Irish Tax Institute

Budget 2015 Submission

A Tax Strategy for Growth

August 2014

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About the Irish Tax Institute

The Irish Tax Institute is the leading representative and educational body for Ireland's AITI Chartered Tax Advisers (CTA) and is the only professional body exclusively dedicated to tax. Our members provide tax expertise to thousands of businesses and individuals in Ireland and internationally. In addition many hold senior roles within professional service firms, global companies, Government, Revenue and state bodies.

The Institute is the leading provider of tax qualifications in Ireland, educating the finest minds in tax and business for over thirty years. Our AITI Chartered Tax Adviser (CTA) qualification is the gold standard in tax and the international mark of excellence in tax advice.

A respected body on tax policy and administration, the Institute engages at the most senior levels across Government, business and state organisations. Representing the views and expertise of its members, it plays an important role in the fiscal and tax administrative discussions and decisions in Ireland and in the EU.

A Tax Strategy for Growth

Since Budget 2008, Ireland's economic policy has necessarily been focused on reducing the Budget deficit from a high of 14.3% in 2009 to a target of 3% for Budget 2015. This economic position was particularly challenging because growth levels in the economy through this period were so low and therefore deficit targets had to be met through a combination of revenue raising measures and expenditure cuts. The revenue raising element required significant structural change to the overall tax system. 4 entirely new taxes and levies were introduced:

- the Universal Social Charge (USC),
- the Local Property Tax,
- the Pension Levy, and
- the Bank Levy.

Furthermore, 15 separate and significant changes were made to the rates and bases of existing taxes in this period. Further details of these changes are contained at Appendix 1.

Recent economic indicators, however, have been consistently positive and the Government has rightly set ambitious growth targets of 2.1%[1] in 2014, 2.7% in 2015 and 3% in 2016. This improving economic environment provides an opportunity for a more positive, growth oriented approach to be adopted in Budget 2015. It is important that we grasp this opportunity and examine how our tax system can actively facilitate and support this economic growth and ensure that any barriers to growth which exist at present are removed.

The international tax framework is undergoing fundamental change, led by the OECD Base Erosion and Profit Shifting (BEPS) project and the work of the European Commission. In our recent submission to the Department of Finance, the Institute made suggestions for an international Tax Strategy for Growth, in anticipation of these changes. However, Irish indigenous businesses employ almost 70% of the workforce and a strategy that best meets the economic growth environment these businesses are facing is equally important. Our tax policy suggestions for Budget 2015 focus on the businesses, business owners and taxpayers in this domestic Irish sector and complement the recommendations made for the Foreign Direct Investment (FDI) sector in our earlier submission dated 22 July 2014.

Our key recommendations for Budget 2015 are:

1. Ireland's capital tax regime must promote, not hinder, growth and investment

- In an increasingly mobile environment for international capital investment, Ireland's capital tax rates have increased by 65% over the past 5 years. To be competitive, these headline rates must be reduced, or at a minimum, a

[1] Details of these targeted increases in Gross Domestic Product (GDP) are outlined in the 'Government Statement of Priorities 2014-2016'.

commitment given that there will be no further increases in rates for the next 3 years.

- The Entrepreneur's Relief introduced in Budget 2014 needs to be reviewed to compete with the low rates available for active business investment in competing jurisdictions such as the UK.
- The reliefs which are available to reduce the tax costs of passing on a business should be simplified.

2. SME investment incentives would benefit from key reforms

- The Employment and Investment Incentive (EII):
  - o The full 41% relief should be available to investors in the year of investment.
  - o The holding period for shares should be increased from 3 to 5 years.
- The Seed Capital Scheme (SCS):
  - o Individuals who have previously been self-employed are denied access to the SCS under current rules. This denies relief to many early stage businesses and should be reviewed.
  - o A restructuring of the SCS relief would enable "cash-poor" businesses to benefit from the tax relief upfront.
- Many of the smallest businesses could benefit from additional loan financing. A focused tax support in this area would be welcome.

3. Exchequer reliance on personal taxes should be reduced:

In 2013 almost 42% of the Exchequer yield was generated from personal tax paid largely by the 1.9 million individuals in employment. This total was 29% of the Exchequer yield in 2007 when 2.1 million individuals were in employment. A much smaller number of people in the workforce are paying much higher levels of income tax. Personal taxes are the most damaging taxes for growth (after corporate income tax) according to the OECD and we need to focus on reducing this reliance, which is damaging our cost competitiveness.

- A clear timeline needs to be announced over which the marginal personal tax rate will be reduced below 50%.
- To avoid erosion of benefits for taxpayers, marginal income tax thresholds should be index linked to inflation.
- Self-employed taxpayers who generate jobs in the economy should not be paying higher marginal tax rates than employees. The 10% USC rate on self-employed individuals should expire as planned at the end of 2014.
- A targeted regime that provides effective, competitive relief for FDI and domestic businesses seeking mobile executives is required to replace the existing Special Assignee Relief Programme (SARP).

4. Employee participation in business should be encouraged through tax policy

- Targeted measures for employees receiving equity in their employers' business should be considered.

5. **Exporters should be assisted by improving the Foreign Earnings Deduction (FED)**

- Key improvements should include:
    - Expanding FED to cover all non-EU markets.
    - A reduction in number of days that must be spent abroad by the employee from 60 to 30 days.

6. **Other supports**

- Assist businesses by reform of the tax appeals system:
    - Ensuring the appeals regime is adequately resourced.
    - Requiring all decisions of the Appeal Commissioners to be published in a timely manner.
    - Maintaining the "in camera" rule to encourage small businesses to take appeals where necessary.
- Establish an R&D Steering Group to help improve the administration of the R&D tax credit and provide greater certainty for taxpayers.
- Modernise the tax regime for travel expenses so that it better reflects current working practices for all individuals including non-executive directors.

The economic context of Budget 2015

Despite the challenges of recent years we are seeing the beginning of a recovery in the Irish economy. There have been a number of very welcome positive economic signals recently.

- Nearly 1.9 million people are now in employment - the highest level since 2009.
- Gross Domestic Product (GDP) increased by 4.1% in the year to the first quarter of 2014.
- Tax Exchequer returns for the first seven months of the year have exceeded expectations - cumulative tax receipts are up €1.3 billion (6.4%) compared to the same period in 2013 and are €548 million (2.5%) ahead of target.[2]

While the Irish domestic SME sector was impacted more severely by the downturn and has been slower to recover, there are positive indicators of growth for this sector:

- Employment in State-supported Irish companies now exceeds 175,000 - the highest in a decade.[3]
- 1 in 5 small firms hope to increase employee numbers in 2014.[4]
- Ireland's improved credit rating to A- was driven by views of improved prospects for the domestic sector.[5]

As we approach Budget 2015, expert commentators are hopeful that we are exceeding expectations in reducing the deficit to 4.8% in 2014. There appears to be a general consensus that the 3% deficit target for 2015 can be reached with a more modest budgetary adjustment than the €2 billion adjustment proposed in April's Stability Programme Update.

[2] End-July 2014 Exchequer Returns
[3] Action Plan for Jobs 2014
[4] Small Firms Association Business Sentiment Survey 2014, 10 June 2014
[5] Standard and Poors credit rating update , 6 June 2014

1. Ireland's capital tax regime must promote, not hinder, growth and investment

Successive changes to the capital tax rates and thresholds have created a difficult capital tax environment for businesses to operate in.

The Changing Capital Tax Environment

	2008	**2014**
CGT rate	20%	33%
CAT rate	20%	33%
Value of transfer which can be made from parent to child free of CAT	€521,208	€225,000
CGT Retirement Relief	Relief available for any investor over age 55	New age cap reduces the incentive to pass on business after age 66

Interestingly, despite these changes, the total yield from capital taxes has reduced significantly. The Capital Gains Tax (CGT) yield in 2013 was just €368 million compared to more than €3.1 billion in 2007. By contrast, in 1997 the CGT rate was reduced from 40% to 20% and the CGT yield increased from £132 million in 1997 to €343 million in 1999. While other economic factors contributed to this rise, it demonstrates that a reduction in capital tax rates can contribute to an increase in the tax yield.

A move towards lowering our capital tax rates could help to increase the level of entrepreneurial activity in Ireland. Ireland competes with other countries as a location for Irish and foreign entrepreneurs to establish start-ups. Investors and entrepreneurs operate on a worldwide basis and we need to be cognisant of this at a time when other jurisdictions have increasingly competitive offerings. The recently launched 'Tax Policy for FDI in Ireland' prepared by IDA Ireland recognised the importance of:

> *"maintaining a focus on enhancing Ireland's tax environment in an international context aimed at attracting and retaining mobile entrepreneurs and emerging companies".*

The Government and state agencies are to be commended for their work in positioning Ireland as a good location to start a business. However, an unfavorable capital tax environment can negate these efforts.

A reduction in the headline rates of capital taxes would provide a welcome boost to Ireland's competitiveness as a location to establish a business. At a minimum, a clear commitment to holding rates at current levels together with an effective Entrepreneur Relief would be welcome to provide essential certainty to business owners and investors.

We welcomed the introduction of an Entrepreneur Relief in Budget 2014 as a measure to reduce the CGT cost for successful serial entrepreneurs. However, the measure

introduced last year has some significant limitations. The relief is very complex and the benefits of the regime accrue too far into the future to act as a strong incentive to influence decisions made today. These restrictions are exacerbated by the availability of a simpler, clearer and more attractive relief in the UK.

To compete for these investment projects, Ireland needs a simpler relief which applies a lower CGT rate to entrepreneurial gains and provides investors with more certainty about the tax regime on disposal of their investment.

High capital taxes also act as a barrier to the passing on of businesses to the next generation. Reliefs are available to reduce the tax cost of passing on a business but a simplification of these reliefs would be welcome to ensure they are effective. In particular:

- For CGT Retirement relief, where shares in a company are being disposed of, the method of apportionment of the company's value between business and non-business assets gives rise to anomalous results in how the relief operates and should be reviewed.
- The 5 year "period of ownership" requirement for CAT Business Relief can result in the relief being of limited benefit when a business has expanded in the years immediately prior to the transfer of the business.

In the agri-sector, capital tax reliefs, including CAT Agricultural Relief and CGT Retirement Relief, are particularly important to facilitate land mobility and growth. The overall tax policy for the agri-sector is currently being reviewed and, given the importance of this sector to the economy and the Harvest 2020 targets to grow the level of agri-exports, it is important that these key reliefs are maintained. Our submission in response to the Agri-Tax Review in March 2014 also highlighted other tax measures that could support the agri-sector.

Institute recommendations for a capital tax regime that promotes growth and investment:

- In an increasingly mobile environment for international capital investment, Ireland's capital tax rates have increased by 65% over the past 5 years. To be competitive, these headline rates must be reduced, or at a minimum, a commitment given that there will be no further increases in rates for the next 3 years.
- The Entrepreneur's Relief introduced in Budget 2014 needs to be reviewed to compete with the low rates available for active business investment in competing jurisdictions such as the UK.
- The reliefs which are available to reduce the tax costs of passing on a business should be simplified.

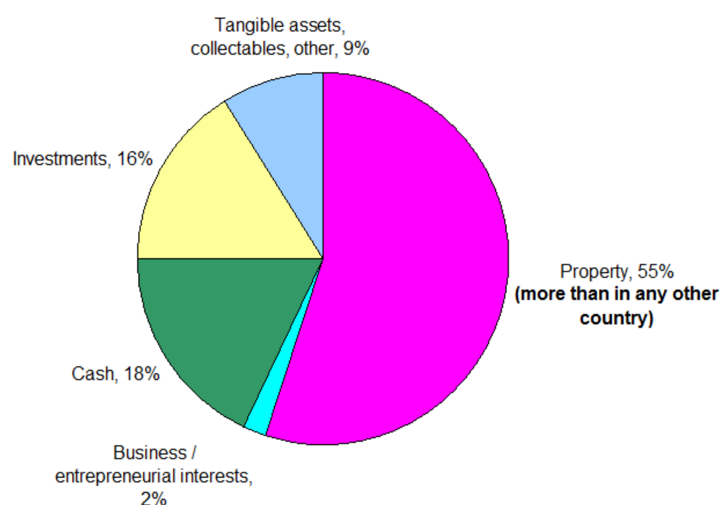
2. SME investment incentives would benefit from key reforms

Cash is essential for businesses at every stage of the business lifecycle and access to finance is essential for SMEs. Businesses simply cannot grow without access to sufficient finance. Government initiatives such as the Micro-Finance scheme and the Innovation Fund Ireland scheme have played an important role in improving access to finance. Tax policy also has a role to play by making it attractive to invest private capital in active Irish trading businesses.

There is an internationally competitive market for investors' funds. Irish investors are very mobile and they can make clear comparisons of the return on their investments across jurisdictions. In addition, Irish investors have a strong propensity for investing in property over other, riskier, investments.

> "*Irish high net worth individuals are likely to hold the majority (55%) of their wealth in property, more than any other country globally*". [6]

Where is Ireland's wealth invested?



Investors who choose to invest their funds in SMEs generally take much more significant risk than those who invest in property or "blue-chip" companies. Tax policy should recognise this fact and should be used to try and encourage this type of active investment in circumstances where jobs are likely to be created.

The Employment and Investment Incentive (EII) was introduced as a key mechanism to encourage this type of investment in trading businesses. It replaced the Business Expansion Scheme (BES). However, amounts invested through EII have been lower than were invested through BES and lower than anticipated in this scheme.

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[6] Barclays Wealth Insights Report, 17 June 2013

Relief granted under EII / BES 2011-2013

Year	Relief	Cost €m	Number of Investors
2011	BES	41	927
2012	BES	31.5	984
2012 (part of year)	EII	4	352
2013	EII	12.4	1,011

In a detailed submission to the Department of Finance in May 2014, the Institute made a number of suggestions for improvements to the EII scheme. The decision last year to remove the relief from the scope of the High Earner's Restriction was very welcome but additional change is required. Our key recommendations are:

- Full 41% relief should be available up front rather than granting relief of 30% in the year of investment and a further 11% after 3 years if certain conditions are met.
- The period for which shares must be held by an investor should be increased from 3 to 5 years.
- A forum to discuss issues around the technical application and interpretation of EII should be established.

The Seed Capital Scheme (SCS) is another initiative that currently exists to encourage investment in small business. It is available to individuals previously in employment, who invest in businesses which they establish themselves. The take-up of the SCS has been below expectations, with only 65 individuals availing of the relief in 2013.

There are two key blockers which we outlined in our detailed submission on this scheme to the Department of Finance in May.

- The relief is aimed at those leaving employment to take on a new trading venture. It is not available to those who had previously been self-employed.
- The individual must provide the capital upfront to invest in the business. There is a time lag between when the funds are needed to make the investment and when the tax refund is received.

For the SCS to be effective these blockers must be removed.

An additional policy, which we have suggested in previous submissions, is to introduce tax support for loan financing. Such a relief could operate as a standard rate deduction for a medium-term investment in active trading companies where the potential for job creation is clear. The possibility of investment in a pooled fund could also be explored so investors could diversify their risk. It would be important that any incentive would be excluded from the High Earners' Restriction to make it sufficiently attractive to investors.

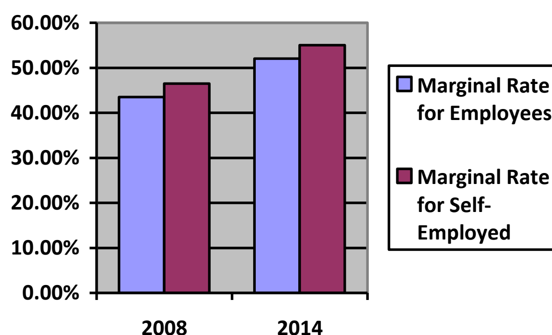
Institute recommendations for key reforms to SME investment incentives:

- The Employment and Investment Incentive (EII):
    - The full 41% relief should be available to investors in the year of investment.
    - The holding period for shares should be increased from 3 to 5 years.
- The Seed Capital Scheme (SCS):
    - Individuals who have previously been self-employed are denied access to the SCS under current rules. This denies relief to many early stage businesses and should be reviewed.
    - A restructuring of the SCS relief would enable “cash-poor” businesses to benefit from the tax relief upfront.
- Many of the smallest businesses could benefit from additional loan financing. A focused tax support in this area would be welcome.

3. Exchequer reliance on personal taxes should be reduced

Our personal tax system has undergone a fundamental transformation in recent years. Ireland has the most progressive income tax system in the EU and it has become even more progressive since 2009[7]. Marginal personal tax rates have increased significantly from 46.5% in 2008 to 52% for employees and 55% for the self-employed.

Marginal personal tax rate for employees and self-employed – 2008 and 2014



Significant base broadening measures have also been introduced including the USC, the reduction of personal tax credits and bands, restriction on medical insurance premium.

The impact of these changes on the effective rates of personal tax paid by PAYE workers can be clearly seen.

[7] Medium Term Economic Strategy – 2014-2020

Change in Effective Personal Tax Rates for PAYE Workers – 2008 to 2014

Marital status	Salary	Effective tax rate 2008	Effective tax rate 2014
Single	€30,000	12.9%	17.7%
Single	€120,000	35.4%	42.9%
Single	€200,000	38.7%	46.6%
Single	€300,000	40.3%	48.4%
Married (one income)	€30,000	5.1%	12.23%
Married (one income)	€120,000	31.6%	40%

Ireland now has the 9th highest marginal tax rate of 34 OECD countries. The point at which Irish taxpayers become subject to the top rate of income tax (€32,800 for a single person) is also much lower than in other jurisdictions. In the UK, our nearest neighbor and competitor for FDI, the marginal rate is lower (47%) and applies at a much higher income level (€179,621).

Marginal personal tax rate (including social security) for employees in selected OECD countries in 2013

Rank	Country	Rate	Threshold (in €)
1	Portugal	61.3%	280,899
3	Belgium	59.4%	46,632
4	Sweden	56.7%	68,065
6	Denmark	56.2%	61,505
7	France	54.9%	559,296
8	Netherlands	53.1%	58,304
9	**Ireland**	**52%**	**32,801**
15	USA	47.7%	297,294
16	Germany	47.5%	259,509
18	United Kingdom	47%	179,621
21	Luxembourg	45%	163,496

It is recognised internationally that high marginal personal tax rates inhibit business and economic growth[8]. This high rate is undermining our competitiveness as a location to work in or to do business in. It reduces the incentive for a business owner to grow a business and take on staff. It disincentives individuals to work overtime, take on a promotion or a new position. It influences investors as they decide where to invest their money.

a) A clear and phased reduction in the marginal personal income tax rate

The return to economic growth provides an opportunity to re-examine our income tax regime. The OECD and tax policy makers internationally have accepted that a broad

[8] Tax Policy Reform and Economic Growth, OECD Tax Policy Studies, No. 20, 2010

base and lower income tax rate offers the best potential for economic growth. This is a model that we adopt for corporation tax but it applies equally to income tax. Significant steps have been taken already to broaden the personal tax base and it is important now to focus on the phased reduction of the rate. We welcome the Government's intention to announce a tax reform plan in Budget 2015 to reduce the 52% marginal tax rate[9]. We believe that a clear pathway to reducing the marginal rate for both employees and self-employed individuals to below 50% (including USC) should be mapped out in Budget 2015.

The marginal personal tax rate is made up of income tax, USC and PRSI and the cost of reducing the rate will depend on which of these elements is reduced. The least costly option would be to reduce the marginal income tax rate from its current 41% level. A 1% reduction in the income tax rate would cost €195 million in a full year whereas a 1% reduction in the 7% USC rate would cost €405 million. There is also currently a disparity in that the self-employed are subject to a top USC rate which is 3% higher than for employees resulting in a 55% marginal rate for the self-employed. We look forward to the Minister confirming that this disparity, which is due to expire at the end of 2014, will be removed.

The marginal income tax thresholds are currently lower than the level they were in 2007. We have a progressive income tax system and this principle should also be applied to our thresholds to ensure they increase automatically in line with inflation. A commitment to index link the thresholds would be a welcome part of a personal tax reform plan.

b) A competitive tax offering for mobile talent

A competitive marginal personal tax rate is important for all people working throughout the economy as a high personal tax rate is a disincentive to work generally. Furthermore our high rate has been a particular barrier for businesses seeking to recruit international expertise. To reach its full potential a business may need to engage experienced foreign expertise and, as tax equalisation agreements often form a part of wage packages, high marginal rates make this very costly. The difficulty in attracting key mobile international talent is an issue for the Irish SME sector as well as multinationals. Attracting foreign talent can be particularly important for firms in the technology sector and for those looking to expand and to compete abroad.

> *"The high marginal tax rate and the low entry point to that rate are major barriers to attracting and incentivising key talent"* [10]

The Special Assignee Relief Programme (SARP) was introduced in 2012 to provide focused relief to key individuals on assignment in Ireland. However the current SARP regime has had limited appeal due to the significant restrictions inherent in the model. The limitations of the relief are highlighted by the fact that only 15 people availed of SARP in 2012[11].

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[9] Statement of Priorities, 2014-2016 July 2014
[10] American Chamber of Commerce report, May 2014
[11] Dáil PQ 129, 8 April 2014

Many other jurisdictions with which Ireland competes for FDI offer more attractive personal tax reliefs targeted at mobile executives and employees; examples include the Netherlands, France, Luxembourg, Belgium, Sweden and Finland. These reliefs typically offer a higher rate of relief than SARP and have significantly less onerous conditions.

The Institute made a detailed submission to the Department of Finance in May 2014 outlining the key features required in a new relief for targeted executives:

- A skills-based regime, aimed at attracting individuals whose talents and expertise can contribute to Irish economic growth.
- An attractive and competitive flat level of relief.
- A regime that is available to new hires as well as assignees.

Introducing an improved targeted and well-designed relief for skilled foreign employees locating in Ireland is an important step which Ireland can take in Budget 2015 to support businesses to expand and grow.

Institute recommendations for reducing the Exchequer reliance on personal taxes:

- A clear timeline needs to be announced over which the marginal personal tax rate will be reduced below 50%.
- To avoid erosion of benefits for taxpayers, marginal income tax thresholds should be index linked to inflation.
- Self-employed taxpayers who generate jobs in the economy should not be paying higher marginal tax rates than employees. The 10% USC rate on self-employed individuals should expire as planned at the end of 2014.
- A targeted regime that provides effective, competitive relief for FDI and domestic businesses seeking mobile executives is required to replace the existing Special Assignee Relief Programme (SARP).

4. Employee participation in business should be encouraged through tax policy

Tax policies that were aimed at encouraging investment by employees in their employer company have been restricted considerably in recent years, as equity-based rewards for key employees have been significantly eroded. Historically, share-based remuneration had been a favourable method of rewarding employees and giving them a stake in the profitability and success of the business. However, the income tax regime for approved share option schemes was abolished from November 2010, and 2011 saw the introduction of 4% employee PRSI, which unfortunately coincided with the introduction of the USC.

Employers need to have some flexibility in their compensation programs so that they can reward and attract key people and the tax system can play a key role in achieving this. Providing equity incentives to employees can be particularly important for SMEs and start-ups in high growth sectors that need to attract employees from overseas and are competing with much higher salaries offered by multinationals.

Government policy has consistently recognised the critical importance of supporting Irish indigenous start-ups with high growth potential[12].

As outlined previously in our pre-Budget 2014 submission, consideration should be given to introducing targeted measures for employees receiving equity in their employers business. We set out in Appendix 1 some approaches adopted by other countries.

Institute recommendations for encouraging employee participation in business through tax policy

- Targeted measures for employees receiving equity in their employers' business should be considered.

5. An improved Foreign Earnings Deduction (FED) to support exporters

The Irish export sector has performed particularly strongly over the last year. The value of exports from Ireland in 2013 was €86.89 billion, according to the CSO. Job commitments by Irish exporting companies have increased more than 20% on 2013.[13] Enterprise Ireland client companies achieved a record €17.1 billion in export sales in 2013, representing an 8% increase on 2012. [14]

As a small open economy, exports are vital to economic growth. The government has set ambitious export targets for the agri-food sector. In our submission to the Department of Finance in March 2014 we set out specific ways this sector could be supported to achieve those targets through increasing land mobility and facilitating new farming structures.

The Foreign Earnings Deduction (FED) provides an incentive for businesses to send their staff abroad to help generate sales in foreign markets. The relief operates by providing an income tax deduction for staff sent to work abroad. The relief however has had a low uptake and a consultation on the relief was held in May.

In our submission on the FED, we pointed out two restrictions that are hampering its use.

- The relief is only available where an employee goes to a limited number of countries i.e. Brazil, Russia, India, China, South Africa and some other African countries. As indicated in the table below, the export market for Irish products and services is much broader. To maximise take-up of the FED we recommend that relief is available for days spent in all non- EU countries.

[12] See, for example, Enterprise Ireland's High Potential Start Up supports
[13] Annual Report and Accounts, Enterprise Ireland, July 2014
[14] Ibid

Value of Irish Exports to Non-EU countries in 2013

Non-BRICS countries	€million	BRICS countries	€million
USA	18,389	China	1,941
Switzerland	5,116	Russia	637
Japan	1,692	India	281
Canada	772	Brazil	262
Australia	713	South Africa	259
Mexico	690		
Saudi Arabia	642		
Singapore	560		
Turkey	430		
Norway	395		
South Korea	321		
Malaysia	198		
Thailand	138		
Taiwan	130		
Other Non-EU	3,785		

- To avail of the relief an employee must be abroad for 60 days in a year. In practical terms small business exporters may not be able to spare staff for such a lengthy period. The 60 day requirement can also trigger tax obligations in other jurisdictions, such as India. For this reason we recommend that the number of days that must be spent abroad be cut by half from 60 days to 30 days.

Institute recommendations for improving the Foreign Earnings Deduction (FED) to support exporters:

- Key improvements should include:
  - Expanding FED to cover all non-EU markets.
  - A reduction in number of days that must be spent abroad by the employee from 60 to 30 days.

6. Other supports for business

Complex tax rules can be particularly problematic for SMEs. Poor understanding of the rules can result in missed opportunities or penalties for getting things wrong. This can hinder businesses from growing. A number of key reliefs and administrative aspects of the tax regime for SMEs could be reviewed with a view to reducing compliance costs, particularly for small businesses.

a) The Tax Appeals system

We welcomed the Minister's announcement in Budget 2014 of a consultation on the tax appeal system. We made a detailed submission in response to the consultation and have been working with the Department of Finance on this issue. We look forward to the Minister's announcements of reform in Budget 2015. A properly functioning tax

appeal system is important for the proper working of our entire tax system.

In our submission we highlighted the crucial issues to be considered in any reform undertaken. The "in camera" rule for appeal hearings must be preserved as it provides a fundamental safeguard to taxpayers wishing to appeal an assessment. As the function of the Appeal Commissioner is not a judicial function, there is no constitutional requirement for the "in camera" rule to be removed.

We also believe that all decisions of the Commissioners should be published in a timely fashion. Clearly adequate sufficient resources will be required for the proper functioning of the Appeal Commissioners and to facilitate the publication of decisions.

b) The R&D tax credit.

It is essential that companies can have reasonable certainty as to the level of the R&D credit relief they claim each year. In a survey carried out by the Institute and IBEC in 2013, we found that 1 in 5 companies experienced a poor degree of certainty on their tax credit claims. We suggested in our 2013 submission on the R&D tax credit that an R&D Steering Group should be established to discuss areas of uncertainty, consider how the rules could be simplified and what information could be made available for businesses.

c) Travel expenses for non-executive directors

Irish companies will often seek the skills of foreign individuals to serve on their Boards. This practice ensures that our companies are benefiting from the best international experience available and again, is a critical element of any strategy that requires substance and value to be added in the Irish operation. Revenue's interpretation of the current legislation and case-law on travel expenses for these directors is articulated in Revenue eBrief 61/14 and requires these expenses to be subject to PAYE/USC.

This interpretation is creating significant additional cost for companies seeking to attract very skilled individuals from overseas who have the option of working on other Boards globally. Clear legislation is required which supports the underlying policy objective of attracting top talent to Irish boardrooms.

The Institute would like to see a practical and workable approach adopted with regard to travel and subsistence expenses generally. The tax regime should be modernised so that it better reflects current working practices for all individuals including non-executive directors.

Institute recommendations on other supports for business:

- Assist businesses by reform of the tax appeals system:
    - Ensuring the appeals regime is adequately resourced.
    - Requiring all decisions of the Appeal Commissioners to be published in a timely manner.
    - Maintaining the "in camera" rule to encourage small businesses to take appeals where necessary.
- Establish an R&D Steering Group to help improve the administration of the R&D tax credit and provide greater certainty for taxpayers.
- Modernise the tax regime for travel expenses so that it better reflects current working practices for all individuals including non-executive directors.

Appendix 1 The 15 significant changes to tax rates and bases since 2008

Income Taxes/USC

1. 10% reduction in income tax bands and credits
2. 5% USC surcharge on income covered by property-related reliefs
3. High Earners' Restriction significantly tightened
4. Property-related reliefs curtailed
5. Restriction in tax relief for private health insurance

PRSI

6. Employee PRSI ceiling abolished
7. €127 weekly PRSI allowance removed
8. Class S (self-employed) PRSI increased from 3% to 4%

Capital Taxes

9. CGT and CAT rates increased from 20% to 33%
10. CGT retirement relief capped
11. CAT thresholds effectively halved
12. Windfall CGT rate of 80% introduced

VAT

13. Standard rate increased from 21% to 23%
14. 9% VAT rate introduced

DIRT

15. Rate increased from 20% in 2008 to 41% now

Appendix 2 Incentivising Employee Investment

United States – Incentive Stock Options

Where a US employee holds an Incentive Stock Option for at least two years from the grant of the option and holds the shares for at least one year following the exercise of the option, no income tax applies on the grant or exercise of the option. Instead, capital gains tax will apply when the shares are sold. No more than $100,000 worth of shares can become eligible for exercise in a calendar year.

UK - Enterprise Management Incentives

EMI is a share option scheme which allows SMEs in the UK to grant tax-advantaged share options to employees for the purposes of recruitment and retention.

Share options with a market value of up to £250,000 may be granted to a qualifying employee of a qualifying company, subject to a total share value of £3 million under EMI options to all employees. The shares must be in an independent trading company that has gross assets of no more than £30 million.

The grant of the option is tax-free and there will normally be no tax or NICs for the employee to pay when the option is exercised. There will normally be no NICs charge for the employer.

Link to guidance on Enterprise Management Incentives

UK - Employee Shareholder Relief

The UK Government has introduced a new "employee shareholder" status from 1 September 2013. Employee shareholders have different employee rights and shares worth a minimum of £2,000 in the company they work for. Gains on up to £50,000 of shares acquired by employee shareholders will be exempt from capital gains tax.

Providing all of the statutory conditions for employee shareholder status are met, or an employee shareholder agreement satisfies the conditions set out in Department for Business, Innovation & Skills guidance, HMRC do not anticipate challenging an individual's status as an employee shareholder for the relief to apply.

Link to information on Employee Shareholder Relief