and law design, consistency in tax administration and effective dispute resolution mechanisms.

#### The Finance Bill Process

In this context, we believe the current legislative timetable for the Finance Bill needs to be reformed. As it stands, stakeholders like ourselves, whose views on existing tax measures are regularly canvassed by Government, have less than three weeks to consider often complex tax law from the date of publication to Committee Stage in the Dáil and only two months for the entire Finance Bill process to be completed and enacted. The issue is compounded when new tax provisions are introduced in the Finance Bill at Committee and Report Stages. Inevitably, the result is law that fails to deliver on policy objectives and that requires clarification through Revenue guidance or, at worst, resort to the courts.

Apart from key income tax changes and other political or market sensitive matters, the Institute can see no reason why tax legislation should not be published for consultation in advance of the Finance Bill. In the UK, draft legislation is published five months in advance of their Finance Bill.

#### Effective Dispute Resolution

According to the OECD and the IMF, an effective dispute resolution regime plays a critical role in establishing certainty for businesses. Where disputes arise over the facts of a case or the interpretation of the law, taxpayers may appeal directly to the Tax Appeals Commission. However, there is a heavy build-up of cases in the appeals system, with taxpayers waiting years to have the disputed matter resolved. While significant additional resources have been given to the Tax Appeals Commission to alleviate the backlog, taxpayers, whose appeals are ultimately unsuccessful, are faced with penal interest rates because of the delays.

## Oversight in the tax system

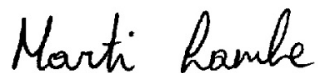
Independent oversight in all areas of public administration is commonplace in mature democracies. We can learn from what other countries have done to create an appropriate balance between the fair and the efficient collection of taxes. Reinforcing confidence in our tax system is a good thing for Government, for the Revenue Commissioners and for taxpayers.

While accepting that the operation of the tax system does not fall within the remit of your Department, the Institute suggests that your Statement of Strategy should explicitly recognise the importance of certainty, clarity and confidence in the tax system in promoting a pro-enterprise culture in our economy.

The Covid-19 Pandemic has been a sharp reminder of our vulnerability to events beyond our control. Like previous pandemics, it will dissipate but it is important that we take the opportunity now to future proof our economy in an increasingly uncertain world. In that respect, this review of your strategic direction is timely.

We would welcome the opportunity to discuss the matters raised in this submission further with you, as you formulate your Statement of Strategy 2021-2023 over the next number of months.

Yours sincerely,



Martin Lambe  
Chief Executive