



An Roinn Airgeadais
Department of Finance

Business Tax Stakeholder Forum

Department of Finance
March 2023

Outline of the *Pilot* Forum workings

- Ireland's Corporation Tax Roadmap January 2021 Update included a commitment (No. 12) to develop a new framework for domestic stakeholder engagement.
- Meet biannually Spring and Summer which aligns to our existing policy making calendar.
 - With the option of an ad hoc meeting for topical issues if required.
- Complement existing forms of stakeholder engagement .
 - National Economic Dialogue, Pre budget submissions, public consultations etc.
- Commencing as a pilot. Membership and operation will be reviewed after the initial year.
- The Forum will be limited in scope to direct business taxation and consultative in nature.



Review and agree the Term of Reference

- To assist in drafting the TOR, officials reviewed domestic and international examples of stakeholder engagement and other international civil/public service guidelines.
- We propose to publish the terms of reference along with meeting minutes, agenda and any presentations on our website
- The TOR also included elements on
 - Working methods - Constructive and Colligate
 - Transparency - Delegates should register their attendance at the Forum meetings on the lobbying register at www.lobbying.ie.





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Update EU and International Tax Developments

Gary Hynds, Deirdre Donaghy & Eddie Tierney
Department of Finance
March 2023



OECD Global Tax Agreement



OECD global tax agreement Pillar One



State of Play

Intensive work continues at the OECD through working parties and further public consultations.

Pillar One - number of open issues:

- ***Elimination of Double Taxation***
- ***Marketing and Distribution Safe Harbour***
- ***Withdrawal of Digital Taxes***
- ***Treatment of Withholding Taxes***
- ***What constitutes Critical Mass***
- ***Amount B***

Next Steps

- On-going negotiation of outstanding elements including critical issues for Ireland
- Agreement of MLC in mid-2023 for Amount A to take effect in 2024 once a critical mass have ratified.
- Finalise Amount B work in mid-2023, likely to be delivered through updated OECD Transfer Pricing Guidelines.
- Update Costings once detail finalised



OECD global tax agreement Pillar Two



State of Play

More advanced than Pillar One. EU Directive agreed, transposition deadline 31 December 2023

Intensive work continues at the OECD developing administrative framework.

Pillar Two - open issues:

- ***Differences between EU Directive and OECD Guidance***
- ***Subject to Tax Rule***
- ***Safe Harbours***
- ***Globe Information Return***

Next Steps

- On-going negotiation of administrative framework at the OECD including safe harbour for QDMTT
- Transposition of EU Minimum Tax Directive
- Subject to Tax Rule
- Systems Development

OECD global tax agreement Elements of Pillar Two



- Income inclusion rule (IIR) – 31 December 2023
- Undertaxed Profit Rule (UTPR) – 31 December 2024
 - Must be legislated for by 31 December 2023 and applied under EU Directive to EU-UPE group where Article 50 election for delayed transposition is in place
- Qualified Domestic Top-up Tax (QD) – optional – 31 December 2023
- Subject to Tax Rule (STTR) – treaty-based rule. Discussions ongoing at OECD. Expected implementation from 2024.

OECD global tax agreement Transposition of Pillar Two



- Initial steps already taken in Finance Act 2022 (R&D and KBD)
- Feedback statement – end March
 - Some narrative descriptions of overall approach / design for IIR, UTPR and QD
 - Descriptions of proposed administrative procedures
 - Draft approaches to legislation for IIR and UTPR (100+ pages)
- Technical consultation also ongoing through TALC BEPS – Revenue liaison forum borrowed by Finance for the year
- Aiming towards second feedback statement in the summer, to contain draft approaches to full suite of P2 legislation
- Legislation in Finance Act 2023

OECD global tax agreement Ongoing Work & Challenges



- OECD Model Rules (December 2021) were followed by Commentary (March 2022) and Administrative Guidance (February 2023)
 - Common approach
 - Discussions ongoing at OECD – safe harbours, Globe Information Return, etc.
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- EU Directive – published December 2021 and substantially negotiated Q1 2022
 - Largely follows Model Rules
 - Mandatory application (with limited deferral option)
 - EU working groups to identify and agree approaches to consistency with OECD commentary and guidance

Finance Act 2022 Preparatory Steps R&D and KDB



- A number of timing changes made to the **R&D tax credit**. No changes to the quantum of credit that can be earned:
 - fixed three-year payment schedule
 - option to call for payment of credit or offset against tax liabilities
 - removal of caps on payable element
 - first €25,000 of claim for R&D expenditure payable in full in Year 1
 - pre-trading expenditure, payable as credit from year trade commences
 - transitional measures in place for one year
- **KDB** – increase effective rate from 6.25% to 10%, subject to commencement order

Pillar Two Consequential



- Any amendments required to other elements of domestic legislation, to align with new Pillar Two rules?
 - *E.g. other payable tax credits (Film and Games reliefs) – are claimants likely to be in scope of Pillar Two?*
- KDB commencement order – expect during 2023 as progress is made at OECD

Questions and answers





EU Tax Developments



EU legislative files



At an EU level there are a range of tax proposals under discussion or consideration. Ireland will analyse any legislative proposal from the European Commission and fully engage to ensure that the Irish position is well represented.

Current Files

- Unshell
- DAC - Directive on Administrative Cooperation
- Code of Conduct

Expected Legislative Proposals

- Business in Europe: Framework for Income Taxation (BEFIT)
- Securing the Activity Framework of Enablers (SAFE)
- Faster – Withholding Tax Proposal



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 and Swedish Presidencies, have completed an article by article review.
- Ecofin December 2022 - Report to EU Council on tax issues, noted that *'In principle, most delegations supported the objectives of the proposal, but were of the view that further important technical work will be necessary before an agreement could be feasible.'*

DAC - Directive on Administrative Cooperation



The Directive on Administrative Co-operation (DAC) facilitates co-operation between Tax Authorities of EU Member States.

DAC 7

- Extends the scope of AEOI to the information reported by digital platforms, about income and revenues of the sellers on these platforms.
- Ireland has legislated for DAC 7 in the Finance Act of 2021 and 2022.
- The new rules for digital platforms apply from 1 January 2023. Platform operators will have to report the collected information for the calendar year 2023 by 31 January 2024.

DAC 8

- Published in December 2022, it will provide for the introduction of reporting obligations and the exchange of information by Crypto Asset Service Providers in the area of crypto-assets and e-money.
- The expected application is from 1 January 2026.

Code of Conduct Group (Business Taxation)



- Formed in December 1997, when the European Council adopted a resolution on a Code of Conduct for business taxation, with the objective of curbing harmful tax competition in the European Union.
- Over the intervening period, the scope has expanded to apply to third countries outside the EU, so that now one of the main tasks of the Code of Conduct Group is the preparation of the EU list of non-cooperative jurisdictions for tax purposes.
- The initial list was included in the Council Conclusions published in December 2017 and contains two Annex's
 - Annex I: The EU list of non-cooperative jurisdictions for tax purposes
 - Annex II: State of play of the co-operation with the EU with respect to commitments taken by cooperative jurisdictions to implement tax good governance principles

Expected Legislative Proposals

BEFIT - (Business in Europe: Framework for Income Taxation)



- Announced in May 2021 as part of Commission communication on Business Taxation for the 21st Century
- BEFIT public consultation launched in October 2022. BEFIT aims were outlined as seeking to introduce a single corporate tax rulebook for the EU, providing for fairer allocation of taxing rights between Member States and to reduce compliance costs and create a coherent approach to business taxation throughout the EU.
- Intended to build on Commission experience of CCTB and CCCTB negotiations to develop a common corporate tax system across member states to include;
 - a common approach to computing the tax base and
 - the design of the formula for allocating taxable profits within the EU

Expected Legislative Proposals



SAFE

- Public Consultation in 2022
- Aim - transparency measure regarding a tax enabler. An enabler is broadly defined as a person who enables abusive tax arrangements through design, managing and marketing.
- Target – Complex structures in non-EU countries.

FASTER

- Public Consultation in 2022
- Aim - initiative to improve procedures for non-resident investors and to prevent tax abuse in the field of withholding taxes.
- Target – to reduce tax barriers to investment as per the CMU 2.0 commitment and to prevent abuse.

Questions and answers





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Update on EU Level Playing field

Bernadette Hawkes

Department of Enterprise Trade and Employment

March 2023

What is State Aid?



Why is the Level Playing Field Important for Ireland?

- State Aid is the use of State financial resources, given to firms on a discretionary basis, with the potential to distort competition and affect trade between Member States of the European Union.
- In general, State Aid is prohibited because of its anti-competitive effects.
- The EU's State Aid Framework governs how, and in what circumstances, State Aid can be legally provided.
- The State Aid Framework performs a balancing act of economic policy - to prevent distortion of fair competition, while also achieving worthy policy objectives, such as Regional Development, Environmental Protection or to promotion of Research and Development and Innovation (RDI) in Industry.
- Ireland is a strong supporter of State Aid rules as they enable us to compete on the European markets with the larger Member States and ensure a level playing field for all.

Recent changes in State Aid rules



**16 August
2022**

- Enactment of US Inflation Reduction Act

**9 March
2023**

- Introduction of Temporary Crisis and Transition Framework (*amending Temporary Crisis Framework (4th amendment)*)

**9 March
2023**

- Amendment of the GBER – Green Deal GBER (*General Block Exemption Regulation*)

**16 March
2023**

- Publication of EU Net Zero Industry Act

Foreign Subsidies Regulation

Purpose Addressing distortion caused by foreign subsidies

Timelines





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Update on other domestic developments

Gary Hynds & Deirdre Donaghy
Department of Finance
March 2023

Corporation Tax work plan 2023

Worldwide / Territoriality



- Consideration of dividend participation exemption and/or branch exemption
- Significant project, early engagement essential
- Potential issues for consideration:
 - CFC rules – don't currently apply to foreign PEs, and 'relevant distribution' provisions
 - Transfer pricing – foreign branch profit attribution rules
 - Anti-hybrid rules – PE provisions not previously required, plus specific worldwide provisions
 - Interest limitation – impact on earnings calculation; HQ to branch transactions not currently in scope; impact on 'single company worldwide group' provision
 - Exit tax – application to transfers from HQ to foreign exempt PE
 - Tax Treaties – positions reserved under MLI due to worldwide tax system
 - Interaction with existing domestic reliefs

Corporation Tax Roadmap

Key tool to both signal progress and outline medium term plans to modernise the Irish corporation tax system.

2018 Roadmap

- set out progress to date and further commitments to action.

2021 Update

- set out further action and new commitments



Extensive changes

- BEPS implementation
- Transfer pricing
- European Directives (ATADs, DACs)
- Coffey Report and economic analysis
- Defensive measures
- Tax treaty policy

What Next?

- OECD two pillar implementation
- EU developments
- Public CbCR

Measures to apply Outbound Payments



- Part of our commitments in the Update to Ireland's Corporation Tax Roadmap in January 2023
 - Commitment 6 - Consider additional defensive measures in respect of countries on the EU list of non-cooperative jurisdictions,
 - Commitment 7 - Consider broader actions that may be needed in respect of outbound payments.
- Also part of our milestones in the National Recovery and Resilience Plan
 - Economic analysis on outbound payment flows and recent reforms and public consultation on measures applying to outbound payments
 - Legislation applying to outbound payments to prevent double non-taxation introduced. To be completed by Q1 2024
- The legislation expected to take the form of a withholding tax or a denial of deduction and apply to no tax, zero tax, or non-cooperative listed jurisdictions.

Questions and answers

