July 2022

Pre-Budget 2023 Submission

Enhancing Ireland's competitiveness through tax policy levers

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About the Irish Tax Institute

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

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

Our membership of over 5,000 is part of the international CTA network which has more than 32,000 members. It includes the Chartered Institute of Taxation UK, the Tax Institute of Australia, the Taxation Institute of Hong Kong, and the South African Institute of Taxation. The Institute is also a member of the CFE Tax Advisers Europe (CFE), the European umbrella body for tax professionals.

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

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

Irish Tax Institute - Leading through tax education

Introduction

The global economic outlook has rarely been more uncertain or so perplexing. Inflationary pressures that had begun to emerge in the wake of the pandemic, were significantly exacerbated by Russia's invasion of Ukraine in late February.

The ensuing and increasingly tough sanctions imposed on Russia have caused havoc in global energy markets with prices spiralling out of control. The cost of other commodities, including food, fertiliser and steel have also soared as supply lines were choked off.

The growing realisation that inflation would not be short lived, and the subsequent tightening of monetary policy has given way to increasingly pessimistic forecasts. As the war becomes more entrenched, fears of energy shortages are casting a dark cloud over the global economic outlook. The uncertainty is souring consumer sentiment and dampening investment across many sectors.

As the Taoiseach said in his opening address to delegates at the National Economic Dialogue in Dublin Castle in June: *"The truth is we don't know what might unfold in the global economy over the coming months and years – but there are clear dangers already apparent within the eurozone, and across other developed economies."* [1]

Risks to the Irish economy

While all economic forecasters cut their growth projections in the wake of Russia's attack on Ukraine, there is agreement that the Irish economy will experience strong economic growth this year and next. In its latest quarterly report, the ESRI predicts that the domestic economy will grow by 4.4% this year and by 3.7% in 2023.

But like other forecasts, it is heavily caveated, and the ESRI regards increasing inflation, which it predicts will average 7.1% in 2022, as the most pressing downside risk to its growth outlook.[2]

In his statement setting the scene for the National Economic Dialogue, the Minister for Finance, Paschal Donohoe T.D. instanced three further risks: the impact of rising borrowing costs on Ireland's national debt on the back of interest rate increases by central banks around the globe; the risk to exports from a possible global recession; and Ireland's dependency on a small number of global corporates for a large proportion of corporation tax receipts.[3]

Recovery gives way to uncertainty

For a brief six-week period at the start of 2022, the outlook was very positive. The extent of Ireland's remarkable post-pandemic recovery was emerging as the numbers at work reached a record 2.5 million and the Exchequer reported a surplus of €900 million.

But the outbreak of war on the other side of Europe brought optimism, if not growth, to an abrupt end and once again, Ireland is bobbling on a wave of uncertainty at the mercy of external events beyond its control. Such is the fate of a small open economy. In these circumstances, the Government must use the limited levers in its control to protect the economy and jobs. A powerful lever available to Ireland is its reputation as a good to place to do business.

[1] NED 2022: Opening address by Taoiseach Micheál Martin, T.D. 20 June 2022.
[2] ESRI Quarterly Economic Commentary Summer 2022, 23 June 2022.
[3] NED 2022 Scene Setter: Economic and Fiscal Context - Opening remarks by Minister for Finance, Paschal Donohoe, T.D. 20 June 2022.

What Ireland should do

In the current changed global economic, monetary, and fiscal environment, the Irish Tax Institute strongly recommends Government to:

- have a relentless focus on competitiveness in all areas of the economy including our corporate and personal tax systems;
- simplify the corporation tax code to make it more efficient and easier to administer;
- deploy effective tax measures to promote innovation, incentivise investment and build capacity in the Irish SME sector, to broaden the productive base and make the economy more sustainable and resilient against external shocks;
- provide certainty to investors in the property market and consider the longer-term impact of interventions in the market; and
- develop a formal stakeholder engagement process on proposed tax policy and legislative changes to ensure they are effective and to guard against unintended consequences.

In this submission, we make the case for these recommendations and outline the actions we believe the Government should take to implement them.

Enhancing Ireland's Position as an Attractive Place to do Business

In April 2021, as momentum was building towards international agreement on a solution to address the tax challenges of digitalisation and globalisation, the Minister for Finance staunchly defended Ireland's 12.5% corporation tax rate, which he said was "*within the ambit of healthy tax competition*".

Addressing a seminar on international taxation organised by his own department, Minister Donohoe stated: "*I believe that small countries, and Ireland is one of them, need to be able to use tax policy as a legitimate lever to compensate for advantages of scale, location, resources, industrial heritage, and the real, material, and persistent advantage enjoyed by larger countries.*"[4]

Though the Government has since signed up to the Inclusive Framework Agreement,[5] the Minister's excellent defence of fair tax competition as a legitimate lever in the economic strategy of small open economies remains relevant today.

With the scope for competition on the corporation tax rate set to be severely restricted when Pillar Two of the Framework Agreement comes into effect in December 2023, other ways of making our tax system attractive to investors must be pursued.

The Institute agrees with Minister Donohoe's conclusion that tax is a legitimate lever for Ireland and therefore, we recommend that the Government urgently reviews the corporation tax code and benchmarks it against competitor countries to ensure Ireland is well placed to continue to develop as an investment hub.

4 Department of Finance Virtual Seminar on International Taxation, 21 April 2021.

5 Statement on a Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalisation of the Economy, 8 October 2021.

Ensuring the R&D Tax Credit remains competitive

Once the new international tax order comes into effect, the R&D Tax Credit will be one of the few competitive levers available to Ireland to attract and retain investment. Given the mobility of R&D investment, it is critical that the R&D Tax Credit is continually benchmarked against key competitor jurisdictions.

In that context, there are some changes that must be made to this measure as a matter of urgency. First and foremost, it is essential that it is considered a "qualified refundable tax credit" for the purposes of the OECD Pillar Two Model Rules.[6] Accelerating the refund to one year for all businesses would clearly demonstrate that the credit meets the requirements of a "qualified refundable tax credit", while also providing valuable assistance to smaller companies that tend to be cash constrained.

The Institute strongly recommends that stakeholders are consulted in advance of any proposed amendments to the R&D Tax Credit to make sure it complies with the OECD Pillar Two Model Rules.

Simplification of the corporation tax code

The pace of change in corporation tax over the last five years has been exceptional. To comply with changes arising out of the OECD Base Erosion and Profit Shifting (BEPS) Project[7] and the EU Anti-Tax Avoidance Directives (ATAD 1 and ATAD2),[8] a whole series of new requirements have been bolted on to existing tax legislation.

The result is a corporation tax code that has grown overly complex and abstruse making compliance with the legislation extremely onerous. It also increases the risk of unintended consequences.

Simplicity, certainty, and efficiency are key characteristics that underpin an effective tax regime. Simplifying the Irish corporation tax code and making it easier to administer would be a significant competitive advantage that would enhance the ease of doing business in Ireland. It is in the Government's gift to undertake this project and it should.

Adopt a territorial system of taxation

A good place to start the simplification project would be to adopt a territorial system of taxation with a participation exemption for dividends and a foreign branch exemption. This would significantly reduce the administrative burden for Irish companies with international operations and simplify the operation of double taxation relief in Ireland on foreign earnings.

The move to a territorial system was first proposed in the Coffey Report in 2017 and there have been two consultations by the Department on the subject since. In our submission to the most recent consultation, the Institute pointed out that the implementation of the global minimum effective tax rate, on top of the adoption of extensive ATAD measures, including Controlled Foreign Company (CFC) rules, would make a worldwide system unnecessary.

Most developed economies have moved to a territorial system, and we know from our member firms that Ireland's status as an outlier in this respect is being used against us by competitor countries bidding for investment.[9]

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6 OECD (2021), Tax Challenges Arising from the Digitalisation of the Economy – Global Anti-Base Erosion Model Rules (Pillar Two): Inclusive Framework on BEPS, OECD, Paris.

7 OECD BEPS Project Reports include 15 Actions published in October 2015.

8 Council Directive (EU) 2016/1164 of 12 July 2016 laying down rules against tax avoidance practices that directly affect the functioning of the internal market. Council Directive (EU) 2017/952 of 29 May 2017 amending Directive (EU) 2016/1164 as regards hybrid mismatches with third countries.

9 Response to the Public Consultation on a Territorial System of Taxation, Irish Tax Institute, March 2022.

Multinational groups are currently evaluating the potential impact of the OECD Inclusive Framework Agreement on their business models and making decisions about how to structure their operations going forward. We believe a firm commitment from Government to move to a territorial tax system at the election of taxpayers, with a clear timeline for implementation, would send a strong signal to those companies. It would also encourage international growth and development by Irish headquartered multinationals.

The extension of the deadline for transposing the proposed EU Minimum Tax Directive to December 2023, means that a participation exemption and foreign branch exemption could be introduced in Finance Bill 2022. The Institute urges the Minister to take advantage of this opportunity to protect and enhance Ireland's competitiveness.

Reform the rules on interest deductibility

Another area where there is a pressing need for simplification of the corporation tax code is interest deductibility. The ATAD Interest Limitation Rules (ILR) introduced in Finance Act 2021 were layered on top of existing, already comprehensive interest deductibility provisions. As a result, Ireland now has one of the most complicated interest deductibility regimes within the EU.

As part of an overall project of simplification, the Institute strongly recommends that priority be given to a review of the interest deductibility rules to modernise and streamline the regime, making it competitive with rules in other jurisdictions and easier to administer.

Ireland as a competitive location for the audio visual and gaming sectors

The Digital Gaming Tax Credit was introduced in Finance Act 2021 to incentivise the development and growth of the Irish digital gaming industry. As it is subject to State aid approval, it has yet to be commenced albeit the expiry date has been set for the end of 2025. It is important that the credit is kept under review to ensure that Ireland can compete internationally in this sector. It is also essential that the credit is accessible for small and micro companies.

Film Relief[10] has been a valuable policy lever in attracting international productions to Ireland while also supporting the indigenous film, television, and animation sector. To retain and build Ireland's reputation as an attractive production location, the relief must be competitive internationally.

Given the longer-term planning and investment decisions involved in this industry, an extension of the relief beyond the current expiry date of 31 December 2024 is essential. In addition, we believe that the regional uplift should be extended to ensure that all areas of the country can benefit from the film industry.

The Personal Tax System

If the agreement on the global minimum effective tax rate comes into effect, personal tax regimes and the cost of employment will become increasingly important factors in the investment decisions of international businesses.

In Ireland, effective personal tax rates (income tax, USC, and employee PRSI) at average salaries and above are high by international standards. This year, Irish taxpayers are paying personal tax at marginal rates of

[10] Section 481 Taxes Consolidation Act 1997 - Relief for investment in films.

48.5% on salaries above €36,800 and 52% on salaries above €70,044. Self-employed taxpayers are paying marginal rates of 55% on income above €100,000. Our Tax and Social Insurance International Tables 2021, prepared in association with KPMG (attached in the Appendix), show that the tax wedge[11] in Ireland is higher than several competitor countries including the UK, Switzerland, and the US.

Given the unprecedented mobility in the current labour market internationally, there is a real risk that good quality jobs will not come to Ireland if the marginal cost of employment for businesses and individual taxpayers is not reduced.

Feedback from our members would suggest that attracting talent to Ireland is now a key obstacle to growth in businesses and the wider economy. The consensus is that a marginal rate of tax (including income tax, USC, and employee PRSI) set at 50% would help to attract highly skilled and mobile labour to Ireland. At the very least, we recommend that credits and bands should be adjusted to take account of inflation.

The narrow base

As our International Tables clearly show, the Irish personal tax system is strongly progressive. At lower levels, Ireland has the second lowest effective personal tax rate of all eight countries examined. The tax and social welfare systems combined contribute substantially to the redistribution of income and to the reduction of income inequality. The corollary of that policy choice is that high marginal tax rates apply at relatively low-income levels.

Over a quarter (28%) of income earners will pay neither income tax nor USC in 2022. Meanwhile, in 2021, 25% of income earners paid 83% of the total income tax and USC collected. The reality is the Irish personal tax base is unusually narrow and overly dependent on higher paid workers, a significant proportion of whom work for a small group of multinational companies. This leaves the Exchequer exposed.

In our view, a broader personal tax base in which all taxpayers contribute according to their means would be fairer and more stable. It would ease the burden on middle-income earners and would bring Ireland into line with competitor countries.

PRSI

Although Ireland's employee PRSI rate is comparatively low, Irish taxpayers are subject to high rates of income tax and USC, and as income levels rise, they move quickly up our International Tables.

There is no cap or limit on the social security contributions payable by employees in Ireland irrespective of their income. In contrast, other EU Member States have limits on the social contributions payable. For example, in Germany, pension and unemployment insurance contributions are payable up to an income ceiling of €85,200.

It is critical that any proposal to increase PRSI contributions factors in the overall impact on the marginal tax rate and the cost for employers of employing people in Ireland. Success in attracting investment and highly skilled workers is central to the Irish economic model and a competitive personal tax system is an essential factor in achieving that success.

In general, the Irish social insurance system needs to be simplified and reformed. Consideration should be given to capping the level of earnings to which PRSI applies, as is the practice in other European countries.

11 The tax wedge is generally considered to be the difference between what employees take home in earnings and what it costs to employ them. It looks at income taxes paid by an employee and social contributions levied on both employees and their employers.

Raising taxes sustainably and fairly

The Institute is aware that revenues will have to be raised to pay for the improved public services to which the Government has given commitments. Good public services contribute to national competitiveness. But there is a balance to be struck and the firm view of the Institute is that the tax burden on middle- and higher-income earners is a threat to Ireland's competitiveness in the current highly mobile international labour market.

The long-held position of the Institute is that all income earners should contribute to the Exchequer according to their means and that those who earn most, must contribute most. Spreading the burden according to means would lighten the load on middle-income earners. It would also make the Irish personal tax system internationally competitive, and it would incentivise work.

More generally, a broader mix in the tax base would mitigate the current over reliance on economically regressive labour taxes. It would also be more sustainable and robust in the event of economic shocks.

In our view, more revenue needs to be raised from indirect taxes. We believe opportunities to expand existing environmental taxes should be explored and that VAT zero rating should be reviewed to ensure Irish rates are in line with EU rules.

The tax base, rates, exemptions, and deferrals for the Local Property Tax should also be regularly reviewed to ensure they are appropriate, up to date and reflect current circumstances. This would ensure that Ireland's overall tax base remains as broad as possible.

Tax Policy for SMEs and Entrepreneurs

Ireland's overdependence on corporation tax receipts from the multinational sector is widely recognised as a significant risk to the economy. The proportion of income tax receipts from this employment rich sector also represents a significant risk for the Exchequer.

The Minister for Finance told delegates to the National Economic Dialogue in June that "*around €1 in every €8 in total tax collected by the State is sourced from a very small number of firms. We have to be vigilant to the risks inherent in this level of concentration.*"[12]

The most sustainable strategy for mitigating the risk of over-reliance on the multinational sector for jobs as well as tax revenue is to broaden the economic base by building an innovative, productive, and competitive indigenous sector. Effective tax measures have a significant role to play in this endeavour. While some welcome changes to existing measures have been introduced over recent budgets, further improvements are required.

R&D Tax Credit

The pandemic laid bare the extent of the productivity gap between the multinational sector and domestic SMEs and the Government responded by setting up an SME Taskforce which published its report, National SME and Entrepreneurship Growth Plan[13] in January 2021.

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[12] NED 2022 Scene Setter: Economic and Fiscal Context - Opening remarks by Minister for Finance, Paschal Donohoe, T.D. 20 June 2022.

[13] Report of the SME Taskforce: National SME and Entrepreneurship Growth Plan, Department of Enterprise, Trade and Employment, January 2021

The Plan identifies a lack of investment by SMEs in innovation as one of the key reasons for the productivity gap. In that context, it recommends broadening the definition of innovation in the qualification requirements of the R&D Tax Credit to include 'process innovation' and 'organisational innovation'. The Institute agrees that this broader understanding of innovation would increase take up of the credit in the SME sector.

To benefit small and micro businesses, the Institute believes a pre-approval process should be introduced for first time R&D Tax Credit claims. SME friendly guidance would also help to take the uncertainty out of the process for this sector.

The Institute made other recommendations that would benefit SMEs in our response to the Department of Finance public consultation on the R&D Tax Credit and the Knowledge Development Box in May.[14] These include a legislative clarification to ensure rent is a qualifying cost for the purpose of the R&D Tax Credit. Rent is a substantial expense for most SMEs and a change in Revenue's guidance in July 2020 has significantly narrowed the circumstances in which rent may qualify. This has discouraged many SMEs from seeking to avail of the credit even though the Government's stated policy is to encourage innovation in the indigenous sector.

Key Employment Engagement Programme (KEEP)

Recruiting and retaining skilled workers is a key concern for all businesses in the current tight labour market. It is particularly difficult for Irish SMEs and start-ups who are competing with high paying multinationals for skilled workers.

The KEEP is a share scheme intended to help small businesses to improve their remuneration packages for key staff, but the reality is a very limited number of companies avail of the scheme. As designed, this measure simply does not work. The Institute's recommendations to make the measure more effective can be found in our response[15] to the Department's recent consultation on the KEEP.

Employment and Investment Incentive Scheme (EIIS)

The EIIS is critical for early stage and small businesses that often have limited funding options available to them. Some welcome changes have been made in recent Finance Acts but, like the R&D Tax Credit, the scheme is complex and administratively burdensome for small companies. The Institute remains of the view that a streamlined administrative process for the EIIS should be introduced for the benefit of small and micro companies.

Feedback from members suggests that the connected party rule, which handcuffs a company's ability to grow, strengthen its board, and create value, makes the EIIS unattractive to both investors and investee companies. We recommend a carve-out from the connected party rule linked with a control test, so that shares and share options granted to non-executive directors or other key employees will not automatically result in them being disqualified as an investor under the scheme's rules.

[14] Response to the Public Consultation on the Research & Development Tax Credit and Knowledge Development Box, Irish Tax Institute, May 2022.

[15] Response to the Public Consultation on the Key Employee Engagement Programme (KEEP), Irish Tax Institute, June 2022.

Reduce the rate of interest charged on the late payment of tax

The Institute has been calling for the rate of interest on the late payment of tax to be reduced for several years. In our view, statutory interest rates of between 8% and 10% per annum cannot be justified by reference to the time value of money.

In a recent case, the German Federal Constitutional Court ruled that Germany's annual statutory 6% rate of interest on late payment, which had been in force for some 50 years, was unconstitutional given the long-established prevailing low rate of interest.[16] As a result, the German Federal Ministry of Finance has now published draft legislation to lower the interest rate on underpaid tax from 6% to 1.8% per annum.

In our view, the reduced 3% rate that will apply to Period 3[17] of the Debt Warehousing Scheme should apply to all underpayments of tax. This rate recompenses the Exchequer and acts as a disincentive to late payment and it could be tracked to prevailing ECB market rates, to ensure it reflects the actual cost to the Exchequer.

Entrepreneur Relief

Ireland's high rate of Capital Gains Tax (CGT) lends added importance to measures such as Entrepreneur Relief. This relief allows for a lower 10% CGT rate on business gains, subject to a lifetime limit of €1 million.

Feedback we have received from members and directly from entrepreneurs is that this limit acts as a restraint on businesses that would otherwise have the capacity to grow and generate employment. In our view, the threshold needs to be raised to compete effectively with other countries for international capital.

The current restrictions on Entrepreneur Relief do not allow external investors to benefit from the 10% rate. This is a real barrier to investment in Ireland and it should be changed to encourage angel investors, venture capital investors and others who take the risk of investing in Irish companies.

Capital Gains Tax (CGT) rate

The tax that matters most to investors is CGT and our headline rate, at 33%, is one of the highest in Europe. This rate has remained unchanged since it was increased during the financial crisis.

Given the low level of CGT receipts in recent years – 2% of total Exchequer receipts in 2021[18] – it is reasonable to conclude that the current high rate is dampening transactions and growth in the SME sector.

In our view, it is now time to re-examine this rate and our recommendation is for a rate of 25% to apply for active business assets. We believe this is a reasonable rate that rewards those who take the risk of setting up businesses that provide jobs and pay taxes.

[16] BVerfG, decision of the First Senate of July 8, 2021, - 1 BvR 2237/14 -, paras. 1-264,

[17] Period 3 ("the reduced interest phase") of the Debt Warehousing Scheme will run from 1 January 2023 for most businesses until the relevant tax is repaid to Revenue. During Period 3, interest will be charged at 3% per annum on warehoused relevant tax from Period 1.

[18] Revenue Headline Results 2021, January 2022.

Rewarding entrepreneurship

Ireland has some excellent examples of world class, homegrown businesses. It also has a burgeoning indigenous tech sector and a growing reputation as a centre of software excellence in Europe. The presence of the world's largest biotech and pharma companies has generated a thriving med-tech ecosystem with regional hubs focussed on medical devices in the Mid-West and pharma in the South.

The Government should reward entrepreneurship and encourage innovation by making existing tax measures more effective and by simplifying the code to make it more business friendly.

Restoring Certainty in the Property Market

The availability of quality housing is an essential requirement for the Irish population and for those who choose to invest and work here. The Institute understands the significant pressure on Government on this issue and appreciates that there are no easy solutions.

The Institute's submission to the Commission on Taxation and Welfare detailed the range of tax related interventions in the property market in recent years.[19] Many of these were designed to address supply issues. Recent legislative changes targeted at specific transactions have created significant uncertainty for investors in the Irish property market.

Feedback we have received from our members suggests that banks will generally only lend up to 65% of the cost of a development project and that developers must make up the funding gap by sourcing alternative debt financing. In these circumstances, institutional investors are pivotal to the supply of housing in Ireland. These investors carry out a detailed analysis before making their investment decisions. Recent changes to tax measures have eroded the confidence of investors who decided to invest in the market based on certain parameters.

Resolving funding issues for developers is a key component in any strategy to address current housing supply issues. In our view, restoring certainty to the market by having a clear and settled strategy is critical if Ireland wants to attract long-term investors to fund the development of housing.

We believe that any proposed interventions in housing supply, through tax or otherwise, must consider their longer-term impact on the market. Take the example of the introduction of rent pressure zones: this was intended to moderate the rise in rents and create a stable and sustainable rental market. In effect, it has led to a tightening of supply because rent pressure zones have made letting residential property very unattractive.

Interventions in markets carry the risk of unintended consequences which can be detrimental. Policy decisions need to be rigorously examined before implementation. Changes to planning requirements may, in some instances, be a more appropriate policy lever to deal with issues in the property market than tax measures. Where tax measures are used to encourage the development of housing, they should align with other areas of Government policy.

For example, housing units must account for at least 75% of the total surface area of the land to qualify for a repayment of stamp duty under the Residential Development Stamp Duty Refund Scheme. But frequently planning requirements make it impossible to meet the 75% test. We believe the scheme should be extended beyond the end of 2022 and aligned with planning requirements to reduce the costs of

[19] Response to the Commission on Taxation and Welfare Public Consultation, Irish Tax Institute, January 2022.

construction of residential units. In addition, the time allowed to complete residential units qualifying under the scheme should be lengthened given the existing resource constraints in the construction industry.

In that context, the Institute believes that tax measures to support the refurbishment of properties which are vacant and unfit for letting could increase the supply on rental accommodation, particularly in cities. The measures could also be designed to support the Government's policy of retrofitting residential property.

Tax Administration

A structured tax return pre-population project to minimise the tax compliance burden

Revenue has a vast array of data at its fingertips that it receives from taxpayers through their tax returns and from third parties. Steps have been taken to pre-populate some of this information[20] but the Institute believes more could be done in this regard.

In our view, a dedicated and structured pre-population project should be initiated by Revenue to pre-populate as much information as possible in tax returns. This would significantly reduce the time and costs of compliance for taxpayers. Data that should be considered for pre-population includes data from DWT returns, Forms 46G, Share Scheme Returns, Stamp Duty Returns and the data available from eProbate should be pre-populated in CAT Returns.

This project should be fully resourced, and any legislative amendments to allow the use of data or to permit Revenue to share third party information with the taxpayer to whom it relates should be introduced.

Simplification of CGT compliance obligations

In 2003, the then Government decided to split the payment of CGT on gains into two periods. The Institute's understanding is that this was never intended to be a long-term measure. However, it remains in place and with it, the administrative burden of having two payment dates in a short space of time.

Under existing rules, CGT on gains arising on disposals of assets during the period from 1 January to 30 November each year must be paid by 15 December in the same year, with CGT on disposals in December falling due for payment by 31 January of the following year. Irrespective of the payment date, a CGT return on the disposal must be filed by 31 October of the year following the disposal.

The accurate calculation and payment of CGT on gains for 11 months of the year within 15 days can prove extremely difficult and challenging in practice. In many cases, the information needed to compute whether a capital gain arises, will not be available until shortly before the payment deadline.

We believe the CGT compliance requirements should be streamlined. For example, moving to one CGT payment date after the year of assessment would greatly ease the compliance burden. We would suggest that stakeholders be consulted in advance of any changes.

[20] The pre-population of the Form 11 income tax return to date includes employment income (from 2010), income data from the Department of Social Protection (from 2011). Farm Scheme Payments from the Department of Agriculture Food and the Marine (from 2017) and CGT paid (from 2018). There is also some pre-population of the Form CT1 corporation tax return, including gross RCT payments, and balances on the "director's loan account". We understand Revenue plans to pre-populate data from ePSWT once full year data is available.

Importance of Stakeholder Engagement

The last few years have seen a significant increase in public consultations carried out by Government departments, the OECD, and the European Commission. The Institute is an enthusiastic participant in these consultations.

We strongly believe stakeholder engagement has an important role to play in the development of both tax policy and legislation and can minimise the risk of unintended consequences arising following the implementation of tax measures

A formal annual stakeholder engagement process, as promised by the Minister for Finance in Ireland's Corporation Tax Roadmap January 2021 Update, would be a significant enhancement of the current consultation practice of the Department of Finance. The Institute wrote to the Minister at that time setting out our views on how such a process could be structured and we look forward to its formal establishment.

We also believe the Finance Bill process needs to be reformed to provide more time for consultation. By and large, the legislation is made publicly available in mid-October and must pass through all stages of the Oireachtas and be signed by the President before the end of the year. Only in very exceptional cases is tax legislation published in draft format in advance of the publication of the Finance Bill.

This means that from the date of publication to Committee Stage in the Dáil, there are less than three weeks to consider often complex tax measures. Frequently, new tax provisions are introduced for inclusion in the Bill at Committee and Report Stages, leaving no time at all for any meaningful consideration. The outcome is that the entire legislative process is completed, and the law enacted within two months.

This is far from ideal. Inevitably, the result is law that fails to deliver on policy objectives and which requires clarification through Revenue guidance or, at worst, resort to the courts.

The practice in the UK is that draft legislation is published several months in advance of their Finance Bill. Apart from key income tax changes and other political or market sensitive matters, the Institute can see no reason why tax legislation should not be published for consultation in advance of the Finance Bill.

Conclusion

The Irish economy has come through the worst of the pandemic in remarkably good shape. Tax returns continue to be strong and employment participation is at record levels. But, as the Government has been warning, a difficult and uncertain time lies ahead.

In the Summer Economic Statement[21], it said while the economy was resilient, evidence was mounting that momentum is slowing. Minister Donohoe added a sobering note "*The economic impact of further disruption to gas supplies in Europe would have a negative impact on businesses and households across the country.*"

This is the fraught backdrop for Budget 2023.

The focus of that budget will be to ease the cost-of-living pressures on households. Balancing the need to provide this necessary and targeted support with the imperative of not adding to inflationary pressures will not be easy.

As it embarks on this onerous task, the Institute urges the Government the keep the longer-term firmly to the fore in its deliberations. Decisions taken in Budget 2023 will impact not just Ireland's capacity to weather this latest in a series of external shocks: they will also shape the prospects of the economy into the future.

[21] https://www.gov.ie/en/publication/29e0b-summer-economic-statement-2022/

Appendix

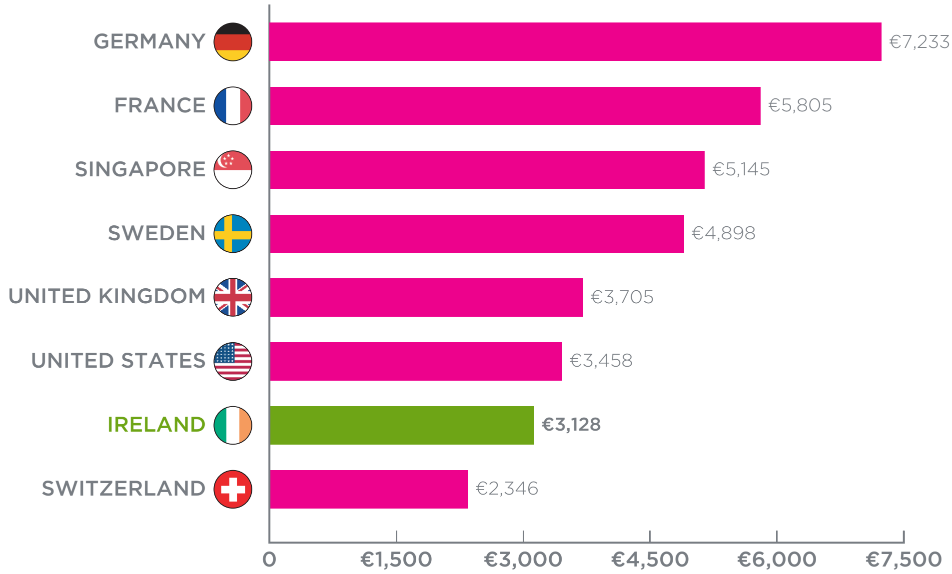
Tax and Social Insurance International Tables 2021

in association with KPMG

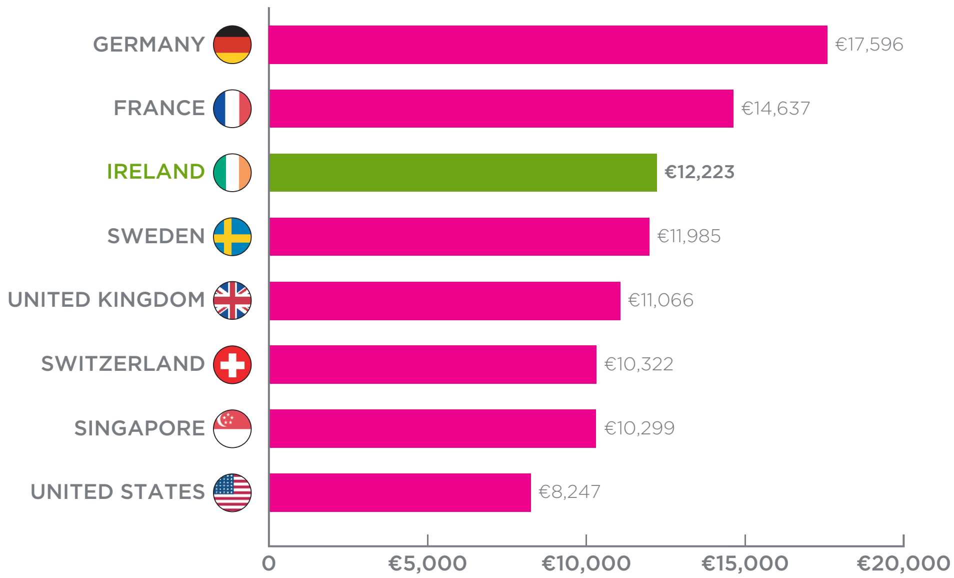
Personal Tax 2021 - Ireland v Competitor Countries

- Our personal tax tables compare the personal tax position (income tax, USC and employee PRSI) of employees in Ireland with competitor countries[i].
- At lower levels, Ireland has the second lowest effective personal tax rate of all eight countries examined.
- Whilst the rate of employee PRSI is low in Ireland compared with the countries examined, Irish employees are subject to high rates of income tax and USC. Therefore, as income levels rise, taxpayers in Ireland move quickly up the international tables.
- In 2021, Irish taxpayers were paying personal marginal tax rates of 48.5% on salaries above €35,300 and 52% on salaries above €70,044.

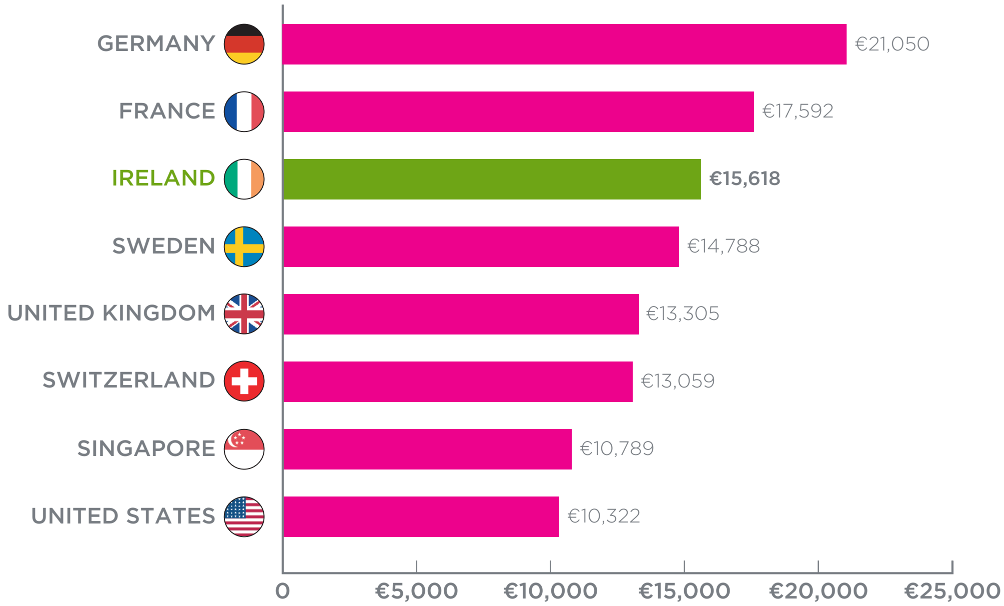
€ Tax paid at salary level of €25,000



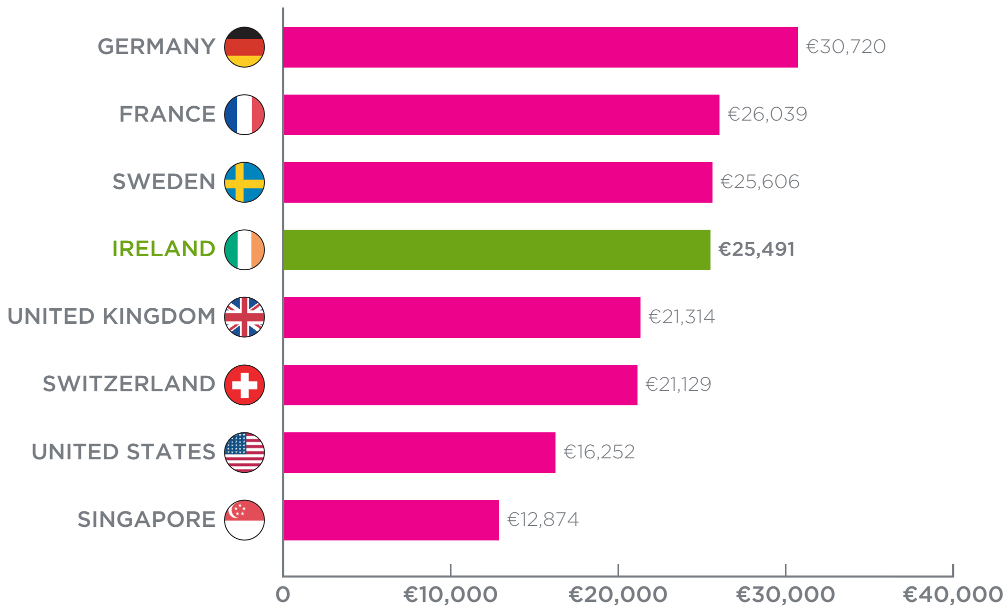
€ Tax paid at salary level of €48,000



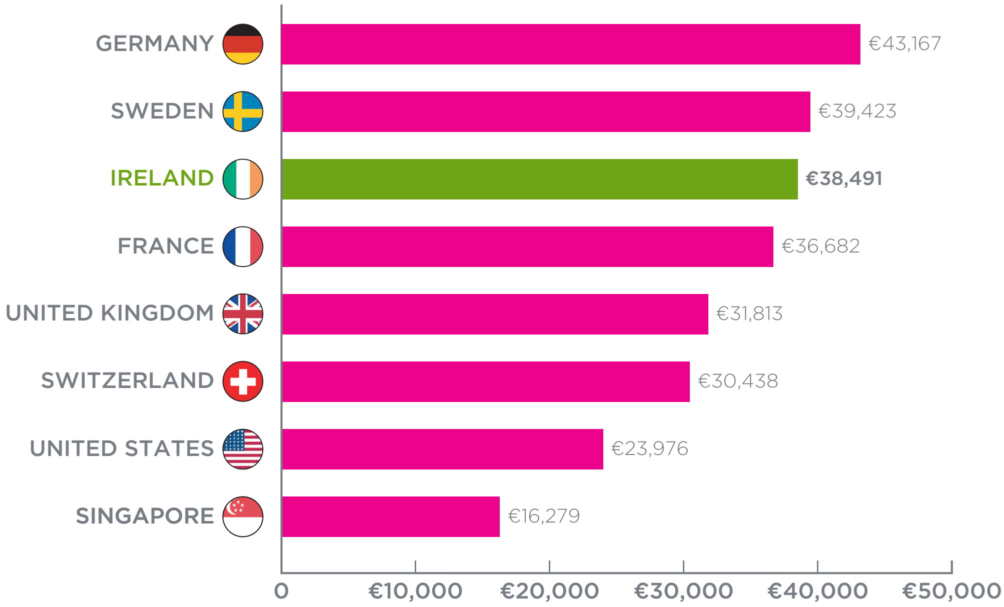
Tax paid at salary level of €55,000



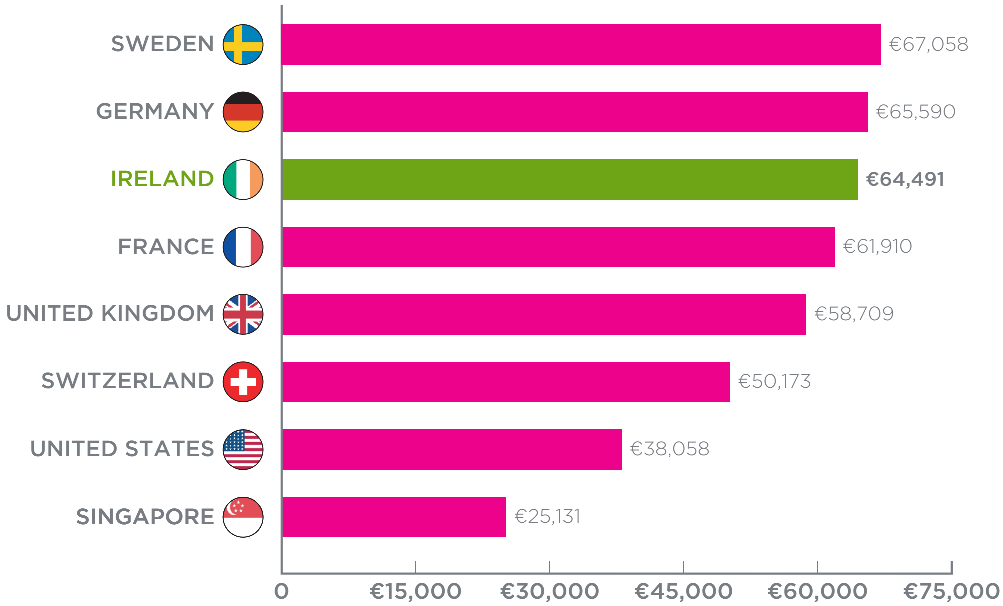
Tax paid at salary level of €75,000



€ Tax paid at salary level of €100,000



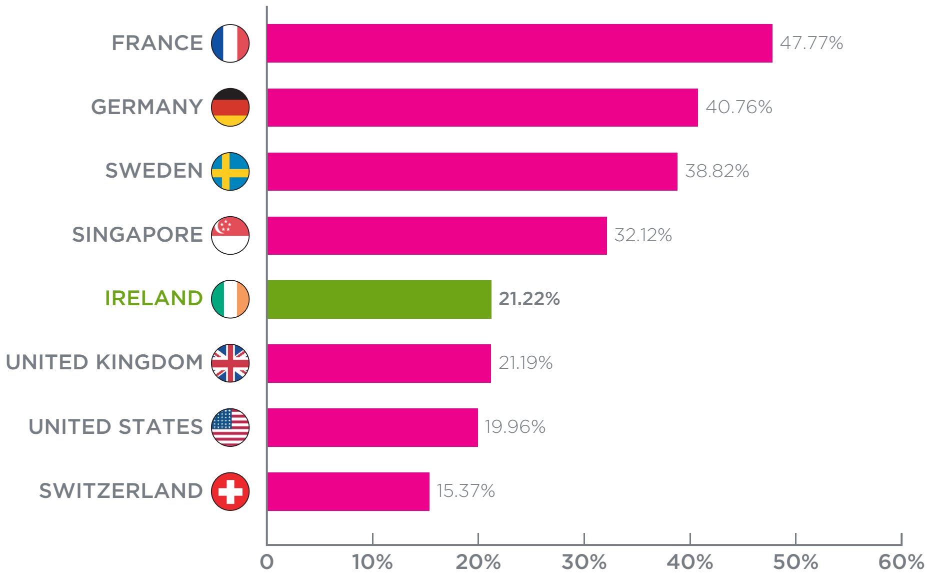
€ Tax paid at salary level of €150,000



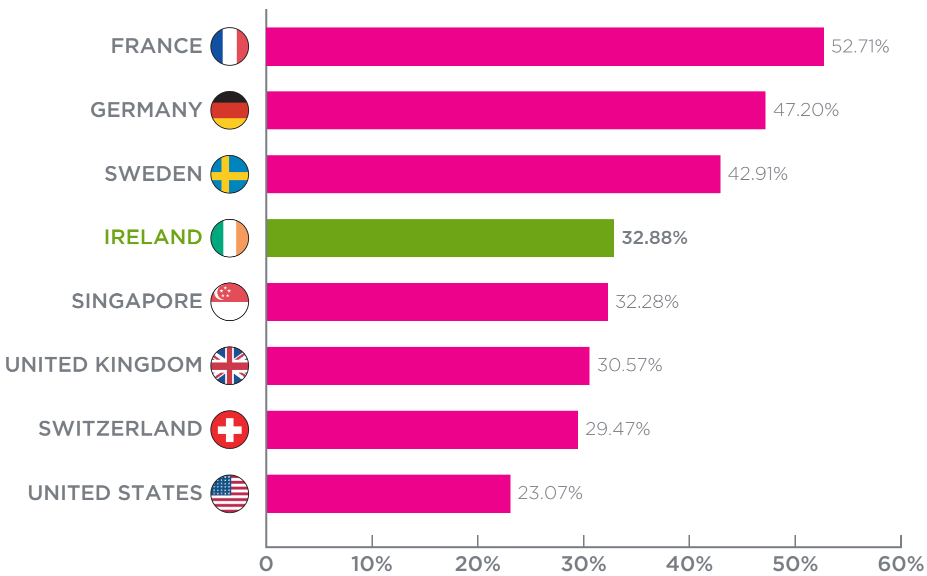
Tax Wedge 2021 - Ireland v Competitor Countries

- The tax wedge is generally considered to be the difference between what employees take home in earnings and what it costs to employ them. It looks at income taxes paid by an employee and social contributions levied on both employees and their employers.
- The higher the tax wedge, the higher labour supply costs that will be incurred by an employer to produce the same service or product, compared to another country.
- The tax wedge in Ireland is higher than in the United Kingdom, the United States and Switzerland at all salary levels; but is lower than the tax wedge in France and Sweden, primarily due to the difference in social insurance contributions.

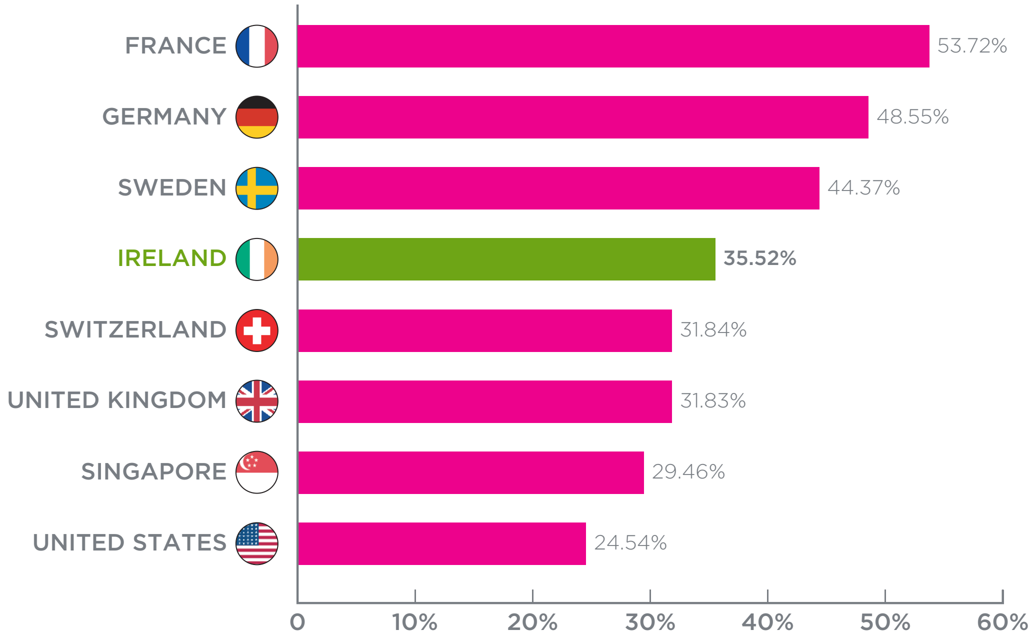
€ Tax wedge at salary level of €25,000



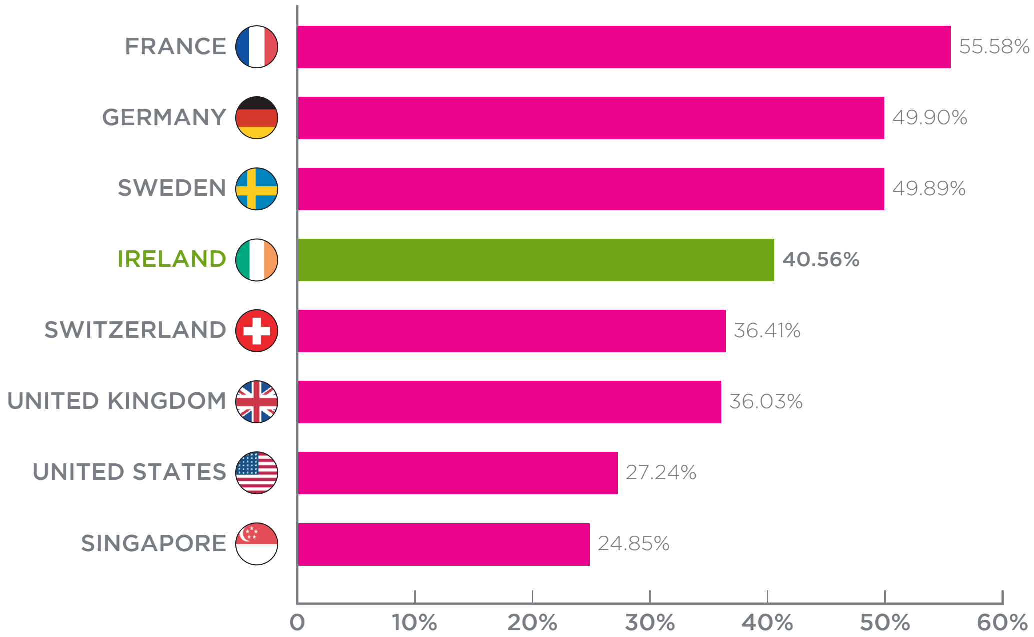
€ Tax wedge at salary level of €48,000



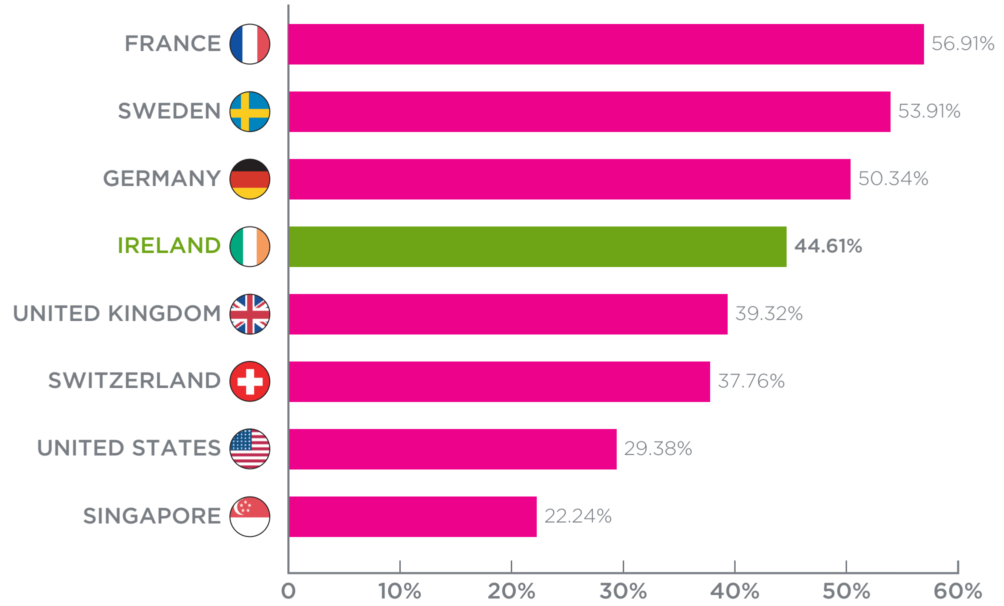
Tax wedge at salary level of €55,000



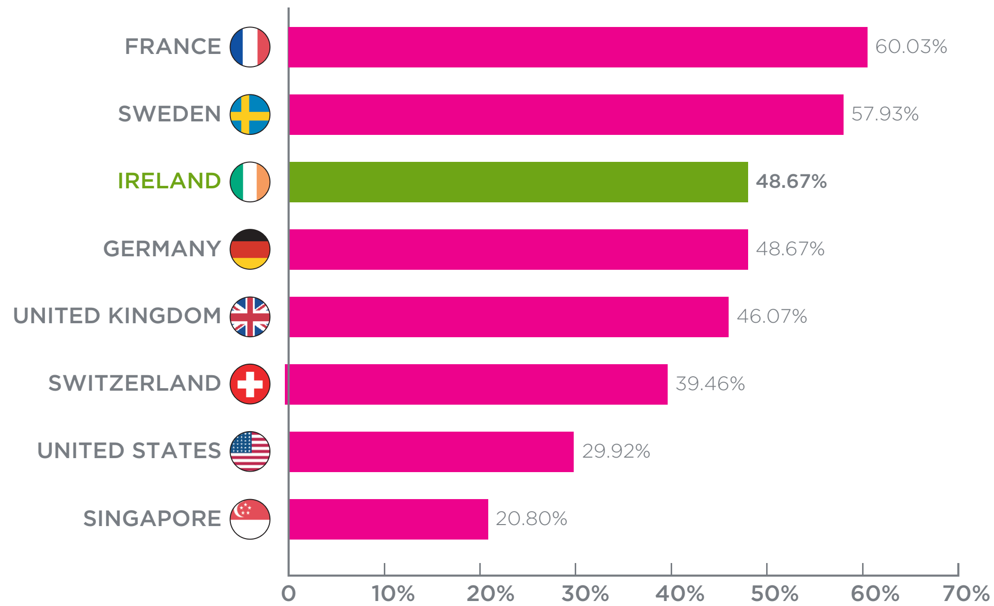
Tax wedge at salary level of €75,000



€ Tax wedge at salary level of €100,000



€ Tax wedge at salary level of €150,000



[1] The tables contained in this document are based on indicative net income calculations prepared on the following assumptions:

- Employee is a single person, tax resident in the relevant country
- Employee is liable to social security contributions
- Employee has no children or other dependents
- Earnings represent cash salary only
- Property and wealth taxes are not included

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