



South Block
Longboat Quay
Grand Canal Harbour
Dublin 2

+353 1 663 1700
www.taxinstitute.ie

Minister Peter Burke T.D.
Department of Enterprise, Trade and Employment
Kildare Street
Dublin 2

By email: planning@enterprise.gov.ie

11 July 2024

Consultation on the development of the Department of Enterprise, Trade and Employment's Statement of Strategy 2024-2025

Dear Minister

The Irish Tax Institute welcomes the opportunity to contribute its views for consideration in the development of the Statement of Strategy for the Department of Enterprise, Trade and Employment for the period 2024-2025.

Despite the extraordinary resilience of the Irish economy in the face of a succession of unprecedented crises over the last five years, the risks posed by Ireland's over dependence on a small number of multinational companies for employment and tax receipts is well documented. In addition, Ireland faces an increasingly competitive battle for inward investment as the larger economies in Europe enter the fray, enabled by the greater flexibility in EU State aid rules for all Member States.

Against this backdrop, the Institute has a number of recommendations around taxation for your consideration as you formulate the Department's strategic vision for the next 18 months.

Supporting growth and innovation in the SME sector

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 the SME sector which is essential for the diversification of Ireland's economic base. We welcome the commitment in the Government's White Paper on Enterprise 2022-2030 to enhance the tax landscape for SMEs. Effective tax measures for SMEs have a significant role to play in building an

Directors: Tom Reynolds, President, Peadar Andrews, Brian Brennan, Oonagh Carney, Ian Collins, Amanda-Jayne Comyn, Maura Dineen, Aidan Fahy, Stephen Gahan, Aileen Keogan, Aoife Lavan, Laura Lynch, Sarah Meredith, Colm O'Callaghan, Kelly Payne, Neil Phair, Maura Quinn, Shane Wallace, Tommy Walsh, Martin Lambe (Chief Executive).

Immediate Past President: Colm Browne.



Member of the Confédération
Fiscale Européenne

The Institute is a company limited by guarantee without a share capital (CLG), registered number 53699. The Institute is also a registered charity, number 20009533. EU Transparency Register No.: 08421509356-44

innovative and productive indigenous sector. It is, therefore, important that the existing suite of measures are kept under review.

Ensure that existing tax reliefs for SMEs achieve their policy objective

Despite some welcome amendments in recent years to the Employment Investment Incentive (EII), the Key Employee Engagement Programme (KEEP), the R&D Tax Credit and CGT Entrepreneur Relief, these vital supports for Irish businesses are still not working as intended.

It is our firm view that legislative change is required to address the restrictive conditions that are excluding many small and micro enterprises from availing of these tax reliefs. In our [Pre-Budget 2025 Submission](#) to the Minister for Finance in June, we outlined a selection of key legislative changes which we believe would encourage more investment in SMEs and make the current suite of measures more accessible to smaller companies.

Make the new Enhanced Reporting Requirements (ERR) workable for SMEs

The Institute fully endorses the remarks in the White Paper on Enterprise that reducing the compliance burden benefits all enterprises. In our view, Revenue's new system of ERR places a very significant administrative burden on businesses, particularly, smaller businesses.

ERR, which came into effect on 1 January this year, requires employers to report details of certain non-taxable payments and benefits provided to their staff in real-time which means on or before they are given to employees.

Increase the number of permissible benefits for the Small Benefit Exemption while retaining the monetary limit

One of the benefits impacted are gifts given to staff under the Small Benefit Exemption which allows employers to award up to two small tax-free benefits in a year. This exemption is used extensively by business owners as a means of rewarding staff, typically with a voucher.

In 2022, the maximum value of the exemption was increased from €500 to a €1,000. However, the legislation stipulates that only the first two benefits in any year can qualify for the exemption. This means that any additional benefit the employer may grant later in the year is subject to income tax even if the cumulative value of all benefits paid is less than €1,000.

In our view, the terms of the Small Benefit Exemption should be amended so that the €1,000 limit applies to the cumulative value of employee incentives across the year (rather than the first two received). This would give employers the flexibility to reward and incentivise staff as they see fit. Where the €1,000 limit is exceeded, the portion of any benefit received in excess of the limit should be subject to a benefit-in-kind (BIK) charge.

Review the fixed penalties which apply for failure to comply with ERR in real-time

Revenue has paused the imposition of penalties for 2024 to give employers time to adjust to the new ERR rules. However, the reality is that an employer who inadvertently omits to report any small benefit or payment made to an employee of the remote working daily allowance and business travel and subsistence expenses, all of which are non-taxable, faces a €4,000 penalty even though there may be no risk of an underpayment of tax. Furthermore, as the payments/benefits must be reported in real-time, a penalty could apply even where an omission is discovered by an employer and subsequently reported to Revenue at the earliest opportunity.

In our view, such a penal sanction is disproportionate and places an inordinate burden on smaller businesses that have limited resources. We have recommended in our Pre-Budget Submission that the level of this penalty be reconsidered by Government and replaced with a more appropriate sanction.

Gifts such as flowers to mark life events or Easter eggs and cakes to celebrate work team successes have become commonplace as employers seek to reward and retain staff in a tight labour market. This gifting has provided a new and regular line of business to small local producers.

However, the restrictive terms of the Small Benefit Exemption as well as the disproportionate fixed penalties that can apply to any breaches of the new ERR rules are likely to make employers reluctant to show their appreciation to employees in this way. This would not be good news for the local florist, baker, or chocolatier.

Reduce the CGT rate

Ireland's headline rate of CGT, at 33%, is one of the highest in Europe and has remained unchanged since it was increased during the financial crisis. In our view, Ireland's high CGT rate is restricting external investment in Irish business. It is also creating reluctant business owners who may hold onto their firms beyond the point where they have capacity to grow them to the scale required to expand into export markets.

Ireland's high CGT rate is further compounded by the fact that indexation relief, which sought to limit CGT to real gains in asset values by excluding the impact of inflation as measured by the Consumer Price Index (CPI), was abolished in 2002.

We believe a reduced CGT rate of 25% applying to active business assets would encourage innovation and productivity and attract more investment in indigenous business.

Enhancing Ireland's competitiveness

Simplify the Irish corporation tax code

It is recognised in the White Paper on Enterprise - Implementation Plan 2023-2024 that Ireland's ability to compete on corporate taxation is reduced following the introduction of

BEPS measures and the implementation of the Pillar Two global minimum tax rate across jurisdictions. Clear and simple corporate tax rules that are easy to operate and comply with would significantly enhance Ireland's reputation as a pro-business location and improve the overall competitiveness of the Irish tax system.

Adopt a branch exemption in tandem with the participation exemption for foreign dividends

The Institute welcomes the Government's decision to introduce a participation exemption for foreign dividends in the forthcoming Finance Bill. In our view, introducing a foreign branch exemption in tandem with the participation exemption for foreign dividends, would significantly reduce the administrative burden for Irish companies with foreign branches. Many EU Member States and competitor countries allow a foreign branch exemption.

Reform Ireland's interest deductibility provisions

Undoubtedly, Ireland has one of the most complicated interest deductibility regimes within the EU. Compliance with these rules has become difficult and costly for businesses that operate here and, in our view, it represents a reputational risk. While we welcome the ongoing review by the Department of Finance of the interest deductibility provisions, we are concerned that there is no clarity on the timeline for its completion nor on the prospects for its reform.

Government should, as a matter of urgency, set out a clear statement of intent to overhaul the legislative provisions to ensure a broad base for deduction of interest against both trading and non-trading income is permitted. The Anti-Tax Avoidance Directive¹ Interest Limitation Rule, which was introduced in Finance Act 2021, provides all the necessary protection against base erosion risks. This would bring Ireland's interest deductibility provisions in line with the measures contained in the corporate tax systems of our European counterparts.

Make Ireland's personal tax system more attractive

The Irish personal tax system is strongly progressive, and the tax and social welfare systems combined contribute substantially to the redistribution of income and the reduction of income inequality. However, Ireland's high marginal tax rates apply at relatively low-income levels by international standards and the country's personal tax base is narrow.

In our view, an objective of any long-term strategy aimed at attracting and retaining FDI should include reducing the marginal cost of employment in Ireland for both businesses and individuals.

Share-based remuneration can play an important role in rewarding key employees at all stages of development of a business. It can significantly reduce fixed labour costs and free up business cashflow. Further legislative amendments to the KEEP are needed to improve the feasibility of the scheme. However, there are limitations inherent in its design which

¹ Council Directive (EU) 2016/1164 of 12 July 2016 laying down rules against tax avoidance practices that directly affect the functioning of the internal market

inevitably limit its uptake. Consequently, it is important that the significant obstacles to the use of other types of share-based remuneration by SMEs and start-ups are addressed such as addressing the upfront tax cost faced by employees on the receipt of a share award or on the exercise of a share option.

For larger companies, given the high cost of employment in Ireland, it is vital that the benefits associated with existing share-based remuneration schemes are retained. Furthermore, it is essential that the complexity and administrative burden associated with operating such schemes in Ireland is minimised.

Support businesses in reducing their carbon emissions

Many countries are using tax incentives to support businesses in reducing their carbon emissions and to encourage investment in green/energy efficient projects. Moreover, most large multinational groups are now bound by ambitious environmental and social and governance (ESG) frameworks. As a result, robust climate action policies, including supports for green initiatives, have become key considerations for investors when choosing locations for their business.

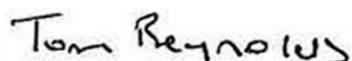
Ireland's current offering in this area does not compare favourably with competitor jurisdictions. We believe that tax measures which support businesses in reducing their carbon emissions should be on the table as the country seeks to attract and retain inward investment. Such measures would also aid Ireland in achieving its climate change targets. In our view, enhancing the existing accelerated capital allowances regime for energy efficient equipment and introducing targeted measures for green or energy related R&D would improve Ireland's offering as a location for sustainable investment.

Conclusion

The Institute accepts that the operation of the tax system does not fall within the remit of the Department of Enterprise, Trade and Employment. However, we suggest that its strategic vision for the next 18 months should explicitly recognise the importance of the tax system as a lever in sharpening Ireland's competitiveness, and incentivising enterprises to build resilience and take the necessary risks to grow and provide continued quality employment in the current difficult global trading environment.

We would welcome the opportunity to discuss the matters raised in this submission further with you or your officials.

Yours sincerely



Tom Reynolds
Institute President