



An Roinn Airgeadais
Department of Finance

Business Tax Stakeholder Forum

Department of Finance
April 2024

Agenda



- Introduction
- Domestic Developments
 - Update on the introduction of a participation exemption regime
 - Update on the review of Ireland's interest deductibility rules
 - Update on the public consultation on share based remuneration
 - Q&A
- EU and International Tax Developments
 - OECD Global Tax Agreement
 - Tax treaty update
 - EU tax developments
 - Q&A
- Presentation by the Irish Competent Authority for Mutual Agreement Procedures (MAP)
 - Update on statistics, workflow, trends and resourcing
 - Q&A
- AOB





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Introduction

Clare Costello
Department of Finance
April 2024

Introduction to the 3rd meeting of the BTSF



- Intention of the Forum is to provide an additional channel of communication and feedback for business tax stakeholders.
- Internally, the Tax Division in the Department of Finance is being restructured:
 - Domestic and Indirect Tax Division
 - Business and International Tax Division
- Maintaining stable public finances is critically important.
- High levels of employment and inflationary pressure easing.



Budget 2025

- Department's key deliverable every year
- During the spring officials will work on Tax Strategy Group papers for discussion in summer 2024.
- These papers will be a list of options and issues to be considered in the upcoming budgetary process.



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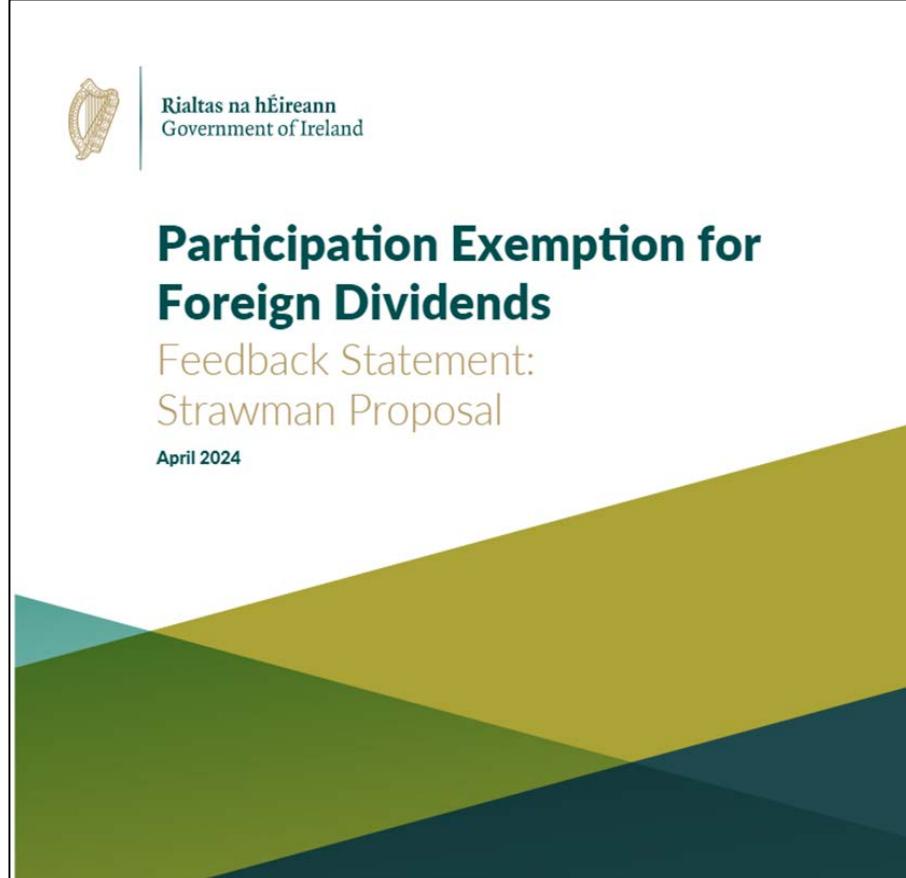
Domestic Developments

Rafal Saniternik, Leona Cantillon & Sonia O'Loughlin
Department of Finance
April 2024

Domestic Developments – Participation Exemption



- First Feedback Statement – published on 5th April 2024



- **Roadmap** for the introduction of a participation exemption to the Irish corporation tax system was published by the Department of Finance in September 2023. The Roadmap committed to the introduction of a participation exemption for foreign dividends in Finance Bill 2024, and to continuing consideration of the policy merits for the introduction of a foreign branch exemption.
- The purpose of the feedback statement is to further progress work on the key building blocks of the Participation Exemption (PEx).
- The feedback statement includes a **strawman proposal** that sets out a hypothetical example for how a participation exemption for foreign dividends might work in Ireland, in order that individual elements can be discussed within the context of a regime as a whole.
- The design of this strawman proposal has been informed by stakeholder submissions received in response to the Roadmap consultation, together with research work undertaken by officials in the Department of Finance and Revenue.

Participation Exemption – structure of the Strawman



The strawman proposal consists of the following key elements:

- **Scope of Relief** – exemption method (rather than deduction method); 100% relief; apply to companies within the charge to Irish corporation tax; opt in with an election to apply for a minimum period of 3 years for all in-scope dividends received by the company; geographic scope – dividends from the EU/EEA or DTA resident companies; no trading requirement; no tax credit for foreign tax paid where exemption availed of.
- **Dividends/distributions in scope** – apply to foreign dividends and other types of distributions that represent income from shares or from other rights, not being debt claims, to participate in a company's profits; capital distribution will not qualify; qualification based on min level of control over ordinary shares (5% ownership of share capital, holding of voting rights, entitlement to profits available for distribution; and entitlement to assets on a winding-up of the company) held for at least 12 months, but relief for other types of shares as well; no impact to portfolio investments exemption (s21B TCA 1997).
- **Anti-Avoidance** – dividends must not be deductible for tax purposes in any other jurisdiction; dividends received from a jurisdiction on the EU list of non-cooperative jurisdictions for tax purposes on the date of the dividend, will not qualify for relief; relief only for bona fide commercial purposes dividends and that do not form part of any arrangement or scheme of which the main purpose, or one of the main purposes, is the avoidance of tax.
- **Administration** – for dividends received in accounting periods commencing on or after 1 January 2025, an irrevocable election to avail of the PEx regime though CT1 for at least 3 years; dividends subject to the PEx reportable in CT1; Schedule 24 to operate for distributions not in the scope; unrelieved foreign tax credit carrying forward at the time of the election available for not in scope distributions or/and for after company exits the PEx

Participation Exemption – next steps

- The first Feedback Statement on Participation Exemption for foreign dividends is open for responses until **8 May 2024**. The Department of Finance will consider carefully responses to the first Feedback Statement.
- In meantime, a **round-table meetings** with key stakeholders with Finance and Revenue officials on the first Feedback Statement are planned – option for BTSF sub-group.
- It is planned that a second Feedback Statement will be published in **mid-2024**, to contain draft approaches to the legislation required to introduce a participation exemption for foreign dividends in Finance Bill 2024.
- The work on consideration of the policy merits for the introduction of a foreign branch exemption is ongoing.



Review of Ireland's Interest Deductibility Rules



- Budget 2024: The Minister announced a review of Ireland's current interest regime
- Review has commenced
- Public consultation



Review of Share Based Remuneration



- Review currently underway.
- Purpose of review and preceding public consultation:
 - Gain an up to date understanding of the current share scheme environment in Ireland,
 - Ensure the taxation of share based remuneration continues to meet both international best practice and stakeholder needs, in an evolving national and international economic environment.
- The Department has appointed Indecon to undertake this independent review
 - Report to the Department due by Q3 2024.



Review of Share Based Remuneration – Stakeholder Engagement



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Consultation on Ireland's Taxation of Share-based Remuneration

December 2023



- Public consultation - ran from December 2023 to January 2024.
- 21 submissions received from a range of respondents - individuals, companies, tax practitioners and representative bodies.
- Ongoing engagement with stakeholders and respondents to the public consultation on the key themes that have been raised as a core part of the review.
- The review is also considering the recommendations of the 2023 Report of the Commission of Taxation and Welfare.

Other Domestic Developments



- Changes to the Tax Debt Warehousing Scheme
- Business Taxes Simplification
 - A TALC subgroup is reviewing tax reliefs from an administrative aspect to seek improvements in access to reliefs without increasing risks.
- Funds Sector 2030: A Framework for Open, Resilient & Developing Markets
 - A progress update on the review was published in December. A report will be presented to the Minister by summer 2024.



Funds Sector 2030:
A Framework for Open, Resilient
& Developing Markets

Progress Update: Responses to the Public Consultation
December 2023

Questions and answers





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Department of Finance

Update on EU and International Tax Developments

Gary Hynds, Deirdre Donaghy, Ciarán Parkin & Ciaran Conroy
Department of Finance
April 2024



OECD Global Tax Agreement



OECD global tax agreement - Pillar One

Amount A



State of Play

- Draft text of the MLC published in October 2023 with a commitment for finalise the text by end March and to hold a signing ceremony by end June 2024.
- Text largely settled with some reservations footnoted.
- Consultation in US (October 11 to December 11 2023) important because of their role in critical mass.
- Following consultation US had 4 requests;
 1. Revised definition of DST and Relevant Similar Measure,
 2. Common Application,
 3. All Reservations resolved, and
 4. Robust Amount B,

Next Steps

- Finalisation of last outstanding issues.
- Agreement and signature of MLC in mid-2024.
- Ratification process and critical mass.
- Finalise Amount B phase two work.



OECD global tax agreement - Pillar One Amount B



Simplify & streamline transfer pricing, ending disputes.

State of Play

- Public consultation summer 2023: strong engagement by stakeholders and officials.
- Technical work ongoing: two phases –
 - Phase 1 - delivered in January 2024 Transfer Pricing Guidelines. Optional *and of limited scope*, beneficial to low capacity jurisdictions.
 - Phase 2 - work ongoing, more comprehensive and binding on jurisdictions.
- Digital goods and services unlikely to be included in scope.

Next Steps

- Implement phase 1 – following agreement and publication in OECD Transfer Pricing Guidelines.
- Negotiate for a broader scope in phase 2 which is expected to be mandatory.

OECD global tax agreement - Pillar Two



Implementation – current developments

- Development of Administrative Guidance ('AG') ongoing at OECD
 - First tranche of 2024 AG now expected in May. Covers quite technical subjects: DTL recapture, Cross border allocation of current and deferred taxes, treatment of securitisation vehicles.
 - Further AG expected later in 2024 – possibly two tranches.
- OECD peer review process underway
 - Temporary qualification mechanism initially
 - March 2024: Ireland filed its IIR self-assessment form
 - April 2024: Ireland to file its QDMTT/QDMTT SH self-assessment form
- Other current OECD work: Administrative Framework, EOI, Dispute Resolution
- Global adoption of Pillar Two continues, discussions ongoing in US



UN Tax Cooperation



- G77 (largely developing countries) brought forward a resolution on International Tax Cooperation at the UN in November 2022.
- UN Sec Gen's report on 'Promotion of inclusive and effective international tax cooperation at the United Nations' published.
- Majority vote to establish a Framework convention on international tax cooperation despite opposition from OECD Member States.
- Discussions underway in New York to agree terms of reference for the new convention. A 20 member working group established with EU represented through France, Italy, Spain, Estonia, and Poland.
- Ireland, EU and others pushing to ensure that developments are complementary and co-ordinated with OECD and agreed via consensus.
- Working Parties taking place in May and August with view to delivering for the UN's Financing for Development conference in 2025.

Double Tax Agreements (Update)



- Ireland's Treaty Policy Statement published in 2022.
- Twin approach of economic priorities and specific policy for developing countries.
- Economic Priorities included;
 - G20
 - EU and OECD Members and Accession Countries
 - Renegotiation of Older treaties
- Policy for developing countries includes creation of Cost Benefit Analysis framework.

Ireland's Tax Treaty Policy Statement
June 2022

Prepared by the Tax Division,
Department of Finance
www.gov.ie/finance



EU Tax Developments



EU Tax - Legislative files



There are a range of EU tax files under discussion. Ireland will analyse any legislative proposal from the European Commission and fully engage to ensure that the Irish position is well represented.

Current Files

- FASTER
- Unshell
- BEFIT Package:
 - Transfer Pricing Directive
 - BEFIT Directive
 - HOT Directive



Other

- Code of Conduct Group: February 2024 update to EU list.
- DAC 8 transposition will commence in Finance Act 2024.



EU Tax - Faster Proposal



- Published – June 2023.
- Stated objective - to improve procedures for non-resident investors and to prevent tax abuse in the field of withholding taxes.
- EU Council technical working group meetings, held under the Spanish and Belgian Presidencies, have completed article by article reviews.
- The Presidency is seeking to drive the proposal forward, and Member States broadly support the objectives.
- Next meeting is on the 16 April 2024 and intention is to send the proposal for agreement to EcoFin in May.



EU Tax - Unshell



- Published - December 2021.
- Stated objective - to prevent tax avoidance and evasion through actions by undertakings without minimal substance, and enhance the proper functioning of the internal market.
- EU Council technical working group meetings, held under French, Czech, Swedish and Spanish Presidencies, have completed article by article reviews.
- Difficult and extended negotiation given the divergent views. Under the Spanish there has been attempts to make progress through consideration of an Exchange of Information directive in the first instance.
- The file has not been progressed by the Belgian presidency to date but a meeting may occur during the second half of their presidency.



EU Tax - Transfer Pricing



- Published – September 2023.
- Stated objective - to harmonise the implementation and application of transfer pricing rules within the EU with Member States taking a common approach.
- It incorporates the arm's length principle and key transfer pricing rules into EU law.
- It is proposed to establish further common binding rules in the area of transfer pricing by way of implementing acts.
- Discussions are underway, with differing views among Member States.



EU Tax - Head Office Tax (HOT) and BEFIT



Head Office Tax (HOT) Directive

- Published September 2023.
- Aim - to establish a Head Office Tax system for SMEs operating cross-border in the EU that would simplify the need to interact with multiple tax systems.
- Not expected to be prioritised by the Presidency until Transfer Pricing Directive is progressed further.
- So far there has been two working party meetings.

BEFIT Directive

- Published September 2023.
- Aim - to agree a common framework for calculating the corporate income tax base for large groups of companies in the EU.
- Not expected to be picked up by the Presidency until Transfer Pricing Directive is progressed further.
- The Oireachtas Joint Committee on Finance, Public Expenditure and Reform and an Taoiseach has released a reasoned opinion on this proposal.

Questions and answers



Ireland's Competent Authority Function for Dispute Resolution

Business Tax Stakeholder Forum
12 April 2024

Agenda

- Overview of Ireland's Competent Authority function for cross-border dispute resolution
- Mutual Agreement Procedure
- Ireland's Advance Pricing Agreement programme
- Expectations going forward

Competent Authority Function

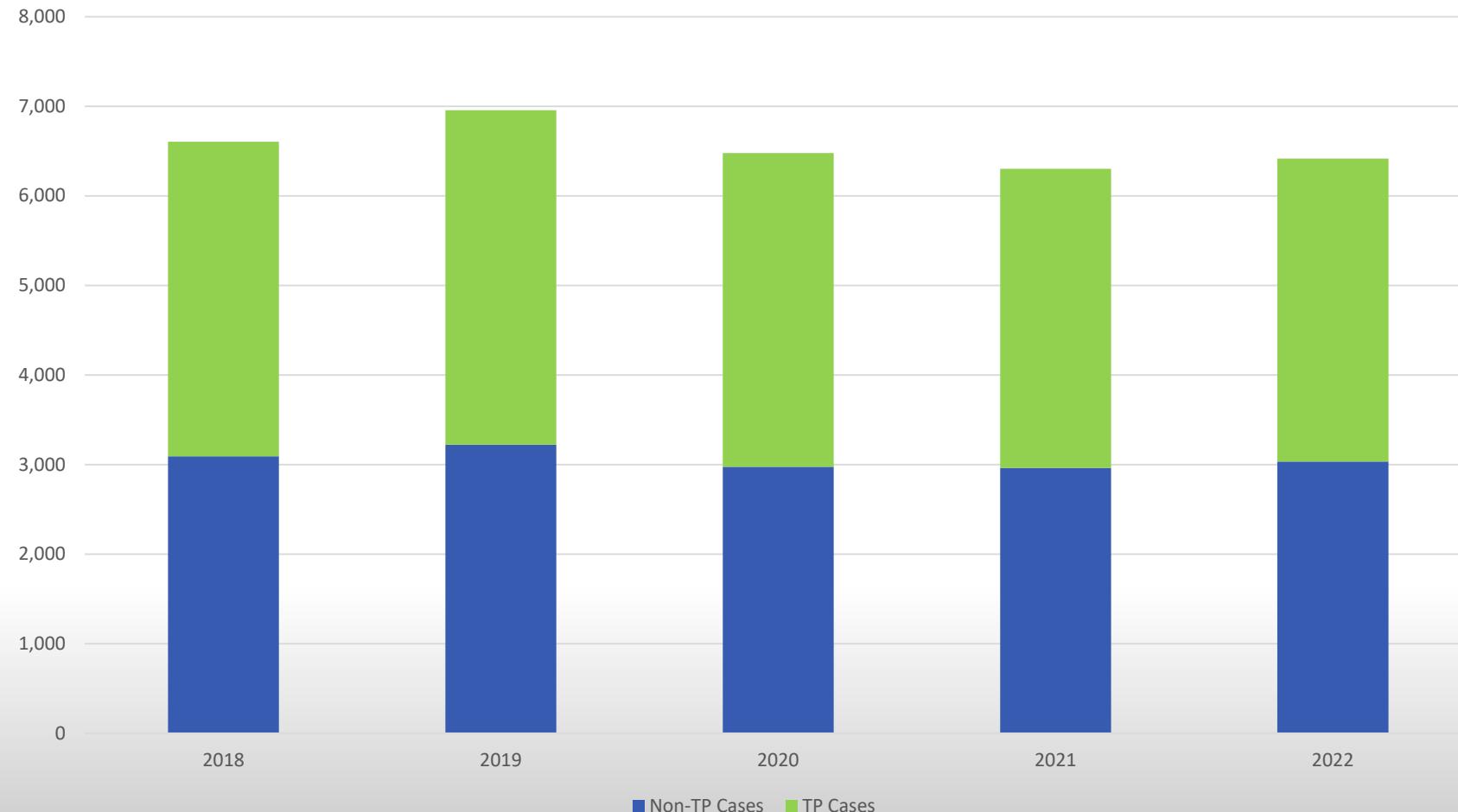
- Revenue is the designated Competent Authority for resolving cross-border tax disputes
- Legal mechanisms for resolving disputes:
 - Double tax treaties
 - EU Arbitration Convention
 - EU Dispute Resolution Directive
- Competent Authority function sits within Revenue's International Tax Division
 - Transfer Pricing Branch – allocation and attribution of profit cases
 - Tax Treaty Branch – non-transfer pricing cases

Competent Authority Function

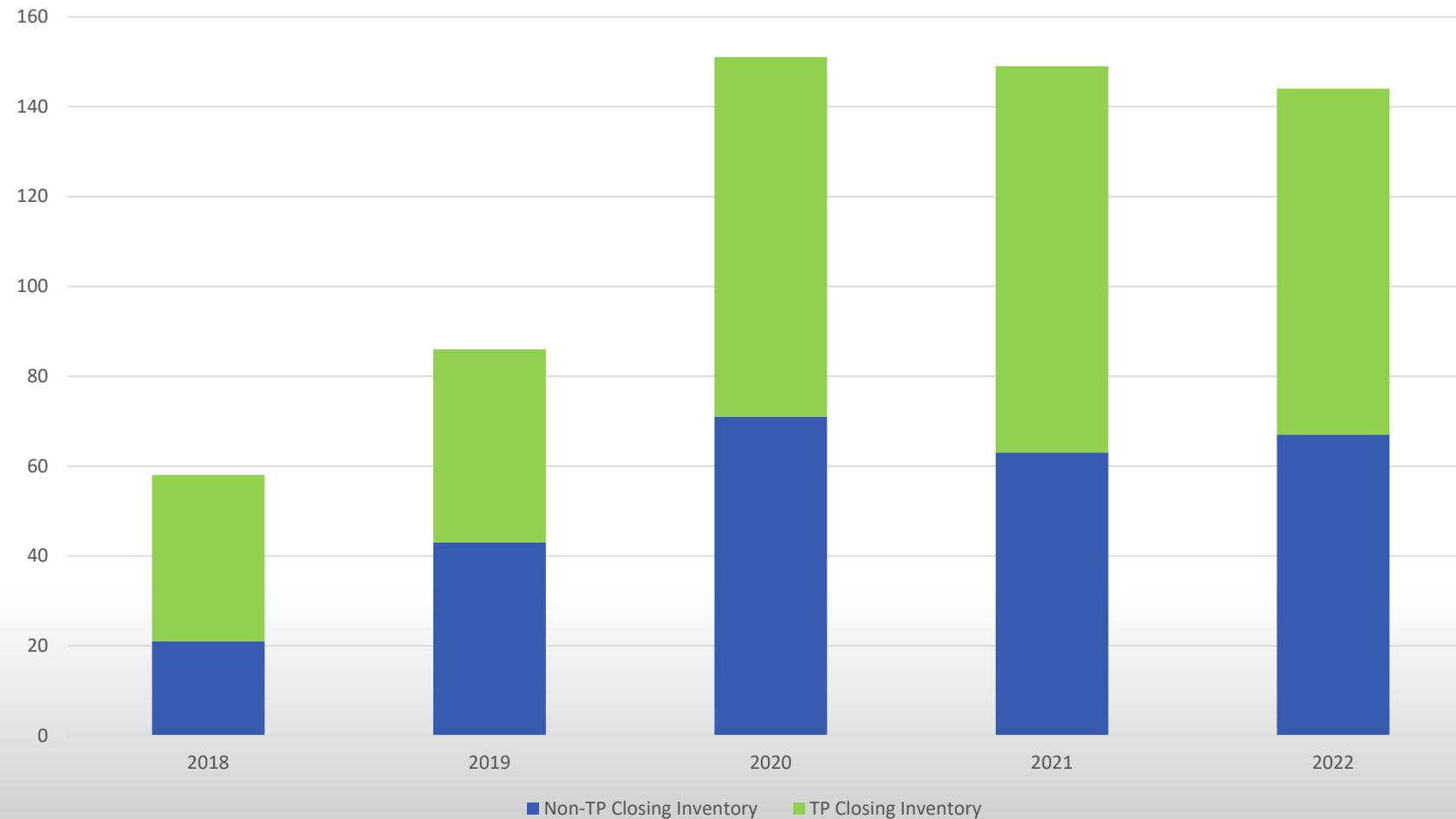
- Transfer Pricing (TP) Branch
 - Up until Q4 2013 – 1 Principal Officer with support from Large Corporates Division
 - Q2 2015 – 1 Principal Officer, 3 Assistant Principals, 1 Administrative Officer
 - Q1 2024 – 4 Principal Officers, 12 Assistant Principals, 3 Administrative Officers, 1 Executive Officer
- Tax Treaty Branch
 - Q1 2024 – 1 Principal Officer, 2 Assistant Principals, 2 Higher Executive Officers

Mutual Agreement Procedure (MAP)

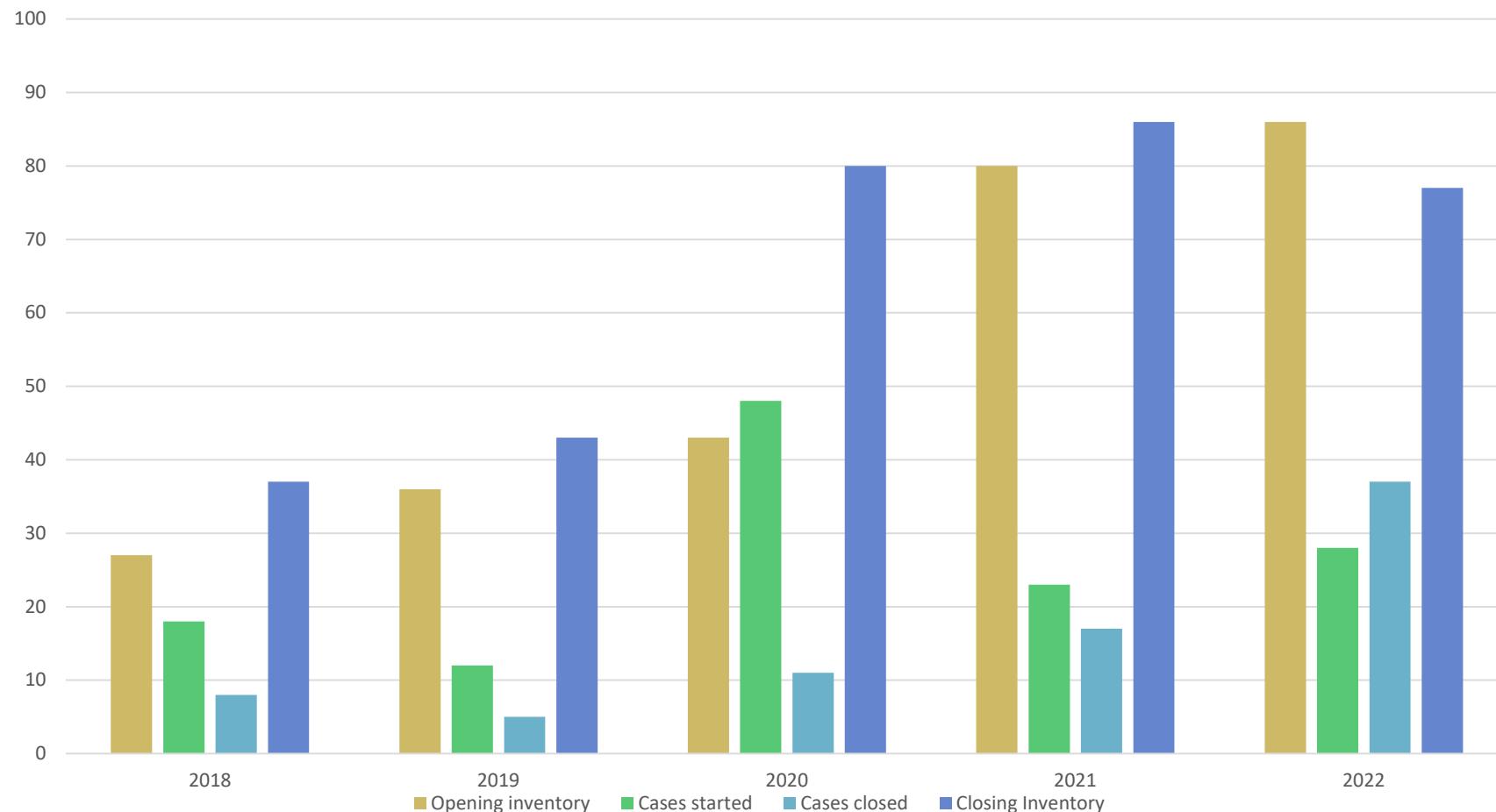
Global MAP Trends 2018 - 2022



Ireland's Total MAP Inventory 2018 - 2022

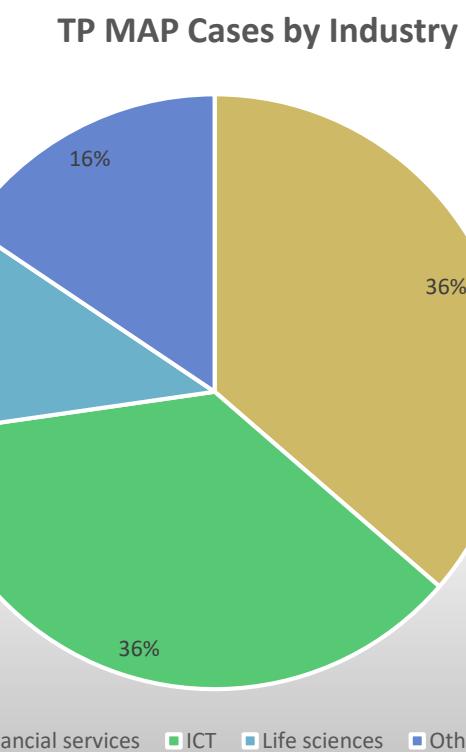
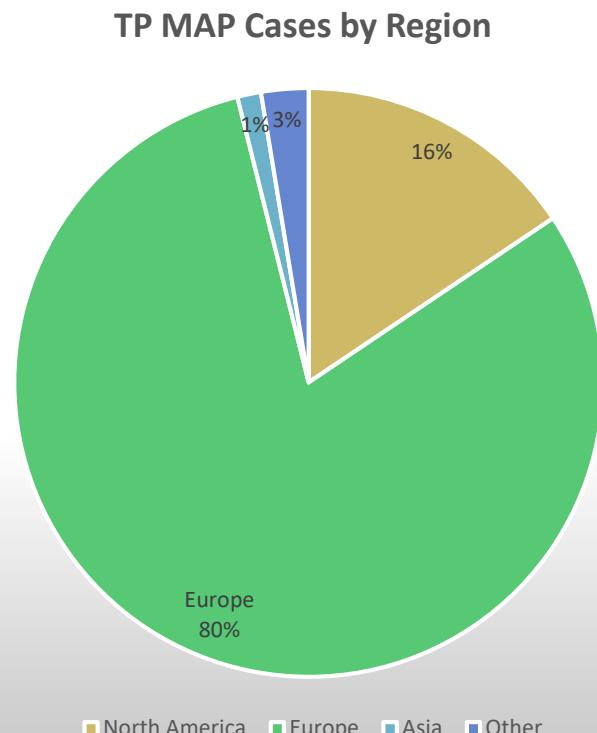


Ireland's Transfer Pricing MAP Inventory 2018 - 2022

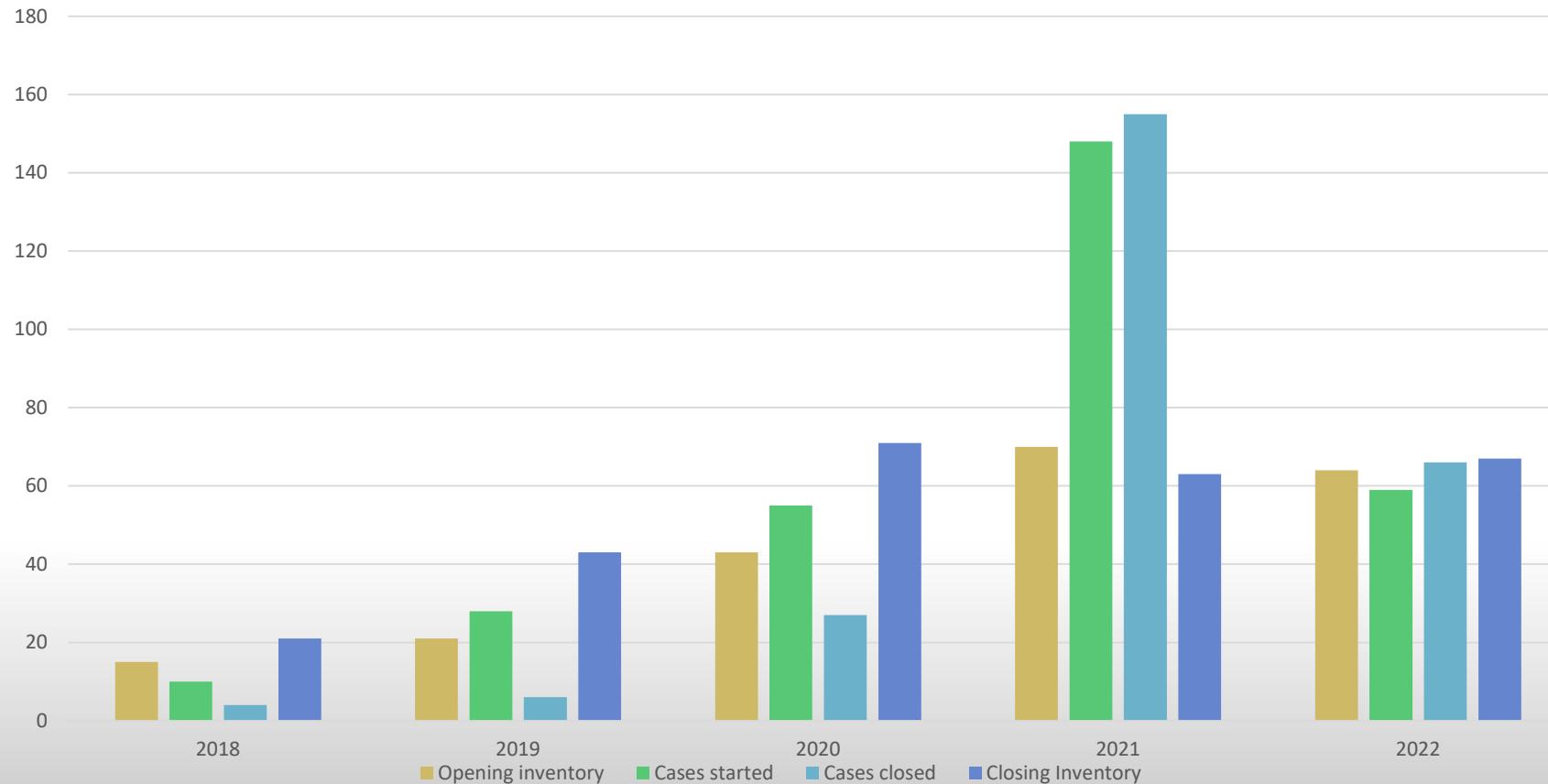


Overview of Irish MAP Inventory

- TP cases with 19 treaty partners (31/12/2022)



Ireland's non-Transfer Pricing MAP Inventory 2018 - 2022



Overview of Irish MAP Inventory

- BEPS Action 14 target of 24 months to resolve MAP cases
- Average time to resolve MAP cases 2020 – 2022:

	Ireland (months)	OECD average (months)
Total MAP Cases	10	26
Transfer Pricing Cases	34	32
Non-Transfer Pricing Cases	6	20

BEPS Action 14 – Making Dispute Resolution Mechanisms More Effective

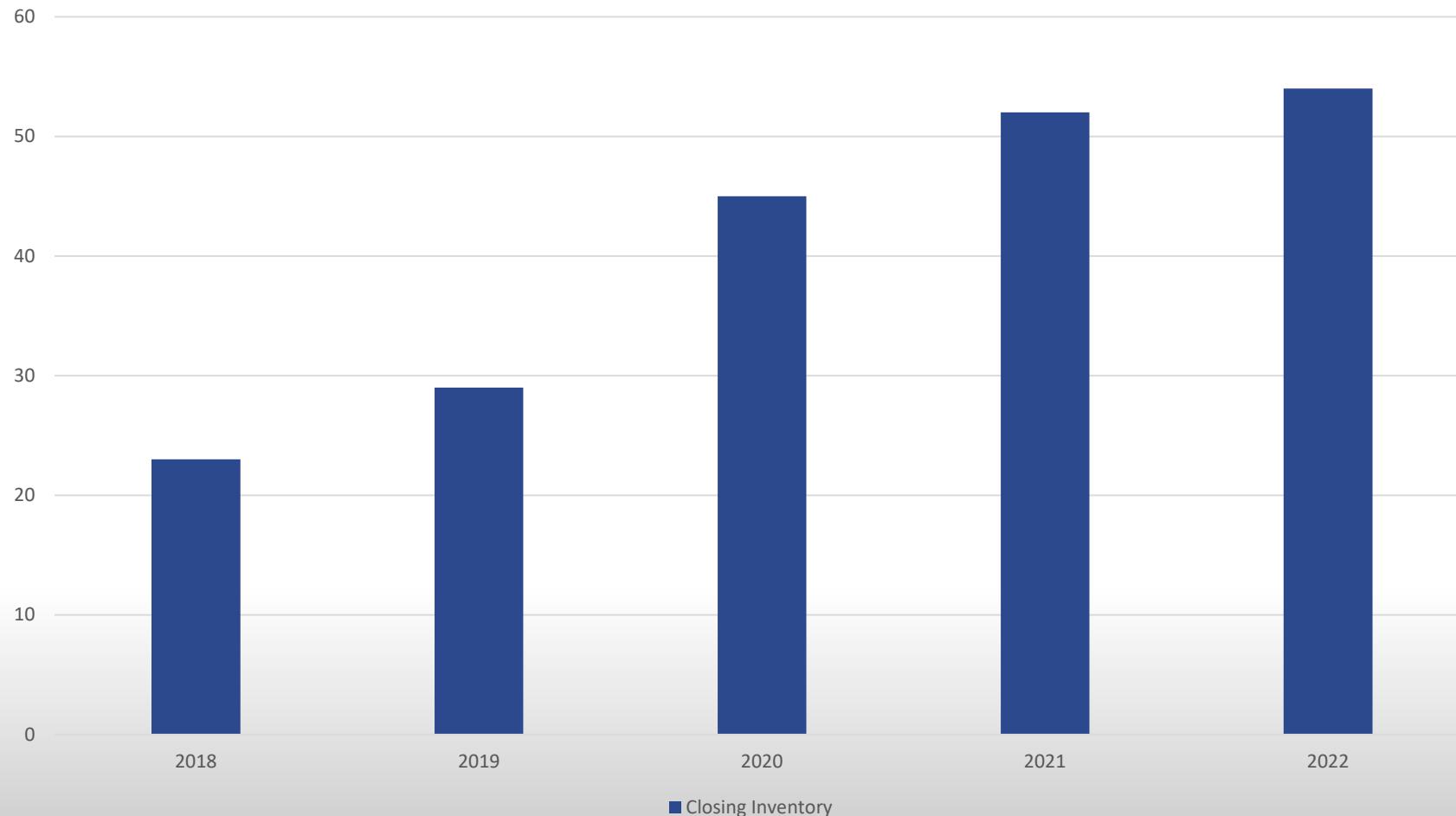
- Minimum standard
- Peer review process launched end 2016 to evaluate implementation of the standard
- Has led to improvements in the MAP process
- Annual OECD MAP awards

Ireland's Bilateral Advance Pricing Agreement (APA) Programme

APA

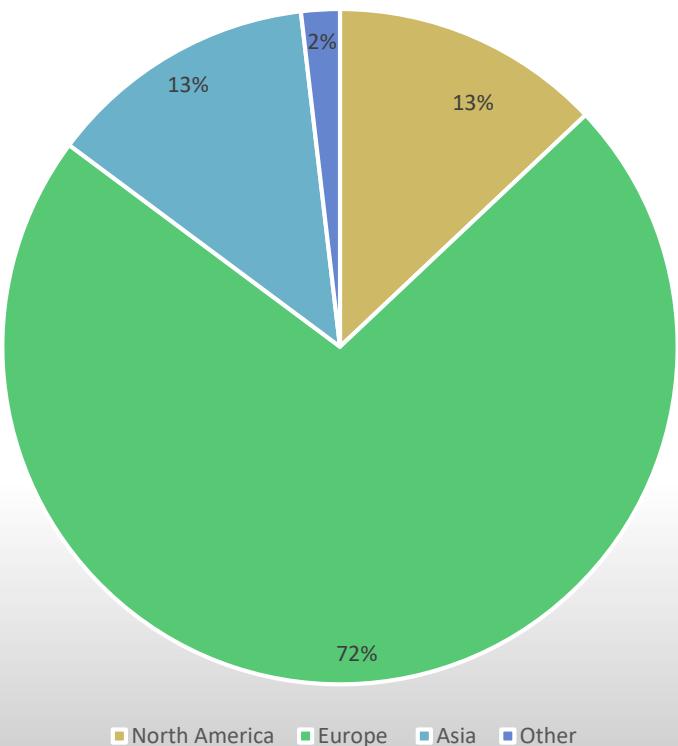
- Formal bilateral APA programme introduced in 2016
- Purpose of APA – provide certainty to taxpayers on pricing of future related-party intercompany transactions

Ireland's APA Inventory 2018 - 2022

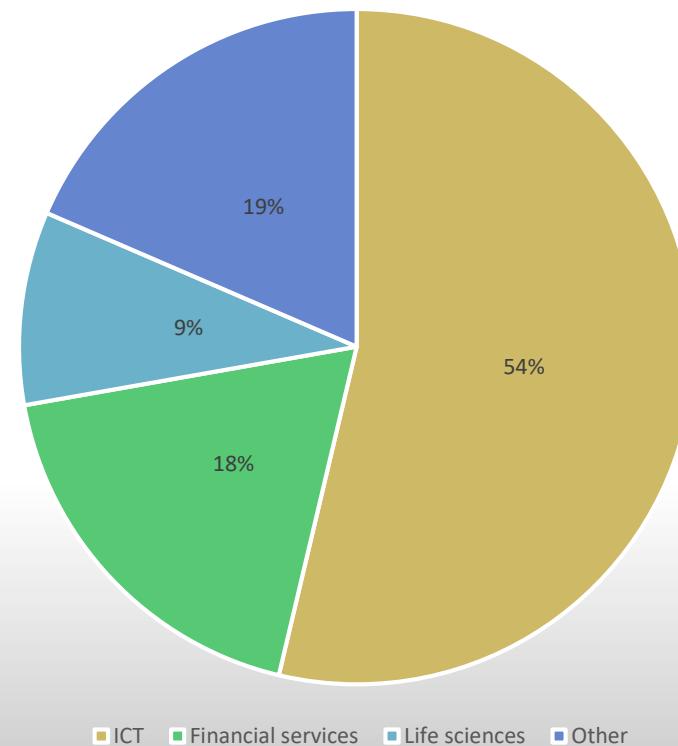


Overview of Irish APA Inventory by Region and Industry

APA Cases by Region



APA Cases by Industry



Expectations Going Forward

Expectations Going Forward

- Arbitration for disputes unresolved at MAP stage
- Continued interest in APAs
- Updated TDM on Bilateral APAs being prepared and will be published in near future
- Implications of Pillar One and Pillar Two

Q&A