Irish Tax Institute

May 2020

Tax measures to reboot the economy

Submission to the parties negotiating the formation of the next government

1. About the Irish Tax Institute

The Irish Tax Institute is the leading representative and educational body for Ireland's Chartered Tax Advisers (CTA) and is the country's only professional body exclusively dedicated to tax.

The Chartered Tax Adviser (CTA) qualification is the gold standard in tax and the international mark of excellence in tax advice. We benchmark our education programme against the very best in the world. The continued development of our syllabus, delivery model and assessment methods ensure that our CTAs have the skills and knowledge they need to meet the ever-changing needs of their workplaces.

Our membership of over 5,000 is part of the 30,000 strong international CTA network which includes the Chartered Institute of Taxation UK and the Tax Institute of Australia. The Institute is also a member of the CFE Tax Advisers Europe (CFE), the European umbrella body for tax professionals.

Our members provide tax services and business expertise to thousands of Irish owned and multinational businesses as well as to individuals in Ireland and internationally. Many also hold senior roles in professional service firms, global companies, Government, Revenue, state bodies and in the European Commission.

The Institute is, first and foremost, an educational body but since its foundation in 1967, it has played an active role in the development of tax administration and tax policy in Ireland. We are deeply committed to playing our part in building an efficient and innovative tax system that serves a successful economy and a fair society. We are also committed to the future of the tax profession, our members and our role in serving the best interests of Ireland's taxpayers in a new international world order.

Irish Tax Institute - Leading through tax education

2. Introduction

The negotiations on the formation of the next government encompass a broad canvas of public policy areas covering every department of government. Some of them, including housing, health reform and climate action are of systemic importance to the quality of life we want to create for future citizens of our country.

Yet, the immediate task facing the new government will be more in the nature of emergency care than long term treatment. As the economy wakes up from its Covid-induced coma, it will need to be nursed back to cope with the new reality of doing business in a world that has been utterly transformed by the coronavirus. It is in this context that we are making this submission to the parties engaged in the current negotiations.

A persuasive case is being made for borrowing to fund a recovery but if that recovery is to be sustainable, the government will have to map out a route back to a balanced budget. That means viable businesses, that contributed to our recent economic success before being shut down by the pandemic, must be given a lifeline by the State. Early measures to help these businesses would pay rich dividends in terms of job creation and revenue for the exchequer.

Since the start of this public health crisis, the Irish Tax Institute has been working closely with the Department of Finance and with Revenue, in particular, to ensure that impacted businesses could benefit from the targeted support measures introduced by the government.

Those measures were introduced with commendable speed and inevitably required adjustment and refinement. Our role in that process, on behalf of our members and in conjunction with Revenue officials, has given us a unique insight into the challenges facing SMEs, the effectiveness of the current government measures, and the supports that would now be most appropriate to help businesses rebuild and retain their employees in the post lockdown economy. We hope the parties to the current discussions will find these insights useful.

3. Measures to Protect Employment

The government moved decisively and with impressive speed to introduce the Temporary Wage Subsidy Scheme at the start of the crisis. That measure has been of enormous benefit to businesses impacted by the pandemic, allowing them to keep their employees on the books and to trade through these challenging times. Many businesses, however, have been forced to close as a result of the public health restrictions. As the economy reopens, the government needs again to act boldly but wisely, so that once profitable enterprises can be helped back on their feet and people can get back to work and start paying taxes again. There are a number of ways in which the tax system can be used to support jobs:

3.1. Next Phase of the Temporary Wage Subsidy Scheme

The government has indicated that the Temporary Wage Subsidy Scheme will be extended beyond its original 12-week period. We welcome this because it will help businesses to retain staff and to rehire those temporarily laid off, as sectors reopen in the coming months.

The emergency circumstances under which the scheme was conceived has resulted in some anomalies. For example, the use of the January and February payroll submissions as the “base period” to calculate the subsidy has meant employers could not pay staff returning from unpaid maternity leave.

It has also meant that employers have not been able to compensate workers for additional hours they are now working to get their businesses back up and running because doing so would result in the loss of part if not all of the government subsidy. Indeed, some businesses are outsourcing extra work so as to preserve the much needed subsidy and to avoid any potential breach of employment law.

As the new government considers the next iteration of the Scheme, we believe the opportunity should be taken to address the anomalies that have emerged.

3.2. PRSI Reduced Rates

Continuing the reduced rate of Employers PRSI of 0.5% for employees of Covid-19 affected businesses until 31 December 2021 would help those businesses to transition from relying on State income supports to meet their wage bills to full viability.

For the same reason, we suggest that employees who are currently on PRSI Class J9 (and consequently, not required to pay PRSI contributions at present) be returned to their normal PRSI class on a phased basis over a period of three months or longer.

3.3. Temporary Increase in the Personal Tax Credit

A temporary increase in the personal tax credit by €1,000 for 2021 would help transition individuals from the Temporary Wage Subsidy Scheme and Covid-19 Pandemic Unemployment Payment to normal employment. It would help protect the net pay of employees working in businesses that have availed of the Scheme and that continue to be adversely affected by the crisis. In the case of individuals in receipt of the Pandemic Unemployment Payment, the increased credit would act as an incentive to re-enter the workforce by a given date.

4. Measures to Support Business

The major problem for business is cashflow. Having been forced by the pandemic containment measures to close their doors or to endure restricted trading conditions, revenue has fallen dramatically. The forbearance extended by the Revenue Commissioners and local authorities has eased their circumstances but fixed costs such as rent, and insurance have continued to mount up.

We know from the slow take up of credit from the banks and the Strategic Banking Corporation that the majority of SMEs do not want to borrow. Having recovered from significant indebtedness in the last recession, close to 60% of SMEs are now debt free, according to a recent Central Bank of Ireland report[1]. They are naturally wary of saddling themselves with debt, for a second time in a decade.

On the other hand, a new government faces the unenviable dilemma of deciding which businesses should be supported by the planned credit guarantee scheme. The Institute believes a good basis for such a judgement is the tax record of businesses over the last

1 SME liquidity needs during the Covid-19 shock, Niall McGeever, John McQuinn and Samantha Myers, Central Bank of Ireland Report, April 2020.

three years. Offering rebates or accelerated refunds to a company that has a recent track record of tax compliance and viability is a prudent way forward for the economy and the taxpayer who ultimately will foot the bill for the recovery. These are the measures we think would prove effective:

4.1. Corporation Tax Losses

Allow the carry back of corporation tax losses incurred in 2020 for three years, subject to the profitability of the most recent previous accounting period. This would provide an immediate and necessary cashflow benefit for viable businesses that would ultimately be cash neutral to the exchequer where such businesses continue to trade successfully. Similar measures have been introduced in other countries, including the USA.

4.2. Interim Refunds of Withholding Taxes Paid and Tax Relief Claims

The Institute welcomes the prioritisation by Revenue of the approval and processing of VAT repayments and Professional Services Withholding Tax (PSWT) refunds to taxpayers during the pandemic. Revenue has also expedited the payment of the Research and Development (R&D) tax credits due to be paid in 2020. This should be extended to include the upfront payment of all R&D tax credits due in future years.

We also believe the prioritisation of refunds and repayments to businesses experiencing difficulties needs to be expanded to include the acceleration of claims for reliefs and withholding taxes, so that they are processed by Revenue in the current year. This would provide invaluable cashflow for struggling businesses that otherwise will be forced to wait for many months before they can even submit their claim.

4.3. Tax Debts and Application of Interest

Qualification for Tax Debt Warehousing

The government has confirmed it will legislate to permit Revenue to “warehouse” VAT and PAYE (Employer) debts from the Covid-19 restricted trading period. SMEs, which by Revenue’s definition are businesses with a turnover of less than €3 million, will automatically qualify for this warehousing arrangement. But businesses with higher turnovers have also been seriously affected by the Covid-19 restrictions and it is essential that they are provided for in the legislation to reflect the administrative flexibility currently operated by Revenue for them.

Businesses (both companies and the self-employed) may need to seek a Phased Payment Arrangement (PPA) with Revenue to pay tax debts that do not qualify for the debt warehousing arrangement. Many may need a minimum term of 12 months forbearance and will not have the financial resources to make the down payment typically sought by Revenue in these circumstances. We would urge Revenue to continue to exercise the pragmatic and flexible approach it has adopted during the crisis, and to work with businesses in financial difficulty to reach sustainable arrangements for the payment of outstanding tax debts, without recourse to debt enforcement wherever possible.

Rate of Interest

Interest is charged on the late payment of tax in Ireland at annualised interest rates of 8% and 10%, far in excess of the Irish mean interest rate, which was 3.1% in September 2019. In contrast, HMRC in the UK currently impose interest at a rate of 2.6%[2]. It is right and

2 Rate imposed from 7 April 2020 (i.e. 2.5% above the current Bank of England base rate of 0.1%).

proper that interest should be imposed to recompense the exchequer for delays in the payment of tax due. However, the current high levels of interest imposed in Ireland far outweigh the cost of late payment to the State and, in some cases, cause considerable hardship. Furthermore, the application of interest in the current circumstances, could result in taxpayers being unfairly penalised for matters outside their control despite their best efforts to comply with the legislative requirements.

- **Rate of interest – warehoused and non-warehoused tax debts**

  As a result of the Covid-19 pandemic, interest on the late payment of "warehoused" VAT and payroll taxes has been suspended for SMEs (as defined by the Revenue Commissioners[3]) for 12 months. At the end of the "warehoused" 12-month period, a reduced interest rate of 3% per annum will apply on any remaining "warehoused" tax debts until they are fully paid. This arrangement does not extend to other taxes, such as income tax and corporation tax, which are still subject to the penal 8% statutory rate.

  We strongly believe that this reduced 3% rate represents a fair and reasonable rate of interest which should apply to all underpayments of tax. This rate recompenses the exchequer and acts as a disincentive to late payment and it could be tracked to prevailing ECB market rates, to ensure it reflects the actual cost to the exchequer.

- **Application of interest to preliminary tax payments**

  Many businesses are likely to pay their preliminary tax based on an estimate of 90% of the current year tax liability, rather than on the tax paid in 2019 which is likely to have been a significantly higher amount. Where that estimate falls short of the 90% requirement, Revenue can charge interest on the full 100% tax liability, which accrues daily from the date the preliminary tax was due.

  Given the current, highly uncertain business environment and the likely challenges these businesses will face in obtaining information and finalising their 2020 accounts, they should not be penalised if their "best estimate" does not meet the 90% requirement. In the interest of fair treatment of taxpayers, we believe Revenue needs to adopt a "safe harbour" approach, so that interest will not apply to the underpayment for 2020, where it can be demonstrated that the preliminary payment was based on the taxpayer's best estimate, using the information and workings available at the time of the payment.

- **Application of interest to delayed tax appeals due to Covid-19**

  The Tax Appeals Commission has postponed appeal hearings during the pandemic based on public health advice. This will inevitably result in delays for taxpayers awaiting their appeal. In the interest of fairness, we strongly urge that the statutory interest clock is stopped in these pending appeals.

- **Application of interest to audits/compliance interventions delayed by Covid-19**

  The interest clock should also be stopped in the case of open Revenue audits and compliance interventions that have been interrupted by the closure of the businesses involved due to the pandemic restrictions.

4.4. Alleviation of Sanctions for Late Filings - Challenges Caused by Covid-19

Revenue has advised that taxpayers who encounter difficulties in finalising their tax returns due to the Covid-19 pandemic should file them on a 'best estimate' basis. Tax advisers

3 SMEs are defined by the Revenue Commissioners as businesses with annual turnover of less than €3 million and are dealt with by Revenue's Business Division.

will do their best to keep taxpayers up to date with timely filing. However, accessing the information required to prepare accurate and timely returns has been complicated by business closures, temporary layoffs, staff absences and limited online capabilities of some businesses in stressed circumstances.

The position will become more difficult in the run up to the busy corporation tax filing deadline in September and the subsequent income tax deadline in November. Further delays seem inevitable. We believe flexibility on time limits is essential in the current unique situation. Accordingly, we recommend a general alleviation of sanctions in cases of late filings or delayed claiming of tax reliefs in 2020 due to the impact of Covid-19.

4.5. Accelerated Capital Allowances

- Allow 100% accelerated capital allowances for capital expenditure incurred on IT equipment from 1 January 2020 onwards to facilitate employees working from home.
- Allow 100% accelerated capital allowances for businesses that must make physical changes to their workplaces to meet the requirements for the containment of Covid-19. For example, factories that need to reshape manufacturing lines to accommodate social distancing or businesses that need to install Perspex screens.
- Allow 100% accelerated capital allowances on expenditure incurred in 2020 and 2021 to encourage SMEs to invest in plant, equipment and motor vehicles that would improve productivity.

4.6. VAT Measures to Improve Cashflow

- Increasing the present threshold for the cash-receipts basis of accounting for VAT from €2m to €5m would improve the cashflow of smaller businesses by ensuring payment dates for VAT are matched with the receipt of income.
- The current process for claiming bad debt relief for VAT can be prolonged and cumbersome as claimants must first provide evidence that they have tried to recover the debt by taking legal action or appointing a debt collection agent. We recommend that the process be temporarily amended so that VAT bad debt relief is automatically allowed where a third-party debt remains unpaid after a period of six months from the date of the invoice. This would correspond with the time period in which a creditor must pay an invoice before suffering a clawback of VAT input credit claimed.
- Temporarily extending the 6-month VAT input credit clawback period (where a creditor is not paid in full within 6-months) for intra-community acquisitions and cross border reverse charge services to 12 months would give businesses the critical time they need to pay their debts. This extension would not result in an additional cost to the exchequer, as the suppliers would be outside of the State.

4.7. Measures to supports Tenants and Landlords

- As landlords are taxed on rental income based on their entitlement to receive it, rent may be taxed before the income is actually received by the landlord. Ultimately, if the rent is not recovered from the tenant the landlord can claim bad debt relief, but this process is burdensome and can take time. A move to a cash receipts basis for taxing rent would alleviate cashflow issues where rent is not paid or is paid late.
- Tenants who have been forced to close their businesses, will face inordinate difficulties paying rent due while many landlords will have to service debt owed on such commercial properties. Providing a tax deduction for landlords equivalent to

rent waived for SME tenants adversely affected by the pandemic would help both landlords and tenants to reach an agreement and avoid potential legal disputes.

4.8. Defer Implementation of Transfer Pricing Rules to SMEs

Provisions to bring SMEs within the scope of Irish transfer pricing rules are subject to a ministerial commencement order. Imposing administratively burdensome transfer pricing rules on businesses as they seek to recover from the current crisis would inevitably put further strain on already scarce resources.

5. Stimulating Demand: How to get people back spending?

All measures to get businesses back to production and people back to work will come to naught unless consumers are willing to spend. Recent surveys suggest consumer confidence has been shot by the pandemic and while there may be an initial bounce from demand pent up during the lockdown, an early and sustained recovery in a climate of continued uncertainty is unlikely without a stimulus package to encourage consumers to return to the shops and the restaurants around the country that had been thriving just a few months ago. We have some suggestions about how the tax system could be used to support this policy objective:

5.1. Tax Free Vouchers for Employees

Currently employers can give employees a voucher of up to €500 in value, tax free, each year. Increasing the voucher limit to €2,000 for a limited period and permitting the voucher to be paid in lieu of salary would bolster consumer demand in discretionary spending areas to the benefit of the hard-hit retail sector of our economy.

5.2. Business Entertainment Expenditure

The world of business provides valuable customers for restaurants and hospitality businesses, particularly at off peak times during the week. But one of the first types of expenditure that businesses will cut during a downturn is discretionary spending such as business entertainment. Allowing companies to claim a tax deduction for business entertainment expenditure, subject to an annual cap of €5,000 over the next two years, would be a significant boost to the Irish hospitality sector in these challenging times while also allowing businesses the opportunity to foster valuable relationships with their customers and suppliers.

6. Longer-term Approach to Tax

The vast majority of the above measures are time-limited and some of them would incur a cost in terms of tax foregone during their lifetime. Quite a few are just a matter of front-loading refunds that Revenue would have to pay in any event. Taken together, we believe these measures would provide the necessary impetus for an early recovery in many businesses.

Nonetheless, the overall cost of the recovery will have to be paid for by taxes. Fine Gael and Fianna Fail have ruled out income tax increases.[4] Given the need to protect employment

4 A draft document between Fianna Fáil and Fine Gael to facilitate negotiations with other parties on a plan to recover, rebuild and renew Ireland after the Covid-19 Emergency, 15 April 2020.

and create jobs, the Institute agrees with this approach. But a new government will have to consider alternative ways of raising revenue to pay for the increase in social provision that the electorate voted for in the recent general election. In that context, we would recommend a number of guiding principles for a sustainable and fair tax system:

- A broader tax base would correct the current over reliance on labour taxes and tip the balance in favour of VAT and other indirect taxes such as environmental charges based on the polluter pays principle. This would also support our climate action objectives and the need to decarbonise our economy.
- Do nothing to narrow the personal tax base. Increased social provision should benefit all citizens and all taxpayers should contribute to its cost according to their means.
- The Local Property Tax urgently needs to be reformed before it withers as a component of our tax system. The exemption for individuals who were first-time buyers in 2013 no longer makes any sense and is, in fact, inequitable and therefore a vulnerability in the system.
- Our tax system has a critical role to play in our economic recovery. Existing tax expenditures targeted at our indigenous SMEs (KEEP[5], EII[6] and Entrepreneur Relief[7]) need to be reviewed to maximise their effectiveness in fostering innovation and the use of new technologies.
- The last three months has seen something of an explosion of innovation in response to the problems thrown up by Covid-19. The tax system can foster that entrepreneurial spirit by encouraging start-ups. Specifically, we believe SURE[8], an income tax refund scheme available to PAYE workers who start their own business, should also be available to self-employed workers. This could be accompanied by a publicity campaign to increase awareness of this scheme. By fostering entrepreneurship and developing the productive capacity of our homegrown companies, we can reduce our over reliance on the multinational sector for high quality employment for our citizens.
- Family owned businesses all over the country are a critical part of our agricultural, industrial and commercial sectors. Their geographical spread does more to promote balanced regional development than the multinational or big business sector. Any proposed changes to capital taxes and existing reliefs for CGT or CAT should take account of their unique contribution to economic life in the regions. These businesses, as others, will have been hit by cashflow difficulties in the current crisis and it is important to avoid changes that will increase the risk to their recovery.

7. Conclusion

As a small trading economy, our recovery from the coronavirus is highly dependent on international factors; specifically, a speedy global recovery and ultimately, the invention of a vaccine. Our economic model is also reliant on the triumph of global trade over protectionism. In both respects, uncertainty abounds. But that should not deter an incoming government from making changes in areas over which it has control in order to steer our economy towards a sustainable recovery that benefits all citizens. Every crisis brings the possibility of a silver lining. A strong and ambitious government can realise that potential. We wish you well in your negotiations.

5 Key Employee Engagement Programme (KEEP) - the employee share scheme for SMEs.
6 Employee Investment Incentive (EII) - income tax incentive for individuals who invest in Irish business.
7 Revised Entrepreneur Relief - lower 10% CGT rate available for entrepreneurs on the sale of their business.
8 Start-Up Relief for Entrepreneurs (SURE).

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