ITI Submission to the Department of Finance for consideration in the drafting of the Withdrawal of the United Kingdom from the European Union (Consequential Provisions Bill 2020 ("new Brexit Omnibus Bill")

18 September 2020

No	Brexit-related tax measures	How does the provision currently operate?	What is the change in how the provision will operate having regard to Brexit?	What implications would this have on businesses?	Why is an amendment to extend the provision to include the UK considered critical?	Included in General Scheme of 2020 Bill published on 9/9/2020
Section A: Brexit-related tax measures identified in the ITI Pre-Finance Bill 2019 & 2020 Submissions						
1	Distribution Treatment – Section 130 TCA 1997	S130(2)(d)(iv) TCA 1997 reclassifies interest payments made by an Irish company to a non-resident company as a distribution, in circumstances where (subject to certain conditions) the companies are 75% associated. This means that such interest payments are not tax deductible. S130(2B) TCA 1997 ignores distribution treatment where interest payments are made to a company that is resident in an EU Member State in certain circumstances. S130(3) TCA 1997 provides that, where a company transfers assets or liabilities to its members or vice versa and the value of any new	If the exclusion in s130(2B) no longer applies to UK resident companies, interest paid on existing and new loans with UK lenders which are currently eligible for relief as a charge on income will therefore no longer be deductible. Similarly, if the exclusion under 130(3) no longer applies to UK resident companies, certain transfers between Irish resident companies that are UK owned will be regarded as distributions for Irish tax purposes.	This will have a significant cost on Irish companies as any interest paid to UK resident entities will no longer be deductible. If the exclusion under s1302B is not amended this will prevent/ discourage UK parent/ group companies from investing in its Irish subsidiaries. With the UK as one of Ireland's main trading partners, such a restriction on the making of interest payments would negatively impact a number of companies.	We recommend that s130(2B) and s130(3) be extended to ensure that UK resident companies remain included in both provisions. ss2B and ss3 of s130 TCA 1997 were amended by Finance Act 2019 to ensure that UK resident companies remain included but subject to the commencement of the Withdrawal Act 2019. It is critical that the application of these subsections continue to apply to UK resident companies. Given that the Withdrawal Act 2019 will not be commenced, these amendments need to be included in the new Brexit	Head 8-37

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		consideration provided by its members is less than the market value of the benefit transferred, the excess is treated as a distribution. However, such transfers between Irish resident companies are not treated as distributions, where one company is a subsidiary of the other or both are subsidiaries of another company which is resident in a "relevant Member State"[1].			Omnibus Bill or the matter addressed in Finance Bill 2020.	
2	Group of Companies - Section 616 TCA 1997	S616 TCA 1997 defines a group of companies for the purposes of many provisions that deal with the taxation of chargeable gains. Broadly, s616 provides that a principal company and all its effective 75% subsidiaries form a group, with a 'company' being defined as one which is tax-resident in a "relevant	If UK companies are no longer considered tax-resident in a "relevant Member State" they will cease to be part of a 'group of companies' under s616 TCA 1997. This will have a knock-on impact on many other sections in the TCA. For example: - An issue will arise because of the	This will have far reaching impact for group entities. As mentioned, there will be possible clawbacks of relief obtained from previous amalgamations or reorganisations as the UK entity will no longer be part of the group for corporation tax purposes. Given the close interaction in corporate groups between	S616 TCA 1997 was amended by Finance Act 2019 to ensure s618, s625, s586 and s587 TCA 1997 continue to apply to groups with UK tax-resident members, and in particular to ensure that s625 TCA 1997 does not give rise to a clawback as result of Brexit. It is critical that the amendment to s616 continues to apply and should be included in the new Brexit	Head 8-36 (also includes S620 TCA 1997)

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		Member State"[2] (subject to certain exceptions). The definition of a group of companies as set out in s616 has a consequential impact on many other sections in TCA 1997. For example: – S618 TCA 1997 which relates to the transfer of trading stock within a group. – S625 TCA 1997 applies where a subsidiary company ceases to be a member of a group of companies and another company (the 'chargeable company') had, within the previous ten years, disposed of shares in the subsidiary company in the course of an amalgamation or reconstruction in the	application of a clawback of relief under s625 TCA 1997 where a UK resident subsidiary, which was party to an earlier amalgamation or reconstruction within 10 years ceases to be a member of the group of companies as defined by s616 TCA 1997, as a result of Brexit, unless action is taken to ensure that UK resident companies can continue to be part of a group of companies sunder s616 TCA 1997.	Irish and UK companies, particularly in light of restructuring to address various Brexit challenges this would likely have a significant impact on business.	Omnibus Bill or the matter addressed in Finance Bill 2020.	

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		group. Where the section applies, the chargeable company is deemed, at the time of the amalgamation or reconstruction, to have disposed of and immediately reacquired the shares in the subsidiary company at market value. – S586 TCA 1997 (which deals with company amalgamations by exchange of shares) and s587 TCA 1997 (which deals with company reconstructions and amalgamations) both contain provisions that apply where the companies in question are members of a group of companies, as defined by s616 TCA 1997.[3]				

[3] We note that the Withdrawal Act 2019 amended s80 SDCA 1999 (Reconstructions or Amalgamations of Companies) to ensure that UK-based acquiring companies can continue to be able to avail of stamp duty relief. There would appear to be no reason why the CGT provisions should not be similarly amended.

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3	Exit Tax – Part 20 Chapter 2 TCA 1997	S627 TCA 1997 contains provisions that impose an exit charge on companies that are resident in another "Member State" in respect of certain assets transferred from a permanent establishment in Ireland. There is no definition of "Member State" provided, however, s627(1)(c) provides that "a word or expression that is used in this Chapter and is also used in Article 5 of the Directive shall have the meaning in this Chapter that it has in that Article". The Directive referred to is Council Directive (EU) 2016/1164 of 12 July 2016. Therefore, it would appear that the meaning of "Member State" should be taken from this Directive, which would have excluded the UK in the event of a 'no-deal' Brexit.	UK resident companies may have already opted to avail of the payment deferral of an exit charge under s629 TCA 1997, as the UK is currently considered a "relevant territory" under the section.	To the extent that a company has already availed of the election to defer under S627(2), the tax deferred would become due from 1 January 2021 through no actions of the company itself. Interest would also apply. As a hard Brexit would not have been foreseen at the time ATAD was negotiated, this impact is unintended and effectively retrospectively removes a facility that was made available at the time of the relevant event. Significant cash flow issues may arise, as such companies, which are now resident in the UK, may have operations in Ireland and elsewhere in the EU. If the deferral mechanism is withdrawn on 1 January 2021 instead of being grandfathered then the demand for full payment could put unnecessary strain on the cash flow position of	Grandfathering provisions need to be considered to take account of the impact of the UK no longer being included in the definition of "relevant territory" under s629 TCA 1997. Specifically, the provision of S629(7)(c) should not apply to a company that ceases to be resident in a Member State while remaining resident in the United Kingdom. CJEU case law advises that the deferral facility is an intrinsic requirement to protect EC Treaty freedoms that applied to the original transfer. This technical change would remove any doubt as to whether the original exit charge remains a proportionate measure in light of EC Treaty freedom of establishment, rights that apply to the original transaction.	

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		S629 TCA 1997 contains an option to defer the payment of an exit charge, spreading the payment over six instalments. The option to defer is available only where the relevant transfer is to a "relevant territory"[4].		the business and risk damaging the operations of that company in the UK, Ireland or elsewhere. In summary, UK resident companies will be subject to an immediate exit charge on certain assets transferred from a PE in Ireland and will not be able to avail of the deferral over five years via six equal instalments. Additionally, UK entities may have previously complied with the tax laws in effect to defer their payments over five years, however, any outstanding liabilities will be due immediately post-Brexit as the conditions for s629 will not have been met.		
4	Double Tax Relief under Schedule 24 TCA 97	The application of a number of provisions in schedule 24 TCA 1997, which deals with Double Tax Relief, will be	Irish parent companies would not be entitled to any additional foreign credit under Paragraph 9I in respect	Irish holding companies would need to review their structures to identify any tax inefficiencies with respect to	In our view, it is critical that the new Brexit Omnibus Bill includes an amendment to Paragraph 9I of Schedule 24	

[4] "Relevant territory" is defined in s629(1) TCA 1997 as an EU Member State or a qualifying EEA country.

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		restricted in circumstances where a UK company is no longer resident in a "relevant Member State"[5]. Several other provisions within Schedule 24 are conditional on a company being resident in a "relevant Member State". These include: - Paragraph 9A: Unilateral Relief - Paragraph 9B: Dividends paid between related companies: Relief for Irish and third country taxes - Paragraph 9C: Non-Resident companies carrying on a trade in Ireland via a branch/agency - Paragraph 9DA: Unilateral Relief (branch profits).	of dividends received from UK resident companies, as a UK resident company would no longer qualify as a "source company". This would apply equally to UK investments and to investments in other Member States via a UK intermediate holding company.	investments not only into the UK but also through the UK. This might require the postponement of valuable dividends pending any restructuring of shareholdings. There would be particular difficulty with UK subsidiaries that have paid minimal tax due to losses or group relief. Going forward, continued investment by Irish groups in foreign markets will play an increasingly important role in economic recovery post COVID-19. There are a greater number of Irish companies investing into the UK compared to other countries and therefore, it would be important that such Irish companies would not be disadvantaged as a result of Brexit in doing so.	in respect of dividends received from UK resident companies, as a UK resident company would no longer qualify as a "source company". Otherwise, there is a risk of mismatches arising between nominal and effective tax rates and in the context of group relief. There are a greater number of Irish companies investing into the UK compared to other countries and therefore, it would be important that such Irish companies would not be disadvantaged as a result of Brexit in doing so. The other provisions in Schedule 24 listed in our 2019 submission (i.e. Paragraphs 9A, 9B, 9C and 9DA) do not have as a wide an application in practice and therefore, including	

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					amendments to these provisions would not be as critical at this juncture.	
5	Securitisation – Section 110 TCA 1997	S110 (5A) TCA 1997 provides that a deduction is available for profit-participating interest only in a number of qualifying circumstances, for the purposes of calculating the profits of specified property business. These circumstances include where the interest is paid to: - a pension scheme or PRSA or an equivalent in a "relevant Member State"; or - an individual who is a national of a "relevant Member State" or - to a company formed under the laws of a "relevant Member State" (subject to certain conditions).	There will be a significant increase in the tax cost associated with investments made through s110 companies by UK pension funds, UK individuals and UK resident companies, because the profit-participating interest relating to those investments will no longer be deductible due to the non-application of the exclusion in ss5A following Brexit.	This represents a significant disincentive for UK Pension funds/life assurance companies to allocate capital to Irish property investments, and arguably makes reaching housing sector targets in Ireland challenging. At the end of Q2 this year assets held by s110 companies amounted to in excess of €850billion. Sponsors located in the UK account for 30.5% of all Irish SPVs in asset terms, owing to the large number of investment managers and asset managers located in London which use Irish structures. The business impact of not fully facilitating institutional UK investment into this very important sector of the Irish financial	Given the size and value of the investments that can be made through s110 companies by pension funds etc, there is a significant risk of the impact on such investments should the exemption included in s110 (5A) TCA 1997 be suddenly “switched off” without a thorough review being undertaken of the impact. Therefore, we would urge for the definition of a “relevant Member State” to be amended in s110 (5A) TCA 1997 to include the UK.	

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				services market could be very significant.		
6	Shipping: Tonnage Tax – Section 697H TCA 1997 and Section 697A TCA 1997	S697H TCA 1997 contains provisions which allow the distributions of an overseas company to be treated as "relevant shipping income", in circumstances where over 50% of the voting power of the overseas company is held by one or more companies that are resident in a "Member State" as defined by s697A TCA 97.	S697A TCA 1997 has limited application and specifically applies to tonnage companies.	We would recommend that soundings are taken from tonnage companies to fully appreciate the potential impact of the UK no longer falling within the definition of a "Member State" after the end of the Brexit transition period but in our view, this would not be an amendment that is critically important at this juncture.	We previously recommended that the definition of "Member State" in s697A TCA 1997 be amended to ensure that the UK remained included in the event of a 'no-deal' Brexit.	
7	Life Assurance Companies: Policyholders – Section 730D TCA 1997	S730D TCA 1997 contains provisions regarding the treatment of gains arising on a chargeable event relating to a life policy. S730D (2A) TCA 1997 allows Revenue, subject to certain conditions, to grant approval to life companies excluding them from the requirement to obtain non-resident policyholder exit declarations, where the	We understand that from a regulatory perspective, life assurance companies will be permitted to sell life policies into the UK post-Brexit. Post Brexit subsection (2A) will not apply and it will be necessary for the companies to obtain individual non-resident declarations from policyholders as per s730D (2) TCA 1997.	With regard to new policyholders, businesses will be required to amend their on-boarding processes in order to obtain non-resident declarations. With regard to pre-existing policyholders if the existing approval does not continue to apply: – Obtaining non-resident declarations from existing	We previously recommended that the definition of "offshore state" for the purposes of s730D (2A) TCA 1997 be amended to ensure that the UK remained included in the event of a 'no-deal' Brexit. We would also recommend that S730D(2A)(b)(i)(II)(A) TCA 1997 be expanded to ensure that companies who are legally permitted to write	

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		business is written through a branch in an offshore state or the business is written on a freedom of services basis and the policyholder resides in an offshore state. Offshore state for the purposes of s730D is defined as an EU or EEA State.	Furthermore, as it is unclear as to whether existing approvals granted would still apply, once the UK leaves the EU, this provision could have an immediate impact on business already written, as exit tax would have to be deducted, if exit tax declarations are not obtained.	policyholders is likely to be very difficult and also a very costly and time-consuming process for businesses. – Exit tax would have to be deducted where non-resident exit tax declarations are not obtained in advance of a chargeable event. This would require businesses to make amendments to their systems to ensure such exit tax is withheld. – Existing UK policyholders would not be expecting Irish exit tax to be deducted and this is likely to result in an adverse impact on a businesses' relationships with its policyholders and consequently its market brand. If Irish exit tax is deducted, most UK policyholders are likely to be entitled to a refund	business in the UK, post Brexit, are included. S730D (2A) TCA 1997 is a provision that is currently widely used by life assurance companies in Ireland, particularly international life companies. Given the importance of the UK as a market for financial services, we believe obstacles should not be put in the way of such life assurance companies doing business in the UK going forward and so, we would recommend that the new Brexit Omnibus Bill amends the definition of "offshore state" for the purposes of s730D (2A) TCA 1997 to ensure that it includes the UK and s730D (2A) TCA 1997 is also expanded to include life assurance companies who are legally permitted to write business in the UK, post Brexit.	

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				of the Irish exit tax in accordance with the Ireland/UK Double Taxation Agreement. This may result in potentially thousands of refund applications to Irish Revenue, thus consuming Revenue resources unnecessarily. The UK is a very significant market for international life assurance companies operating from Ireland and many of these companies are relying on the current relieving provisions. There is no risk to the Exchequer to continue the provision for UK policyholders i.e. to avail of the provision insurance companies must apply to Revenue and outline the procedures they have in place to ensure that only policy holders sold to non-Irish resident policyholders benefit and Revenue must provide their approval.		

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8	Real Estate Investment Trusts (REIT) – Part 25A TCA 1997	In order to be regarded as a REIT or group REIT, a company or a principal company of the group must meet certain conditions. One of these conditions is that the company must have its shares listed on the main market of a recognised stock exchange of a Member State. S705A TCA 1997 defines a "recognised stock exchange" as being a stock exchange in a Member State, which is regulated by the appropriate regulatory authority of that Member State.	We understand that many REITs are dual listed in Ireland and the UK and we are not aware of any of the existing REITs being solely listed on the UK Stock Exchange.	It may be worth consulting with the Revenue Commissioners to confirm that our understanding is correct regarding the dual-listing position of existing REITs to ascertain if an amendment to s705A TCA 1997 is needed.	If a REIT is not listed on a recognised stock exchange, they cease to qualify and therefore, the consequences would be very significant if there are any existing REITs solely listed on the UK Stock Exchange once the Brexit transition period comes to an end.	
9	Irish Real Estate Funds (IREF) – Part 27 TCA 1997	Where an IREF has transferred some or all its IREF business to a specified company before 1 July 2017, then the tax arising on the IREF taxable event can be deferred, subject to certain conditions, for a period of up to 10 years under s739V TCA 1997.	One of the events under which the tax becomes due and payable under s739V TCA 1997 is where the company ceases to be resident in the EU or an EEA country. Therefore, it would appear that this section could have immediate effect, where an IREF has transferred an IREF business to a company that	A significant proportion of investment into Irish property owned by regulated funds such as ICAVs stems from UK institutional investors, such as widely held UK pension funds, investment undertakings and insurance companies which are equivalent to corresponding Irish vehicles and are	If s739K (1) TCA 1997 is not amended to include the UK as a "specified person", there is a risk of UK pension funds moving from an exempt status to a taxable status because of Brexit. This should be avoided as such investments in Irish property would have been made in good faith and changing their	

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		S739K (1) TCA 1997 also includes a definition of "specified person" for the purposes of Part 27, Chapter 1B. Tax arises on the happening of an IREF taxable event in respect of a specified person. The definition of "specified person" excludes: "a pension scheme, undertaking or company equivalent to those referred to in paragraphs (a) to (c), authorised by a Member State or an EEA state and subject to supervisory and regulatory arrangements at least equivalent to those applied to those pension schemes, undertakings or companies, as the case may be, in the State".	was UK resident that, have not themselves changed their residence but due to Brexit, are no longer resident in the EU. It would be worth consulting with the Revenue Commissioners regarding the number of companies (specified companies) that may have converted to UK residence to ascertain how many such companies would be affected by not including an amendment to s739V(4)(d) TCA 1997 in the new Brexit Omnibus Bill.	excluded from the definition of "specified persons" on the basis that they are authorised by an EU Member State or an EEA Member State. The impact of Brexit would be to immediately trigger withholding tax at 20% in respect of an IREF taxable event, which would not have been provided for by the fund or the investor. This could result in an obligation to borrow or sell assets to fund the tax. This would probably result in a reduction, and in some cases, a cessation, of future investment in Irish commercial and residential Property. Such funds could consequently seek tax free returns from investments in other jurisdictions. Under the Ireland/UK Double Taxation Agreement, UK pension schemes and charities could technically be treated as equivalent to Irish	tax treatment mid-investment could act as disincentive for such investments and encourage potential exits from the Irish market. It is commonplace for UK pension funds to invest directly and indirectly in Irish property. If an amendment is not included in the Bill, grandfathering would need to be considered to avoid unintended consequences for companies that have not themselves changed their residence but due to Brexit are no longer resident in the EU.	

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				pension funds and charities. However, no process has been put in place with respect to treaty equivalence between Irish Revenue and HMRC and therefore, the treaty alternative is entirely ineffective. Failure to deal with this issue by way of domestic legislation in advance of Brexit could lead to UK pension funds withdrawing their capital from Irish property funds.		
10	Rate applicable to deposit interest received by individuals – Section 267M TCA 1997	S267M TCA 1997 provides that EU-sourced deposit interest will be taxed at the reduced rates set out in s256 TCA 1997 (the DIRT rates), subject to certain conditions being met.	We previously recommend that s256 TCA 1997 be amended to ensure that UK-sourced deposit interest continued to be taxed at the DIRT rates in the event of a 'no-deal' Brexit. Post-Brexit and absent any amendment, part of interest income may be taxed at marginal rates and another part (the otherwise 'standard rated' part) at DIRT rates.	Deposit accounts in Northern Ireland and elsewhere in the UK are likely to constitute a significant proportion of overseas bank accounts held by Irish residents. Treating these accounts like third country accounts will introduce a level of complexity into individual tax returns.	S267M TCA 1997 is not a critical measure at this current juncture given how low interest rates are at present but extending the measure to the UK would arguably complement the Common Travel Area that exists between Ireland and the UK and would reduce complexity in tax returns.	

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11	Relief for investments in films – Section 529B TCA 1997	Chapter 1A of Part 18 provides for a withholding tax which must be deducted from payments made to non-resident artistes. A “non-resident” is defined for this purpose as an individual who is neither resident nor ordinarily resident in an EU Member State or an EEA country. Payments to UK resident actors are currently not within scope of this withholding tax.	The Irish and UK film industries are fundamentally intertwined. In addition to geography and language, Ireland and the UK have many cultural similarities and are seen by overseas producers as a fluid area with no obstacles to rapid cross-border movement of cast and crew. Co-productions with the UK and cross-border collaborations with Northern Ireland are a significant part of the Irish film industry. It is essential that a withholding tax obligation is not accidentally created with the UK because of Brexit.	Irish film and especially television productions frequently utilise UK-based actors given the unique level of collaboration between UK and Ireland production facilities. The imposition of withholding tax on payments to UK (including Northern Ireland) based actors would make Irish film and television productions less attractive. An actor from Belfast could suffer withholding tax but not an actor from Barcelona thus introducing a level of complexity for short-term projects. It also would detract from the overseas perception of Ireland and the UK as a single fluid production area.	It is critical that the definition of non-resident in s529B TCA 1997 is amended to include the UK to avoid accidentally creating a withholding tax obligation which could damage the current cross-border collaborations between the Irish and UK film industries. This practical Brexit impact could uniquely re-allocate taxing rights from the UK to Ireland. Such a fundamental change should not arise accidentally because of Brexit but if it is to be introduced, it should be done after consultation with the film industry and with a suitable lead in period. In addition, the definition of a “producer company” in s481 TCA 97 also needs to be amended to include UK producer companies that want to operate in Ireland through a cost-efficient branch structure.	

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12	Restriction of certain reliefs – Section 1032 TCA 1997	In general, non-resident individuals are not entitled to the personal allowances, deductions and reliefs specified in the Table to s458 TCA 1997. However, s1032 TCA 1997 provides that a portion of the allowances may however be available in certain circumstances, including where the individual is a citizen, subject or national of another EU Member State. In these circumstances, the portion is determined by the ratio of Irish sourced income to the total income of the individual.	In the context of a 'no-deal' Brexit, British citizens not resident in Ireland will no longer be entitled to these personal allowances, deductions, and reliefs, unless they meet one of the other conditions contained in s1032(2).	Maintenance of the existing relief for British citizens under s1032 is crucial in providing greater certainty to businesses involved in cross border movement of workers with a mobile workforce. Failure to maintain the existing relief would create uncertainty for such companies.	S1032 (2) TCA 1997 was amended by Finance Act 2019 to ensure that British citizens continue to be entitled to specified personal allowances, deductions, and reliefs but the amendment is subject to the commencement of the Withdrawal Act 2019. It is critical that the application of this section continues to apply to British citizens. This amendment should be included in the new Brexit Omnibus Bill or the matter addressed in Finance Bill 2020.	Head 8-28
13	EU Directives	Several measures are included in the TCA 1997 in order to transpose EU Directives into Irish law. This includes Part 21, Chapter 1 TCA 97 which deals with Mergers, Divisions, Transfers of Assets and Exchanges of	The General Scheme of the Miscellaneous Provisions (Withdrawal of the United Kingdom from the European Union on 29 March 2019) Bill 2019 contained an amendment to s87B SDCA 1999, to allow UK-based companies acquiring Irish	Per the 2019 Annual Report[6], stamp duty receipts in 2019 and 2018 remained reasonably consistent at €1.5billion each year representing 2.2% and 2.4% of total receipts, respectively. Where amendment is made to widen the definition of	We would strongly recommend that the definition of "company" in s630 TCA 1997 is extended to ensure that UK companies remain included in that definition for the purposes of s633 and s633D TCA 1997. The other sections in Part 21,	

[6] https://www.revenue.ie/en/corporate/press-office/annual-report/2019/ar-2019.pdf

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		Shares concerning companies of different Member States.	property as part of a merger to continue to be able to avail of the stamp duty exemption. The non-availability of stamp duty relief would make mergers more expensive and thus less attractive. This provision was removed from the Heads of Bill and it was not included in the 2019 Withdrawal Act. In the event of a 'no-deal' Brexit, the various corporation tax and CGT relieving measures that are provided in Part 21, Chapter 1 TCA 1997 would also no longer be available for transactions involving UK companies. Consideration should be given to widening the definition of "company" and other references to "Member State" in s630 TCA 1997, as appropriate, to ensure that UK companies remain included.	company to include UK companies, the non-availability of stamp duty relief would make mergers more expensive and thus less attractive. The potential impact on business may therefore be seen in a reduction in merger activity post Brexit. In the context of reconstructions and amalgamations, the new Withdrawal Agreement contains a proposed amendment to s615 to ensure that transactions involving UK companies remain within scope of the provisions in so far as relating to corporation tax on chargeable assets. S633 essentially applies the same treatment to development land transfers occurring in the course of a qualifying reconstruction or amalgamation. It is therefore important to ensure that this	Chapter 1 TCA 1997 are not as widely relied upon in practice.	

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				section also continues to apply so as not to impede the undertaking of qualifying reconstructions and amalgamations involving UK companies in cases where the business assets being transferred include development land.		
14	Other relevant measures in the TCA 1997	Part 8, Chapter 6: Interest and Royalties Directive & S831: Parent/Subsidiary Directive	To the extent that UK companies are no longer covered by these provisions, this could give rise to the imposition of withholding taxes or result in an increased administrative burden.	The non-application of these provisions is likely to give rise to an increased administration burden for some businesses.	We previously suggested that consideration should be given to widening the definition of "company" in s267G and s831 TCA 1997, to ensure that UK companies remained included, in the event of a 'no-deal' Brexit. The Interest and Royalties Directive and Parent/Subsidiary Directive are not extensively relied upon in practice. Provisions under the Ireland/UK tax treaty and other domestic exemptions can address withholding tax implications for interest, royalties and dividends paid to UK	

No	Brexit-related tax measures	How does the provision currently operate?	What is the change in how the provision will operate having regard to Brexit?	What implications would this have on businesses?	Why is an amendment to extend the provision to include the UK considered critical?	Included in General Scheme of 2020 Bill published on 9/9/2020
					companies following Brexit, albeit with some increased administration required for such companies to avail of the relieving provisions.	
15	Companies Act 2014	S137(1) Companies Act 2014 requires a company to have at least one director resident in an EEA state. This requirement is set aside only where: - the company has put in place a bond (s137(2) Companies Act 2014), or - the company has obtained a certificate from the Registrar, stating that the company has a real and continuous link with an economic activity being carried out in Ireland (s140 Companies Act 2014).	We understand that a significant number of Irish companies currently rely on a UK resident director to fulfil this requirement. Such companies would be in breach of Irish company law, in the context of a 'no-deal' Brexit.	This will create an additional compliance burden on a significant number of Irish companies if the UK ceases to be part of the EEA and the status quo is not maintained.	Consideration should be given to expanding the scope of s137(1) Companies Act 2014 to include a person who is resident in the UK. Other points to consider include s357 Companies Act 2014 (EU Parent Guarantee), where groups file consolidated accounts and the UK parent files accounts for the Irish subsidiary entity. This could become an issue where the UK do not prepare accounts under EU standards. Furthermore, it is easier in practice to register a branch for an EEA resident entity. This may prove more problematic for a UK entity to register an Irish branch in the future where amendments are not made to remedy this.	

No	Brexit-related tax measures	How does the provision currently operate?	What is the change in how the provision will operate having regard to Brexit?	What implications would this have on businesses?	Why is an amendment to extend the provision to include the UK considered critical?	Included in General Scheme of 2020 Bill published on 9/9/2020
Section B – Taxation measures contained in Part 6 of the Withdrawal Act 2019						
Measures outlined in Section A relate to the various circumstances we had identified in our Pre-Finance Bill 2019 and 2020 Submissions that were not covered by the taxation provisions contained in Part 6 of the Withdrawal Act 2019. In our view, the taxation measures contained in Part 6 of the Withdrawal Act 2019 remain valid and should be reflected as far as possible in the Withdrawal of the United Kingdom from the European Union (Consequential Provisions) Bill 2020.						
Income Tax						
16	No. 21: Amendment of section 42 of Act of 1997	Exemption of interest on savings certificates: This section provides an exemption from income tax for interest payable on savings certificates issued by the Minister for Finance, or savings certificates or similar securities issued by the government of an EU or EEA Member State. The amendment allows the retention of the exemption for savings certificates or other similar securities issued by the government of the UK.	There will no longer be an exemption from income tax for interest payable on savings certificates or other similar securities issued by the government of the UK.			Head 8-2
17	No. 22: Amendment of section 128D of Act of 1997	Tax treatment of directors of companies and employees who acquire restricted shares: S128D TCA 1997 provides for an abatement from the charge to income tax on the acquisition of the shares if certain shares are	A full charge to income tax will arise in relation to shares held in trusts / entities established in the UK. Additionally, there may be shares currently held in trusts established in the UK, which	In the absence of this provision, businesses will be restricted from being able to grant shares under this scheme if the shares are held through a UK trust, and more importantly, may cause an individual to lose their relief		Head 8-3

No	Brexit-related tax measures	How does the provision currently operate?	What is the change in how the provision will operate having regard to Brexit?	What implications would this have on businesses?	Why is an amendment to extend the provision to include the UK considered critical?	Included in General Scheme of 2020 Bill published on 9/9/2020
		held in trust[7] for a period of more than 5 years. This measure currently has restrictions relating to entities established in EEA states and it is proposed to extend the relevant definitions to ensure that entities established in the UK remain included.	were placed there for a period of more than 5 years to avail of an abatement from the charge to income tax on the acquisition of the shares by directors and employees. This means grandfathering provisions may be required to take account of the impact of the UK no longer being included in the definition of "trust" under s128D (1) TCA 1997.	already claimed if they cease to meet the conditions.		
18	No. 23: Amendment of section 128F of Act of 1997	Key Employee Engagement Programme (KEEP): S128F TCA 1997 provides for an exemption from income tax, USC and PRSI on any gain realised on the exercise of a qualifying share option under KEEP. The gain will however be subject to CGT on a subsequent disposal of the shares. This measure currently has restrictions relating to entities established in EEA states and	One of the conditions of a 'qualifying company' is that it must be incorporated and resident in Ireland. The relief can also extend to a company resident in an EEA Member State and carrying on business in Ireland through a branch or agency. If the definition of qualifying company is not extended to include a company incorporated in the UK and carrying on business in	It would stop businesses which are incorporated in the UK or tax resident in the UK from being able to avail of the scheme e.g. UK headquartered company with an Irish subsidiary or a UK company with an Irish branch. The result for those companies no longer meeting the conditions would result in those KEEP schemes becoming unapproved with income tax being due on	Irish SMEs continue to experience difficulties recruiting and retaining skilled workers. Access to talent is regarded as the most important issue facing tech start-ups in Ireland. In addition, due to COVID-19 related liquidity issues which may now be faced by SMEs, it will become crucial for these enterprises to retain and	Head 8-4

[7] "trust" means a trust established in the State or in an EEA State and the trustees of which are resident in the State or in an EEA State

No	Brexit-related tax measures	How does the provision currently operate?	What is the change in how the provision will operate having regard to Brexit?	What implications would this have on businesses?	Why is an amendment to extend the provision to include the UK considered critical?	Included in General Scheme of 2020 Bill published on 9/9/2020
		it is proposed to extend the relevant definitions to ensure that entities established in the UK remain included.	Ireland through a branch or agency, then key employees of an Irish branch or agency of a company incorporated in the UK cannot avail of the KEEP scheme which would not be in keeping within the spirit of the scheme. Additionally, there may be companies incorporated in the UK and carrying on business in Ireland through a branch or agency that have implemented the KEEP scheme for their employees. Therefore, grandfathering provisions may be required to take account of the impact of the UK no longer being included in the definition of EEA Member State.	disposal for the participants, rather than CGT.	attract talent beyond salary-based remuneration. In addition, as of May 2019, only 38 employees had been granted KEEP options. Based on feedback received from members and directly from Irish innovation driven start up enterprises, we believe the current low level of take up is due to a number of existing limitations that affect the feasibility of the scheme. We are of the view that an amendment to extend the provision to include the UK is critical to ensure that the scheme is not further negatively impacted.	
19	No. 24: Amendment of section 191 of Act of 1997	Taxation treatment of Hepatitis C compensation payments: This section amended s191 TCA 1997 to extend the relevant definitions to ensure that recurring compensation	Compensation payments made by, equivalent schemes to the Hepatitis C Tribunal, established in the UK, or similar payments awarded following the institution of civil action for damages in			Head 8-5

No	Brexit-related tax measures	How does the provision currently operate?	What is the change in how the provision will operate having regard to Brexit?	What implications would this have on businesses?	Why is an amendment to extend the provision to include the UK considered critical?	Included in General Scheme of 2020 Bill published on 9/9/2020
		payments from Hepatitis C/HIV public compensation schemes in the UK remain exempt from Irish income tax.	respect of personal injury, would no longer be exempt from income tax.			
20	No. 25: Amendment of section 192B of Act of 1997	Foster care payments etc. This section amends s192B TCA 1997 to extend the relevant definitions to ensure that payments made by UK authorities in respect of the fostering of children remain exempt from Irish income tax.	S192B was deleted by s13 Finance Act 2019 and has been replaced by s192BA, inserted by s13 Finance Act 2019. S192BA exempts from income tax, payments made or authorised by the Child and Family Agency (i.e. Tusla) to carers, foster parents, relatives, and young person's transitioning from care to whom such payments are made. Qualifying payments include payments made in accordance with the law of any other Member State and which corresponds to a payment made or authorised by the Child and Family Agency (i.e. Tusla). Therefore, payments received from corresponding UK agencies would no longer be exempt from income tax.			Head 8-6

No	Brexit-related tax measures	How does the provision currently operate?	What is the change in how the provision will operate having regard to Brexit?	What implications would this have on businesses?	Why is an amendment to extend the provision to include the UK considered critical?	Included in General Scheme of 2020 Bill published on 9/9/2020
21	Amendment of section 192F of Act of 1997	S192F TCA 1997 is amended, in subsection (2)(b)(i), by the insertion of ", or in the United Kingdom" after "(other than the State)". Section 15(2) and (3) of Finance Act 2019 to be repealed. S192F TCA 1997 provides an exemption from income tax for certain payments made on behalf of the Minister for Education and Skills in respect of student grants in accordance with the Student Support Act 2011. This section is amended to provide for the extension of the exemption to UK student support payments in addition to EU member state payments in certain circumstances.				Head 8-7 **This amendment was not in the Withdrawal Act 2019 but inserted into TCA 1997 by FA2019**
22	No 26: Amendment of section 195 of Act of 1997	Exemption of certain earnings of writers, composers, and artists: This section amends s195 TCA 1997 which provides for the exemption of certain earnings of writers,	This relief is extended to an individual who is either resident or ordinarily resident and domiciled in one or more Member States, or in another EEA state, and not resident			Head 8-8

No	Brexit-related tax measures	How does the provision currently operate?	What is the change in how the provision will operate having regard to Brexit?	What implications would this have on businesses?	Why is an amendment to extend the provision to include the UK considered critical?	Included in General Scheme of 2020 Bill published on 9/9/2020
		composers, and artists from income tax, subject to a maximum amount of €50,000. This measure is currently restricted to certain residents of EEA states and it is proposed to extend the relevant definitions to ensure that UK residents remain included.	elsewhere. Therefore, certain earnings of writers, composers and artists either resident or ordinarily resident and domiciled in the UK would no longer be exempt from income tax.			
23	No. 27: Amendment of section 208A of Act of 1997	Overseas charities: S208A TCA 1997 allows a charity established in any EEA or EFTA State to apply to Revenue for a determination that it would qualify for the tax exemptions provided for by s207 or s208, if it were to have income in the State of a kind referred to in those sections. This section amends s208A to ensure that certain tax exemptions continue to apply to charities and donations established in the UK.	Certain tax exemptions would no longer apply to charities and donations established in the UK.			Head 8-9
24	No. 28: Amendment of	Charities — miscellaneous: S208B TCA 1997 sets out that applications made under	As above.			Head 8-10

No	Brexit-related tax measures	How does the provision currently operate?	What is the change in how the provision will operate having regard to Brexit?	What implications would this have on businesses?	Why is an amendment to extend the provision to include the UK considered critical?	Included in General Scheme of 2020 Bill published on 9/9/2020
	section 208B of Act of 1997	s207, s208 and s208A must be supported by whatever information Revenue may reasonably require to determine the claim. This section amends s280B to ensure that certain tax exemptions continue to apply to charities and donations established in the UK.				
25	No. 29: Amendment of section 244 of Act of 1997	Relief for interest paid on certain home loans: S244 TCA 1997 concerns "mortgage interest relief" (i.e. relief given for interest paid by an individual on a loan used for the purchase, repair, development or improvement of his/her sole or main residence or of the sole or main residence of his/her former or separated spouse, civil partner or of a dependent relative). This section amends s244 to ensure that certain properties situated in the UK remain eligible for mortgage interest relief.	Properties situated in the UK would no longer be eligible for mortgage interest relief.			Head 8-11

No	Brexit-related tax measures	How does the provision currently operate?	What is the change in how the provision will operate having regard to Brexit?	What implications would this have on businesses?	Why is an amendment to extend the provision to include the UK considered critical?	Included in General Scheme of 2020 Bill published on 9/9/2020
26	No. 30: Amendment of section 244A of Act of 1997	S244A TCA 1997 introduced tax relief at source (TRS) for mortgage interest relief. This section amends s244A to ensure that certain properties situated in the UK remain eligible for mortgage interest relief.	Properties situated in the UK would no longer be eligible for mortgage interest relief.			Head 8-12
27	No. 31: Amendment of section 470 of Act of 1997	Relief for insurance against expenses of illness: S470 TCA 1997 provides relief at the standard rate of income tax for expenditure incurred under a contract of insurance for the reimbursement or discharge of actual health expenses or of non-routine dental expenses of the individual, the individual's spouse or civil partner, or the children or other dependants of the individual or of the individual's spouse or civil partner. This section amends s470 to ensure that income tax relief remains available for certain health insurance policies granted by insurers established in the UK.	Individuals with health insurance policies granted by insurers established in the UK will not be eligible for relief at the standard rate of income tax for health expenses or of non-routine dental expenses.			Head 8-13

No	Brexit-related tax measures	How does the provision currently operate?	What is the change in how the provision will operate having regard to Brexit?	What implications would this have on businesses?	Why is an amendment to extend the provision to include the UK considered critical?	Included in General Scheme of 2020 Bill published on 9/9/2020
28	No. 32: Amendment of section 472B of Act of 1997	Seafarer Allowance: S472B TCA 1997 provides for an allowance of €6,350 for certain seafarers. The allowance is conditional on a seafarer being at sea for at least 161 days in a tax year. This section amends s472B to ensure that the Seafarer Allowance remains available for work undertaken on certain sea-going ships that are registered on UK registers.	The Seafarer Allowance would no longer be available for seafarers who undertake work on certain sea-going ships that are registered on UK registers.			Head 8-14
29	No. 33: Amendment of section 472BA of Act of 1997	Fisher Tax Credit: S472BA TCA 1997 gives a tax credit of €1,270 to fishers who spend at least 80 days per year engaged in sea-fishing. This section amends s472B to ensure that the Fisher Tax Credit remains available for work undertaken on certain fishing vessels that are registered on UK registers.	Fisher Tax Credit would no longer be available for fishers who undertake work on certain fishing vessels that are registered on UK registers.			Head 8-15
30	No. 34: Amendment of section 473A of Act of 1997	Relief for fees paid for third level education: This section amends s473A to ensure that tax relief for fees paid for	Individuals would no longer be able to claim tax relief for fees paid for third level undergraduate education in	Businesses in innovation-driven industries and in the technology space continue to have a high demand for	The availability of a highly skilled and well-educated labour force will be critical to Ireland’s recovery and	Head 8-16

No	Brexit-related tax measures	How does the provision currently operate?	What is the change in how the provision will operate having regard to Brexit?	What implications would this have on businesses?	Why is an amendment to extend the provision to include the UK considered critical?	Included in General Scheme of 2020 Bill published on 9/9/2020
		third level undergraduate education continues to apply in respect of UK-based institutions.	respect of UK-based institutions.	skilled and qualified graduates. The removal of tax relief for undergraduate fees for UK institutions would likely negatively impact on the labour force available to Irish based companies.	resilience in light of COVID19 and Brexit uncertainties. An amendment to s473A is therefore crucial in maintaining a pipeline of skilled graduates.	
31	No. 35: Amendment of section 480A of Act of 1997	Relief on retirement for certain income of certain sportspersons: S480A TCA 1997 provides for relief from income tax in respect of certain earnings of sportspersons (i.e. athlete, badminton player, boxer, cricketer, cyclist, footballer, golfer, jockey, motor racing driver, rugby player, squash player, swimmer and tennis player). This section amends s480A to ensure that sportspersons relief may continue to UK residents.	Relief from income tax in respect of certain earnings of sportspersons would no longer apply to UK residents.			Head 8-17
32	No. 36: Amendment of section 489 of Act of 1997	Interpretation – Part 16 Relief for Investment in Corporate Trades: S489 TCA 1997 provides for relief under the Employment and Investment	A qualifying company must be incorporated in the State or in another EEA State. Therefore, companies that are incorporated in the UK	Part 16 relief is a crucial source of finance for early stage and small businesses that often have limited funding options available to	In light of economic difficulties posed by COVID19, providing entrepreneurial funding for a business is likely to carry a	Head 8-18

No	Brexit-related tax measures	How does the provision currently operate?	What is the change in how the provision will operate having regard to Brexit?	What implications would this have on businesses?	Why is an amendment to extend the provision to include the UK considered critical?	Included in General Scheme of 2020 Bill published on 9/9/2020
		Incentive (EII) scheme to an individual who subscribes for eligible shares in a qualifying company. This section amends s489 which provides relief for investments in corporate trades. This measure currently has restrictions related to entities established in EEA states and it is proposed to extend the relevant definitions to ensure that entities established in the UK remain included.	will not meet the conditions to be a qualifying company. In addition, there may be companies incorporated in the UK that were qualifying companies for the EII Scheme in which an individual has subscribed for eligible shares and grandfathering provisions may be required to take account of the impact of the UK no longer being included in the definition of EEA State.	them. Recent public consultations on SME incentives including EII have identified significant challenges encountered by companies in applying for and administering this scheme, many of which have been discouraged in seeking such funding. While the revisions to the EII scheme under Part 16 in Finance Act 2018 were welcome, if the regime is not subsequently updated to allow for companies incorporated in the UK to meet the definition of EEA State, it is likely that a number of businesses may find the scheme unworkable. The principal risk for the company is that it would cease to be a “qualifying company”. This would therefore give rise to a clawback event. For companies that have “self-certified” by issuing a “statement of qualification”	greater risk. The EII scheme therefore needs to be an attractive proposition to Irish investors to encourage them to bear the risk of investing in small businesses.	

No	Brexit-related tax measures	How does the provision currently operate?	What is the change in how the provision will operate having regard to Brexit?	What implications would this have on businesses?	Why is an amendment to extend the provision to include the UK considered critical?	Included in General Scheme of 2020 Bill published on 9/9/2020
				to investors, s508U (2) would result in a significant Case IV assessment. Relief would be clawed back from the investors directly if it they invested before the self-certification regime was introduced.		
33	No. 37: Amendment of section 490 of Act of 1997	Qualifying companies – Part 16 Relief for Investment in Corporate Trades: S490 TCA 1997 provides that a qualifying company must be incorporated in the State or in another EEA State. S490 TCA 1997 imposes certain limits on the relief available under the EII and SURE. The minimum amount on which relief is available is €250 and the maximum amount is €100,000 (SURE) or €150,000 (EII) per tax year. Where due to the operation of these upper limits or due to an insufficiency of total income the full amount of the investment cannot be relieved, the unrelieved	This section provides that throughout the relevant period the company shall "be resident in the State, or resident in an EEA State other than the State and carry on, or intend to carry on, relevant trading activities from a fixed place of business in the State . . ." Therefore, companies that are incorporated in the UK will not meet the conditions to be a qualifying company. In addition, there may be companies incorporated in the UK that were qualifying companies for the EII Scheme in which an individual has subscribed for eligible shares and grandfathering provisions	As above	As above	Head 8-19

No	Brexit-related tax measures	How does the provision currently operate?	What is the change in how the provision will operate having regard to Brexit?	What implications would this have on businesses?	Why is an amendment to extend the provision to include the UK considered critical?	Included in General Scheme of 2020 Bill published on 9/9/2020
		amount may be carried forward and relieved in subsequent years. Investment carried forward in this way cannot be relieved beyond the tax year 2020. This section amends s490 which provides relief for investments in corporate trades. This measure currently has restrictions relating to entities established in EEA states and it is proposed to extend the relevant definitions to ensure that entities established in the UK remain included.	may be required to take account of the impact of the UK no longer being included in the definition of EEA State.			
34	No. 38: Amendment of section 770 of Act of 1997	Pension provisions: S770 TCA 1997 is concerned with the interpretation of terms used in Chapter 1 Part 30 TCA 1997 dealing with occupational pension schemes. It also gives effect to Schedules 23 and 23C, which contains administrative provisions. This section of the Withdrawal Act provides that UK occupational pension	UK occupational pension schemes will no longer obtain “exempt approved” status under the TCA 1997 which is required for the purposes of tax relief on contributions to schemes and the exemption of scheme income.			Head 8-20

No	Brexit-related tax measures	How does the provision currently operate?	What is the change in how the provision will operate having regard to Brexit?	What implications would this have on businesses?	Why is an amendment to extend the provision to include the UK considered critical?	Included in General Scheme of 2020 Bill published on 9/9/2020
		schemes may continue to obtain "exempt approved" status under TCA 1997. This is required for the purposes of tax relief on contributions to schemes and the exemption of scheme income.				
35	No. 39: Amendment of section 772 of Act of 1997	Pension provisions: Conditions for approval of schemes and discretionary approval. S772 TCA 1997 sets out the circumstances in which retirement benefit schemes are to be approved by Revenue for tax purposes. This section of the Withdrawal Act provides that UK occupational pension schemes may continue to obtain "exempt approved" status under TCA 1997. This is required for the purposes of tax relief on contributions to schemes and the exemption of scheme income.	UK occupational pension schemes will no longer obtain "exempt approved" status under TCA 1997 which is required for the purposes of tax relief on contributions to schemes and the exemption of scheme income.			Head 8-21
36	No. 40: Amendment of	Pension provisions: Approval of retirement benefits products. S772A TCA 1997	UK annuity providers will no longer obtain tax approval under TCA 1997 for their			Head 8-22

No	Brexit-related tax measures	How does the provision currently operate?	What is the change in how the provision will operate having regard to Brexit?	What implications would this have on businesses?	Why is an amendment to extend the provision to include the UK considered critical?	Included in General Scheme of 2020 Bill published on 9/9/2020
	section 772A of Act of 1997	deals with approval of retirement benefits products. Revenue may, in certain circumstances and subject to conditions, approve a "generic" retirement benefits product and retirement benefit schemes established under such a product may be treated as approved schemes for tax purposes without the requirement for each individual scheme to be approved by the Commissioners. The type of retirement benefits product envisaged is one under which single member retirement benefits schemes are marketed by Life Offices and established using standard documentation secured by way of an insurance contract. A condition of approval is that the combined employer and employee contributions to such schemes in any year may not exceed the maximum age-related tax-relievable contributions that	retirement products. Policyholders will not be able to avail of tax relief for premiums paid in respect of approved policies.			

No	Brexit-related tax measures	How does the provision currently operate?	What is the change in how the provision will operate having regard to Brexit?	What implications would this have on businesses?	Why is an amendment to extend the provision to include the UK considered critical?	Included in General Scheme of 2020 Bill published on 9/9/2020
		may be made by an employee to a retirement benefits scheme. This section of the Withdrawal Act provides that UK annuity providers may continue to obtain tax approval under TCA 1997 for their retirement products. Policyholders can avail of tax relief for premiums paid in respect of approved policies.				
37	No. 41. Amendment of section 784 of Act of 1997	Pension provisions: Retirement annuities: relief for premiums. S784 TCA 1997 defines the type of individual who may claim relief in respect of retirement annuity premiums and the kind of payments which may qualify for that relief. It also exempts the investment income of a fund maintained for the purpose of a scheme approved under the section. This section of the Withdrawal Act provides that UK annuity providers may continue to obtain tax approval under TCA 1997 for	UK annuity providers will no longer obtain tax approval under TCA 1997 for their retirement products. Policyholders will not be able to avail of tax relief for premiums paid in respect of approved policies.			Head 8-23

No	Brexit-related tax measures	How does the provision currently operate?	What is the change in how the provision will operate having regard to Brexit?	What implications would this have on businesses?	Why is an amendment to extend the provision to include the UK considered critical?	Included in General Scheme of 2020 Bill published on 9/9/2020
		their retirement products. Policyholders can avail of tax relief for premiums paid in respect of approved policies.				
38	No. 42: Amendment of section 784A of Act of 1997	Pension provisions: Approved retirement fund. S784A TCA 1997 sets out the taxation treatment which applies in relation to an approved retirement fund (ARF). In particular, it provides that where the assets of an ARF are made available for the use or benefit of the ARF holder, the ARF holder will be liable to tax on the value of the asset so made available. This section of the Withdrawal Act provides that UK entities can continue to act as qualifying fund managers for the purposes of the Approved Retirement Fund regime.	UK entities will no longer be able to act as qualifying fund managers for the purposes of the Approved Retirement Fund regime.			Head 8-24
39	No. 43: Amendment of section 785(1A) of Act of 1997	Pension provisions: Approval of contracts for dependants or for life assurance. S785 TCA 1997 permits the Revenue Commissioners to	UK annuity providers will no longer be able to obtain tax approval under TCA 1997 for their retirement products. Policyholders will not be able			Head 8-25

No	Brexit-related tax measures	How does the provision currently operate?	What is the change in how the provision will operate having regard to Brexit?	What implications would this have on businesses?	Why is an amendment to extend the provision to include the UK considered critical?	Included in General Scheme of 2020 Bill published on 9/9/2020
		approve under s784 contracts made by individuals providing an annuity for the widow, widower, surviving civil partner or dependants of the individual whether or not the individual is providing benefits for himself or herself. It also provides for approval of contracts assuring lump sums to the personal representatives of the individual on his/her death before the agreed retirement age. S785(1A) TCA 1997 provides that where the annuity provider is not established in the State then it must be an insurance undertaking authorised to transact insurance business in the State under the relevant EU Directive (Directive 2002/83/EC of 5 November 2002) – thus applying the regulatory environment imposed by that Directive on such undertakings. This section of the Withdrawal Act provides that UK annuity	to avail of tax relief for premiums paid in respect of approved policies.			

No	Brexit-related tax measures	How does the provision currently operate?	What is the change in how the provision will operate having regard to Brexit?	What implications would this have on businesses?	Why is an amendment to extend the provision to include the UK considered critical?	Included in General Scheme of 2020 Bill published on 9/9/2020
		providers may continue to obtain tax approval under the Taxes Consolidation Act 1997 for their retirement products. Policyholders can avail of tax relief for premiums paid in respect of approved policies.				
40	No. 44: Amendment of section 787M of Act of 1997	Pension provisions: S787M is concerned with the interpretation of terms used in Chapter 2B Part 30 TCA 1997 dealing with overseas pensions plans: migrant member relief. This section of the Withdrawal Act provides that UK employees or self-employed individuals who come, or return, to Ireland may continue to obtain tax relief for contributions to pension plans with UK pension or EU (excluding Ireland) providers.	UK employees or self-employed individuals who come, or return, to Ireland will not be able to continue to obtain tax relief for contributions to pension plans with UK pension or EU (excluding Ireland) providers.			Head 8-26
41	No. 45: Amendment of section 790B of Act of 1997	Pension provisions: Exemption of cross-border scheme. S790B TCA 1997 provides that where an institution for occupational	Irish pension scheme may no longer accept contributions from a UK undertaking and obtain tax exemptions in respect of scheme income.			Head 8-27

No	Brexit-related tax measures	How does the provision currently operate?	What is the change in how the provision will operate having regard to Brexit?	What implications would this have on businesses?	Why is an amendment to extend the provision to include the UK considered critical?	Included in General Scheme of 2020 Bill published on 9/9/2020
		retirement provision established in the State is authorised and approved by the "competent authority" in the State under the Directive[8], (i.e. the Pensions Authority), to accept contributions from an undertaking located in another EU Member State in respect of a retirement benefits scheme established under irrevocable trusts, then certain tax exemptions will apply in relation to the scheme. This section of the Withdrawal Act provides that an Irish pension scheme may accept contributions from a UK undertaking and obtain tax exemptions in respect of scheme income.				
42	No. 46: Amendment of section 806 of Act of 1997	Charge to income tax on transfer of assets abroad: S806 TCA 1997 is designed to counter individuals resident	Individuals resident or ordinarily resident in the State will not be caught by this anti-avoidance provision	Individuals who have companies/trusts in the UK could find themselves in a position whereby income or		Head 8-29

[8] EU Directive (2003/41/EC of 3 June 2003) was repealed with effect from 13 January 2019 by EU Directive (2016/2341 of 14 December 2016) and the necessary amendments to this section are subject to a Ministerial Order.

No	Brexit-related tax measures	How does the provision currently operate?	What is the change in how the provision will operate having regard to Brexit?	What implications would this have on businesses?	Why is an amendment to extend the provision to include the UK considered critical?	Included in General Scheme of 2020 Bill published on 9/9/2020
		or ordinarily resident in the State avoiding tax by means of a transfer of assets as a result of which income becomes payable to a person who is resident or domiciled outside the State. The income arising abroad is chargeable to tax on the Irish resident where he/she has the power to enjoy any of the income or any capital sum which is in any way connected with the transfer or with any associated operation. This section mends s806(11)(a) of to include reference to the United Kingdom to maintain the existing position for anti-avoidance provisions relating to income tax in s806 and specific capital gains tax anti-avoidance provisions in s579, s579A and s590 of the Act.	where they avoid tax by transferring assets as a result of which income becomes payable to a person who is resident or domiciled in the UK. The income arising abroad will not be chargeable to tax on the Irish resident even where he/she has the power to enjoy any of the income or any capital sum which is in any way connected with the transfer or with any associated operation.	gains are attributed to them personally in circumstances whereby they do not have sufficient funds to pay the taxes.		
Corporation Tax						
43	No. 47: Amendment of section 243 of Act of 1997	Allowance of charges on income: S243 TCA 1997 provides for relief from corporation tax in respect of	A company would not be able to avail of relief from corporation tax under s243 in respect of non-yearly interest			Head 8-30

No	Brexit-related tax measures	How does the provision currently operate?	What is the change in how the provision will operate having regard to Brexit?	What implications would this have on businesses?	Why is an amendment to extend the provision to include the UK considered critical?	Included in General Scheme of 2020 Bill published on 9/9/2020
		annuities and other annual payments, patent royalties, rents and other similar payments, and, to a limited extent, interest, paid in connection with a trade. The principle underlying the section is that these payments (which in the hands of the recipient are in the nature of "pure income" receipts) known as "charges on income" are to be set against the total profits of the company and not against the particular source of income with which the payment is connected. The section incorporates the general prohibition, except for very limited exceptions, on the allowance of interest as a charge. This section will amend s243(4) to include banks, stock exchanges and discount houses in the UK. If the UK leaves the EU without a deal, a company would not be able to avail of relief from corporation tax under s243 in	paid to recognised banks, stock exchange members or discount houses carrying on business in the UK.			

No	Brexit-related tax measures	How does the provision currently operate?	What is the change in how the provision will operate having regard to Brexit?	What implications would this have on businesses?	Why is an amendment to extend the provision to include the UK considered critical?	Included in General Scheme of 2020 Bill published on 9/9/2020
		respect of non-yearly interest paid to recognised banks, stock exchange members or discount houses carrying on business in the UK. It is proposed to extend the references to include the UK to allow for the continuation of existing arrangements in the immediate future.				
44	No. 48: Amendment of sections 410 and 411 of Act of 1997	Group payments and surrender of relief between members of groups and consortia: S410 TCA 1997 (group relief for payments) provides that where a company resident in a relevant Member State[9] receives from another such company payments from which income tax is deductible, the payments are to be made without deduction of income tax where certain relationships exist between the companies	For group payments and group loss relief both companies must be resident in the EU or an EEA DTA country. Therefore, group relief will not apply where companies are members of a group but resident in the UK.			Head 8-31

[9] Defined in the section to cover both EU Member States and countries outside the EU which are in the European Economic Area and with which Ireland has a double tax treaty

No	Brexit-related tax measures	How does the provision currently operate?	What is the change in how the provision will operate having regard to Brexit?	What implications would this have on businesses?	Why is an amendment to extend the provision to include the UK considered critical?	Included in General Scheme of 2020 Bill published on 9/9/2020
		(51% subsidiaries). S411 TCA 1997 (group relief for losses) sets out the general nature of group relief and the conditions under which it is available for trading losses and other amounts such as excess management expenses and charges on income. The loss, etc is surrendered by the company sustaining it and allowed to any other company or companies with which it is associated either as a member of the same group[10] or as a member in a consortium of companies[11]. This section amends s410 and s411 to include the UK within the definition of 'relevant Member State' where used.				
45	No. 49: Amendment of	Extension of s438 to loans by companies controlled by	S438(6) TCA 1997 is extended to cover a loan made by a	If an Irish close company makes a loan to a UK close		Head 8-32

[10] Two companies are members of the same group if one is a subsidiary of the other or both are subsidiaries of a third company, the parent/subsidiary relationship being determined according to the test of not less than 75 per cent ownership of the ordinary share capital.
[11] Group relief within a consortium is available where the surrendering company is a trading company that is owned by a consortium and is not a 75 per cent subsidiary of any company and the claimant company is a member of the consortium.

No	Brexit-related tax measures	How does the provision currently operate?	What is the change in how the provision will operate having regard to Brexit?	What implications would this have on businesses?	Why is an amendment to extend the provision to include the UK considered critical?	Included in General Scheme of 2020 Bill published on 9/9/2020
	section 438 of Act of 1997	close companies: S438 TCA 1997 is designed to counter the device of withdrawing profits in the guise of loans. It imposes on a close company a charge to income tax at the standard rate on the grossed up equivalent of a loan or advance made by the company to a participator or an associate of the participator, if the company's business does not include the making of loans. The amount assessed is not regarded as a charge deductible for corporation tax purposes. This section amends s438 TCA 1997 to include the UK within the definition of Member State of the European Communities. This will allow for the continuation of existing arrangements in the short term and allow time to examine any potential impact on bona-fide business transactions.	close company to another company acting in a representative capacity or to a company resident outside the EU. Companies resident in the UK will no longer be included in this provision.	company which is classified as a participator (e.g. in the same group) the UK company would be treated as if it were an individual and withholding would apply for the Irish company on such a loan.		

No	Brexit-related tax measures	How does the provision currently operate?	What is the change in how the provision will operate having regard to Brexit?	What implications would this have on businesses?	Why is an amendment to extend the provision to include the UK considered critical?	Included in General Scheme of 2020 Bill published on 9/9/2020
46	No. 50: Amendment of section 486C of Act of 1997	Relief from tax for certain start-up companies: S486C TCA 1997 provides relief from corporation tax (subject to the amount of Employers' PRSI paid by a company in an accounting period, subject to a maximum of €5,000 per employee and an overall limit of €40,000) for new start-up companies for the first 3 years of operation. Relief is granted by reducing the corporation tax on the profits of the new trade and gains on the disposal of any assets used for the purpose of the new trade. This section amends s486C to extend the provisions applying to EEA States to include the UK.	S486C TCA1997 defines a "new company" as a company incorporated in the State or in a EEA state on or after 14 October 2008. Therefore, companies incorporated in the UK will no longer be able to avail of the relief from tax for start-up companies. The relief applies to qualifying companies for the first three years of trading; therefore consideration will need to be given to companies incorporated in the UK currently claiming the relief and whether there will be any clawback of the relief.	For existing traders, the incidence of corporation tax being imposed on the company where there was an expectation that exemption would be available for the first three years. New businesses set-up would not qualify.		Head 8-33
47	No. 51: Amendment of section 615 of Act of 1997	Company reconstruction or amalgamation - transfer of assets: S615 TCA 1997 operates in a situation where, on a reconstruction or amalgamation, one resident company takes over the whole or part of the business	To qualify for relief the company transferring the assets must be resident in an EU Member State or be resident in an EEA Member State with which Ireland has a tax treaty at the time of transferring them, or the	Businesses are likely to be impacted by the change post 31 December 2020, in terms of the tax costs of carrying on transactions, such as group restructuring or amalgamations. Given the relatively high rate of CGT at	An amendment to this provision is critical to ensure that groups continue to engage in economic activity such as restructurings and amalgamations. Onerous blockers to such activity, such as high tax costs would	Head 8-35 **This amendment was not in the Withdrawal Act 2019 but**

No	Brexit-related tax measures	How does the provision currently operate?	What is the change in how the provision will operate having regard to Brexit?	What implications would this have on businesses?	Why is an amendment to extend the provision to include the UK considered critical?	Included in General Scheme of 2020 Bill published on 9/9/2020
		of another resident company and that other company receives no consideration for the transfer of the business other than the taking over of its liabilities. The section provides that no corporation tax is to be charged in respect of chargeable gains accruing to the transferor company, but the transferee company is to be treated as if it had acquired the assets at the time and the price at which they were acquired by the transferor company. Where the transferor or transferee company is not resident in Ireland but is resident in an EU Member State or in an EEA State, the relief applies where the assets are within the charge to corporation tax immediately before the transfer in the case of the transferor company and immediately after the transfer in the case of the transferee company. This section amends s615 to	assets must be chargeable assets for capital gains tax purposes in relation to the company immediately before that time, **and** the company acquiring the assets must be resident in an EU Member State or be resident in an EEA Member State with which Ireland has a tax treaty at the time of acquisition, or the assets must become chargeable assets in relation to the company on acquisition. Where the transferor or transferee company is resident in the UK, the relief will not apply even where the assets are within the charge to corporation tax immediately before the transfer in the case of the transferor company and immediately after the transfer in the case of the transferee company.	present, the withdrawal of relief under s615 would likely make any commercial activity in this space an unattractive option for many groups. In light of the UK's status as a major trading partner with Ireland, the likelihood of intragroup transfers requiring relief under s615 is relatively high, and the quantum and volume of transactions is not insignificant.	ultimately result in less economic activity in this space.	**inserted into TCA 1997 by FA2019**

No	Brexit-related tax measures	How does the provision currently operate?	What is the change in how the provision will operate having regard to Brexit?	What implications would this have on businesses?	Why is an amendment to extend the provision to include the UK considered critical?	Included in General Scheme of 2020 Bill published on 9/9/2020
		extend the provisions currently applying to a relevant member state to include the UK.				
48	52. Amendment of section 766 of Act of 1997	Tax credit for research and development expenditure: S766 TCA 1997 provides for a 25% tax credit for expenditure on certain research and development (R&D) activities. This section amends s766 to include the UK within the definition of relevant Member State. This will allow for the continuation of existing arrangements in the immediate future, pending further research on the potential consequences for established R&D activities in the State.	To qualify for a credit, the R&D activity must be carried on by the company itself in a European Economic Area country. R&D activities carried on by a company in the UK will no longer qualify for the R&D credit. Consideration will need to be given to companies currently claiming the R&D credit where the R&D activities are carried on in the UK.	This would likely have a significant impact on businesses engaged in R&D activities who, for genuine commercial reasons, have a portion of that activity carried on in the UK. In particular, we are aware of a number of large domestic Irish groups with R&D carried on across a number of EEA Member States including the UK which would be negatively impacted post Brexit. If the definition of 'Relevant Member State' is not amended to include the UK, it could have a disruptive effect on engagements that Irish companies have with UK companies in carrying on R&D activities. It may hamper the viability and efficiency of those arrangements which in	R&D is a key driver of innovation, and in particular the European Commission has recognised that investment in innovation would likely foster greater productivity and export potential at a time when such a focus could help stabilise the performance of Irish firms. In addition, the National Competitiveness Council has also addressed the need for innovation to diversify and broaden the enterprise and exports base. The R&D tax credit is recognised as a key policy tool for incentivising a highly skilled knowledge economy and innovation to be created in Ireland. Since the credits were introduction in 2004, Business Expenditure on	Head 8-34

No	Brexit-related tax measures	How does the provision currently operate?	What is the change in how the provision will operate having regard to Brexit?	What implications would this have on businesses?	Why is an amendment to extend the provision to include the UK considered critical?	Included in General Scheme of 2020 Bill published on 9/9/2020
				a lot of cases might be critical to the Irish company's overall R&D activity. It could also force foreign MNC groups to rethink their strategy in relation to using Ireland as the EU centre for their R&D activities (i.e. they may consider it more effective to locate their R&D centres elsewhere particularly where significant collaboration with UK companies will be required as part of the overall R&D activities). Without the inclusion of the United Kingdom within the definition of "relevant Member State", time spent by a company's employees who are engaged in R&D activities and as part of their role travel to Great Britain or Northern Ireland to carry out certain elements of an R&D project in, for example, a specialist facility such as	Research and Development ("BERD") has increased from €1.1bn in 2004 to over €2.7bn in 2018. There have been some recent positive updates to the legislation including enhancements for small and micro companies and an increase to the university expenditure limits. However, excluding R&D activities carried out by Irish entity employees in Great Britain or Northern Ireland and any expenditure incurred on R&D outsourced to a Great Britain/ Northern Ireland based university would be an unnecessary and negative change. The amendment is critical as Irish companies often collaborate with UK companies in carrying on R&D activities (this can often be the case where the UK company can deliver a specialist service to the Irish company as part of their	

No	Brexit-related tax measures	How does the provision currently operate?	What is the change in how the provision will operate having regard to Brexit?	What implications would this have on businesses?	Why is an amendment to extend the provision to include the UK considered critical?	Included in General Scheme of 2020 Bill published on 9/9/2020
				a laboratory or a sister company's site etc. would not be able to claim for such activities. For companies operating on the border counties, where employees are based in Northern Ireland and are able to work remotely, where they carry out R&D through working from home, this activity would not qualify for the R&D tax credit. Furthermore, many businesses commonly engage with British universities to carry on subcontracted R&D activities and many businesses make payments to specialised universities to carry out key research integral to its R&D project on its behalf. Without the provision, payments made to any universities in Great Britain or Northern Ireland would not qualify for the R&D tax credit.	overall R&D programs or vice versa). As part of this collaboration, the Irish company's employees may need to spend periodic times onsite in the UK while doing the R&D activities (for example as part of testing etc.). If the provision is not extended, the cost incurred by the Irish company in relation to the time their employees spend in the UK would not qualify for the R&D tax credit. Collaborations with UK companies (given its proximity to Ireland) is a common feature of the R&D ecosystem for Irish companies. On this basis, an amendment to extend this provision to include the UK is considered critical on the basis that failure to do so would effectively limit the return of Irish firms, in real cash terms, that they can obtain for innovation activities.	

No	Brexit-related tax measures	How does the provision currently operate?	What is the change in how the provision will operate having regard to Brexit?	What implications would this have on businesses?	Why is an amendment to extend the provision to include the UK considered critical?	Included in General Scheme of 2020 Bill published on 9/9/2020
Capital Gains Tax						
49	No. 53: Amendment of section 541C of Act of 1997	Tax treatment of certain venture fund managers: S541C TCA 1997 ensures the share of profits of an investment that a venture fund manager receives for managing an investment in a venture capital fund is deemed to be an amount of chargeable gains. This section amends s541C so that investments made in the UK can be taken into account in the calculation of the amount of the relief.	Profits received by a venture fund manager from investments made in the UK will not be subject to capital gains tax.			Head 8-38
50	No. 54: Amendment of section 604A of Act of 1997	Relief for certain disposals of land or buildings: S604A TCA 1997 gives relief from capital gains tax for property purchased in any state in the European Economic Area between 7 December 2011 and 31 December 2014 on a disposal of such property, where that property is held for more than 7 years. The current position, whereby the relief applies to the UK, is	Investors may have purchased property in any state in the Europe Economic Area on the basis that they could avail of relief from CGT where the property was held for more than 7 years and subsequently disposed of. Where property was purchased in the UK during the qualifying period and held for more than 7 years this property would no longer			Head 8-39

No	Brexit-related tax measures	How does the provision currently operate?	What is the change in how the provision will operate having regard to Brexit?	What implications would this have on businesses?	Why is an amendment to extend the provision to include the UK considered critical?	Included in General Scheme of 2020 Bill published on 9/9/2020
		being maintained by section 54 of Part 6 of the Withdrawal Act 2019.	qualify for the relief from CGT.			
Value-Added Tax						
51	No. 55: Amendment of section 53 of Act of 2010	Imports – general provisions: S53 VATCA 2010 sets out the general VAT rules for imports i.e. goods arriving from outside the EU. This section of the Withdrawal Act amends s53 of the VAT Consolidation Act 2010. This is a referential amendment consequent to the introduction of postponed accounting in s56.	The UK will no longer be a Member State therefore VAT and customs duty on imports to Ireland will apply. The amendment to s53 VATCA 2010 is necessary to provide for the new s53A VATCA 2010 (introduced by s56 of the Withdrawal Act).			Head 8-40
52	No. 56: Insertion of section 53A into Act of 2010	Postponed Accounting: This section of the Withdrawal Act introduces a new s53A VATCA 2010. This change introduces postponed accounting for VAT for all importers registered for VAT in Ireland. It also introduces a modification of the postponed accounting scheme at a later date, to be agreed, which will make authorisation for the scheme	The proposal to introduce postponed VAT accounting for Irish VAT registered importers that import goods into Ireland from non-EU jurisdictions post-Brexit is likely the most significant from a VAT cashflow perspective. It would bring the VAT treatment of imports more in line with the VAT treatment of intra-Community acquisitions of	Currently business can incur a cash flow cost on the importation of goods into Ireland from a non-EU country. This amendment should eliminate cash flow costs for the majority of traders on the import of goods from all non-EU countries including the UK. This amendment will have a significant cash flow	The status quo for VAT registered businesses trading with the UK will be maintained. In the absence of this amendment, unless an Irish trader operated a deferred VAT payment account, import VAT would become payable at the point of import of goods into Ireland from the UK resulting in negative cash flow consequences.	Head 8-41

No	Brexit-related tax measures	How does the provision currently operate?	What is the change in how the provision will operate having regard to Brexit?	What implications would this have on businesses?	Why is an amendment to extend the provision to include the UK considered critical?	Included in General Scheme of 2020 Bill published on 9/9/2020
		subject to criteria and conditions.	goods from other EU Member States.	advantage for businesses as it will preserve the current VAT position for trading with the UK in that import VAT can be recorded in the VAT return for the period in which the import takes place in the same way as VAT is currently accounted for on goods arriving into Ireland from other EU Member States. Moreover, this amendment will also allow businesses to extend the application of this import VAT treatment to imports from other non-EU countries.		
53	No. 57: Amendment of section 56 of Act of 2010	Zero-rating scheme for qualifying businesses: S56 VATCA 2010 provides that traders who derive 75% or more of their annual turnover from zero-rated intra-Community supplies of goods or from exports of goods may apply to have their business inputs (goods, services, intra-Community acquisitions,	When 75% or more of the turnover of a person who is registered for VAT in Ireland derives from the following: • Exports of goods to non-EU countries; and/or • Dispatches of goods to VAT registered persons in other EU Member States; and/or	This amendment will minimise the availability of the relief for businesses, including businesses setting up in Ireland and start-ups that currently do not qualify for the relief as they will only be able to apply for it 12 months after they have met the 75% turnover threshold. Currently, a business can	This amendment is not directly pertinent to Brexit although its introduction is likely to prevent any potential for abuse of practice for importers wishing to avail of the s56 Authorisation post-Brexit.	Head 8-42

No	Brexit-related tax measures	How does the provision currently operate?	What is the change in how the provision will operate having regard to Brexit?	What implications would this have on businesses?	Why is an amendment to extend the provision to include the UK considered critical?	Included in General Scheme of 2020 Bill published on 9/9/2020
		imports) zero-rated. This section of the Withdrawal Act amends s56 VAT Authorisations, which entitles authorised taxable persons to receive qualifying goods and services at the zero rate of VAT. This amendment makes participation in the scheme subject to a number of conditions, including compliance with customs legislation and tax rules. The amendment also gives Revenue the power to cancel an authorisation where there are reasonable grounds to do so, and to provide for a penalty for failure to adhere to conditions of the scheme.	• Contract work carried out on goods imported into Ireland which subsequently will be exported outside the EU by the person providing the contract work services; and/or • Contract work, which is deemed to be supplied in another EU Member State the VAT registered person is a 'qualifying person' and may apply to Revenue for a special authorisation under s56 VATCA10. The measures introduced in the Withdrawal Act tighten the conditions to qualify for the 56B authorisation. Without this amendment to s56 VATCA 2010 it will make participation in the scheme easier and Revenue will not have power to cancel an authorisation where there are reasonable grounds to do so.	apply where it is likely to meet the turnover threshold based on future sales. Irish businesses which previously would have qualified for the s56 Authorisation on the basis that their turnover from supplies as set out in S.56(1)(a), (b) and (c) was likely to exceed 75% of their total turnover, will no longer qualify unless such supplies amount to 75% of their total turnover for the period of 12 months immediately preceding the making of an application. This amendment will negatively impact on the cash flow position of such businesses, for example, business in a start-up position could qualify on the basis that they were likely to meet the 75% test. With this amendment, it will now be necessary to have 12 months actual qualifying turnover that meets the 75% test.		

No	Brexit-related tax measures	How does the provision currently operate?	What is the change in how the provision will operate having regard to Brexit?	What implications would this have on businesses?	Why is an amendment to extend the provision to include the UK considered critical?	Included in General Scheme of 2020 Bill published on 9/9/2020
				Businesses who already have a s56 and continue to meet the turnover test will not be impacted. There may be an increase in the number of S.56 applications being denied and/or cancelled as a result of this amendment.		
54	No. 58: Amendment of section 58 of Act of 2010	Retail export scheme: S58 VATCA 2010 provides for a scheme of VAT relief for purchases made by non-EU tourists. Provided certain conditions are met, eligible supplies to tourists can benefit from the zero rate of VAT that is applicable to exports. Broadly, relief is given where the goods are exported within 3 months, the supplier is VAT-registered and has proof that the purchaser is eligible under the scheme, and there is certified customs documentation showing that the goods are exported.	Tourists whose domicile or habitual residence is in the UK will be able to get a refund of the VAT paid provided that VAT and duties of customs and excise, chargeable by virtue of the law of the UK have been paid on the importation of those goods into the UK.	The introduction of a €175 threshold is unlikely to have a material impact on those retailers that benefit from the relief. While tourists from other non-EU countries can apply for a refund of the VAT as they leave Ireland, UK domiciled tourists will have to apply after they return to the UK and will also have to obtain and provide additional documentation from the UK tax authorities. The additional requirements for UK domiciled tourists will make the scheme more difficult and	This amendment is necessary to bring the UK, as a non-Community country, within the scope of the Retail Export Scheme allowing “travellers” whose domicile or habitual residence is the UK to benefit from the scheme. The amendment makes the ability to apply the scheme for UK travellers more stringent as it must be proven that the goods in question have arrived in the UK and that VAT and duties have been paid on those goods in the UK. This contrasts to the operation of the scheme for other non-EU countries	Head 8-43

No	Brexit-related tax measures	How does the provision currently operate?	What is the change in how the provision will operate having regard to Brexit?	What implications would this have on businesses?	Why is an amendment to extend the provision to include the UK considered critical?	Included in General Scheme of 2020 Bill published on 9/9/2020
		The retailer charges VAT at the 0% and refunds the tourist the VAT charged on purchase. This section of the Withdrawal Act amends s58 VATCA 2010 to ensure the relief will only apply where the total value of the supply of a traveller's qualifying goods, including tax, is more than €175 and in respect of a traveller whose domicile or habitual residence is in the UK, proof that the goods have been imported into the UK by or on behalf of the traveller, and VAT. Customs duty and excise, chargeable by virtue of the law of the UK, have been paid on the importation of those goods.		less practical for them and is likely to lead to less sales of goods that could benefit from the relief. This amendment is unlikely to impact on businesses other than businesses who operate a VAT refund agency for qualifying "travellers". These refund agencies will be able to extend the scope of their services to "travellers" whose domicile or habitual residence is the UK.	where it is sufficient to prove the goods have left the State. The introduction of a minimum threshold of €175 in order to qualify for the scheme is unlikely to be pertinent to Brexit.	
55	No. 59: Amendment of section 120 of Act of 2010	Regulations: S120 VATCA 2010 gives power to Revenue to make regulations for the administration of the tax. This section of the Withdrawal Act amends s120 VATCA 2010 to	The amendment to s120 VATCA 2010 is necessary to provide regulation making powers with regard to postponed accounting s56 VAT Authorisations.	New conditions and criteria may be introduced via regulations which could result in businesses which can initially avail of the postponed accounting (as	This amendment is necessary to give Revenue regulation making powers in respect of the amendments to postponed accounting and s56 VAT Authorisations.	Head 8-44

No	Brexit-related tax measures	How does the provision currently operate?	What is the change in how the provision will operate having regard to Brexit?	What implications would this have on businesses?	Why is an amendment to extend the provision to include the UK considered critical?	Included in General Scheme of 2020 Bill published on 9/9/2020
		provide regulation making powers with regard to postponed accounting (s56) and s56 VAT Authorisations (Section 57).		outlined above) being unable to continue to do so following the introduction of such regulations. New conditions and criteria may be introduced via regulations in respect of the particulars required for a s56 Authorisation application.		
Stamp Duties						
56	No. 60: Amendment of section 75 of Act of 1999	This section amends s75 SDCA 1999 which provides a relief from stamp duty for brokers purchasing stocks or marketable securities of Irish incorporated companies on behalf of clients. Without this relief such transactions would be subject to a 1% stamp duty. If this section is not amended, this relief would not apply for purchases made by UK-based intermediaries on behalf of their clients.	This relief would not apply for purchases made by UK-based intermediaries on behalf of their clients.	Per the 2019 Annual Report[12], stamp duty receipts in 2019 and 2018 remained consistent at circa €1.5billion each year, representing 2.2% and 2.4% of total receipts respectively. Where amendment is not made to widen the definition of company to include UK companies, the non-availability of stamp duty relief would discourage the purchase of Irish stocks and securities. The likely impact on business would be that	An amendment is critical to extend the provision to include the UK so as not to negatively impact on the competitiveness and attractiveness of stocks and marketable securities of Irish companies. In practice, relief is required in the case of the restructuring of certain intermediaries and clearing houses in case of a no deal Brexit outcome ; removal therefore of such relief would likely have a negative impact on Ireland's ability to	Head 8-45

[12] https://www.revenue.ie/en/corporate/press-office/annual-report/2019/ar-2019.pdf

No	Brexit-related tax measures	How does the provision currently operate?	What is the change in how the provision will operate having regard to Brexit?	What implications would this have on businesses?	Why is an amendment to extend the provision to include the UK considered critical?	Included in General Scheme of 2020 Bill published on 9/9/2020
				any potential increase in stamp duty would be offset by a reduction in economic activity and stampable instruments being executed.	complete in the Financial Services space.	
57	No. 61: Amendment of section 75A of Act of 1999	This section amends s75A SDCA 1999 which provides counterparty relief for share transfers. This is a stamp duty exemption for each transferee so long as that transferee transfers title to the securities concerned to another person under a matching contract. Without amendment, all purchases in a chain of transactions by UK-based counterparties would be subject to the 1% stamp duty.	All purchases in a chain of transactions by UK-based counterparties would be subject to the 1% stamp duty.	As above	As above	Head 8-46
58	No. 62: Amendment of section 80 of Act of 1999	This section amends s80 SDCA 1999 which concerns the reconstructions or amalgamations of companies to include UK-based companies where they merge with or acquire Irish- based companies.	The relief from stamp duty on the transfer of shares or an undertaking in connection with a scheme of reconstruction or amalgamation is extended by enabling the acquiring company to acquire the	This is likely to result in an increased cost for UK based companies in terms of acquiring Irish shares. Where other EU Member states make amendment to their domestic legislation to exempt from stamp duty or	An extension to include the UK is considered critical to maintain competitiveness of the Irish tax regime.	Head 8-47

No	Brexit-related tax measures	How does the provision currently operate?	What is the change in how the provision will operate having regard to Brexit?	What implications would this have on businesses?	Why is an amendment to extend the provision to include the UK considered critical?	Included in General Scheme of 2020 Bill published on 9/9/2020
			shares or undertaking of a company incorporated outside the State without incurring a liability to stamp duty. To qualify for the relief, however, the acquiring company must be incorporated in another Member State of the European Union. There will be no relief from stamp duty on a reconstruction or amalgamation which include UK-based companies where they merge with or acquire Irish- based companies.	similar capital taxes an acquisition by a UK company, this may put Ireland at a competitive disadvantage and discourage further foreign engagement with Irish businesses.		
59	No. 63: Amendment of section 80A of Act of 1999	This section amends s80A SDCA 1999 which concerns the demutualisation of assurance companies to allow that instruments (shares, stock etc.) issued by acquiring companies incorporated in the UK are covered by the stamp duty exemption currently available under such circumstances.	Instruments (shares, stock etc.) issued by acquiring companies incorporated in the UK will not be covered by the stamp duty exemption currently available.			Head 8-48

No	Brexit-related tax measures	How does the provision currently operate?	What is the change in how the provision will operate having regard to Brexit?	What implications would this have on businesses?	Why is an amendment to extend the provision to include the UK considered critical?	Included in General Scheme of 2020 Bill published on 9/9/2020
60	Shared ownership leases	There are exemptions in s103 SDCA 1999 in respect of the grant of a shared ownership lease and the purchase of the underlying residential property by the tenant under such a lease. The exemptions only apply where the lease has been granted by an "appropriate person". The definition of "appropriate person" includes holders of authorisations granted under EU Life Assurance and Non-Life Insurance Regulations.	Post-Brexit, a UK-based insurer or assurer would not be an "appropriate person" for the purposes of these exemptions.	To ensure that low-income residential property buyers can continue to avail of these exemptions where the appropriate person granting the lease / selling the house is UK-based.	This amendment is required to ensure the availability for relief is maintained post 31 December 2020.	
61	No. 64: Amendment of section 124B of Act of 1999	This section amends s124B SDCA 1999 which concerns certain premiums of life assurance so that UK-based assurers will be liable to the current 1% levy on life assurance premiums on their Irish business.	UK-based assurers will not be liable to the current 1% levy on life assurance premiums on their Irish business.			Head 8-49
62	No. 65: Amendment of section 125 of Act of 1999	This section amends s125 SDCA 1999 which concerns certain premiums of non-life insurance so that UK- based insurers will be liable to the current 3% levy on certain	UK- based insurers will not be liable to the current 3% levy on certain non-life insurance premiums on their Irish business.			Head 8-50

No	Brexit-related tax measures	How does the provision currently operate?	What is the change in how the provision will operate having regard to Brexit?	What implications would this have on businesses?	Why is an amendment to extend the provision to include the UK considered critical?	Included in General Scheme of 2020 Bill published on 9/9/2020
		non-life insurance premiums on their Irish business.				
Capital Acquisitions Tax						
63	No. 66: Amendment of section 89 of Capital Acquisitions Tax Consolidation Act 2003	Provisions relating to agricultural property: S89 CATCA 2003 provides for a reduction in the inheritance tax or gift tax to be paid in respect of agricultural property taken by a "farmer", who is defined for the purposes of the section as an individual in respect of whom not less than 80% of his/her gross property in possession consists of agricultural property after taking the gift or inheritance. This section amends s89 CATCA 2003 to retain the existing arrangements to enable the relief to continue to apply to agricultural property situated in the United Kingdom and so that such property is to be taken into account in calculating the value of agricultural property owned by a farmer for the purposes	This relief will not apply to agricultural property situated in the UK.	The withdrawal of the relief is likely to have significant impacts on a small pool of families, but where the value of the land in question is significant. In particular, issues arise where property in the UK is treated as resting in an Irish trust purely by virtue of the domicile of the settlor pre-1990. Where relief is not extended to UK land, the cost of identifying and quantifying CAT on the land would be significant. Coupled with likely time and cost associated with collecting such tax, this would far outweigh any tax benefits.	An amendment to the provision to include UK land is considered critical to ensure that taxpayers for the most part with no existing nexus to Ireland are not negatively impacted.	Head 8-51

No	Brexit-related tax measures	How does the provision currently operate?	What is the change in how the provision will operate having regard to Brexit?	What implications would this have on businesses?	Why is an amendment to extend the provision to include the UK considered critical?	Included in General Scheme of 2020 Bill published on 9/9/2020
		of establishing entitlement to this relief.				
64	No. 67: Amendment of section 104 of Finance Act 2001	Section 104 Finance Act 2001 is amended, in subsection (1)(e), by the insertion of ", other than the United Kingdom," after "destination".				Head 8-52
Section C - Additional CAT Recommendation in ITI Brexit Submission made on 8 July 2020						
65	***Growing the digital banking sector post-Brexit*** One of the key factors in Ireland's success as an international financial services centre is that the Irish tax system does not tax non-Irish residents who have invested in products issued by Irish banks, asset managers and insurers. In effect, Ireland recognises that returns from these products should be taxed only where the customers are tax resident and to apply Irish tax would lead to double-taxation (e.g. a non-Irish resident investor is not subject to Irish taxes on an investment in an Irish fund). The tax infrastructure underpinning this has been in place for many years and applies across DIRT, exit tax, CAT, stamp duty, etc. However, a gap exists in relation to bank deposits which has emerged as a significant issue in the context of certain financial services businesses moving business to Ireland post-Brexit. Cash held in an Irish bank account constitutes an Irish situate asset, and therefore is in scope of CAT, including where the assets are transferred between individuals who are neither resident nor ordinarily resident in Ireland. CAT legislation was amended in 2010 with respect to investments in Irish funds. This change allowed for units to pass between individuals who are not Irish domiciled nor ordinarily resident, without incurring an Irish CAT charge. This has allowed the funds industry to remain attractive internationally, by not bringing individuals into scope of CAT where they would not otherwise be. The Irish position is also out of step with other EU jurisdictions such as Luxembourg, the Netherlands and Germany which do not seek to impose inheritance or state taxes on non-residents holdings of cash. Ireland continues to strengthen its position within the international financial services industry, and the commitment to growing the sector is outlined in the Government's Ireland for Finance strategy document, published last year. Banking and Fintech will be key areas in order to achieve the target of increasing employment in the sector to 50,000 by 2025. However, as more banks consider Ireland as a potential EU headquarter location post-Brexit, including many of the newer digital banks, the potential for bringing clients who are not Irish domiciled nor ordinarily					

No	Brexit-related tax measures	How does the provision currently operate?	What is the change in how the provision will operate having regard to Brexit?	What implications would this have on businesses?	Why is an amendment to extend the provision to include the UK considered critical?	Included in General Scheme of 2020 Bill published on 9/9/2020
	residence into the Irish CAT net may potentially prove a significant factor in the decision as to where to base the EU headquarters. Ireland's competitive disadvantage as a potential location could both restrict growth and also limit competition in the banking sector. As such, a legislative amendment to remove from the scope of Irish CAT, cash in Irish bank accounts passing by gift or inheritance between two non-ordinarily resident, nondomiciled individuals, similar to that introduced in 2010 in respect of units in Investment Funds, would remove a potentially significant obstacle to banks moving operations and additional activities into Ireland post Brexit and, as mentioned, the so-called "disruptor banks" entering into the Irish market.					

Note:
In order to give business and individual taxpayers the necessary tax certainty they need, it would be important to provide for some form of grandfathering (either absolutely or temporarily) for any tax measures that are not ultimately included in the Withdrawal of the United Kingdom from the European Union (Consequential) Provisions Bill 2020, given there will be very little time available for taxpayers to address any issues that may become apparent between the finalisation of the Bill and the end of the year. This challenge will be even more pronounced because of the severe impact the COVID-19 pandemic is having on how businesses are operating at present.