

Ireland Tax Update 2023

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Changes to Ireland’s tax regime are announced as part of the budget for each year, with announced measures typically taking effect from 1 January of the following year. Budget 2023 was announced in late September 2022 (earlier than the usual Budget time of mid-October, reflecting the perceived need to take immediate action to address urgent matters, including the increased rate of inflation at that time) and contained a number of significant tax measures.

1 COST OF LIVING CRISIS

- 1.1 The key focus of Budget 2023 was dealing with significant inflation and the resulting “cost of living crisis”.
- 1.2 Alongside increases to social welfare payments, including state pensions, and various tax credits, the income threshold at which the higher rate of income tax (40%, compared with the standard rate of 20%) was increased to €40,000; this represents the largest single increase in the threshold in over a decade.
- 1.3 One of the largest drivers of inflation has been the increase in energy prices. At the time of Budget 2023, the government stated that it would work with the EU to introduce an EU-wide windfall tax on the excess profits of energy companies. As this EU initiative has now stalled, the government announced in June 2023 that it would proceed to introduce an Irish windfall tax on energy companies.
- 1.4 This windfall tax will be introduced in two parts. The first (expected to be implemented during summer 2023) will deal with excess profits of fossil fuel companies, and the second (likely in September/October 2023) will cover the profits made by firms generating wind energy.

2 HOUSING

- 2.1 Housing remains a contentious political issue and this is reflected by the number of measures in Budget 2023 targeted at increasing the supply of housing.
- 2.2 For those who currently rent, a new tax credit of €500 per annum can be claimed in respect of years 2020-2025. For landlords, the amount of deductible pre-letting expenditure was doubled to €10,000, subject to the condition that the property can be vacant for no more than 6 months (down from the previous limit of 12 months).
- 2.3 A new Vacant Homes Tax has been introduced which applies to residential properties that are occupied for fewer than 30 days in a twelve month period (without reasonable excuse). The tax is charged at a rate equal to three times the property’s existing basic Local Property Tax rate.
- 2.4 In addition, amendments were made to the Residential Zoned Land Tax, which was introduced by Budget 2022. This tax, which is charged at a rate of 3% of the market value of the land, applies to property which is zoned for residential use but is not currently used for residential property, for example, an undeveloped site that is zoned for residential use.

3 CORPORATION TAX

- 3.1 There were not many changes to the corporation tax regime in Budget 2023, which was somewhat welcome after recent years which have seen a large number of changes arising from the various requirements under the EU's Anti-Tax Avoidance Directives.
- 3.2 However, any reprieve is short lived as Ireland will be implementing minimum tax rules from the end of 2023, in line with the EU Directive on ensuring a global minimum level of taxation for multinational enterprise groups and large-scale domestic groups, which will implement the OECD's Pillar 2 Model Rules.
- 3.3 The 15% minimum tax rate will apply to groups which exceed the €750 million revenue threshold. For those companies not within such a group, the 12.5% headline rate remains in place.
- 3.4 An initial draft of the legislation has been published for stakeholder comment. The draft follows the EU Directive closely, which is welcome. There are some aspects for which no draft legislation has yet been provided, most notably the Qualified Domestic Top-up Tax, which Ireland has stated it will introduce for Irish entities of in-scope groups.
- 3.5 Ireland has now adopted the 2022 version of the OECD Transfer Pricing Guidelines for chargeable periods commencing on or after 1 January 2023; the legislation previously referred to the 2017 version. SMEs remain excluded from transfer pricing requirements.
- 3.6 Perhaps the most anticipated change to Ireland's corporation tax regime is the long-awaited move to a territorial regime. We are told that such a move is now being given "serious consideration" and practitioners are optimistic that changes will be announced as part of Budget 2024, in October of this year. Currently, Ireland's dividend taxation credit regime is somewhat complex and considered to be unduly burdensome for corporate shareholders, even though it is rare that such shareholders are liable to pay any Irish tax on dividends received.

4 SUPPORTING THE ECONOMY

- 4.1 In addition to measures aimed at individuals to address the cost of living crisis, Budget 2023 included a number of measures to support businesses.
- 4.2 The first of these is the new Temporary Business Energy Support Scheme (**TBESS**), designed to assist businesses with their energy costs over the winter months. The scheme applies to certain categories of businesses that have experienced an increase of more than 50% in their unit price of natural gas and electricity compared with 2021, subject to certain limits.
- 4.3 Extensions were announced to a number of existing schemes.
- 4.4 The Special Assignee Relief Programme (**SARP**) provides income tax relief up to 30% for certain people who are assigned to work in Ireland from abroad for up to five years. This was first introduced in 2012 and was due to expire at the end of 2022, but has now been extended to 31 December 2025. To qualify, amongst other conditions, the employee must be in receipt of a salary of at least €100,000; relief is subject to an earnings cap of €1,000,000.
- 4.5 The Key Employee Engagement Programme (**KEEP**) has also been extended to the end of 2025. KEEP is a tax efficient share option scheme for SMEs and start-up businesses. Under KEEP, the employee is not liable to income tax on the exercise of a share option; normally, the exercise would result in an income tax charge on the difference between the market value of the shares received and the price to exercise the option (if any). This scheme is designed to enable SMEs attract and retain key employees, by allowing them compete for employees with larger competitors who can typically offer larger salaries.
- 4.6 Amendments have been made to Ireland's Research and Development Tax Credit so that it is a 'qualified refundable tax credit' under the Pillar 2 rules. This should preserve the benefit of this credit for those groups

which are within scope of the Pillar 2 rules, without disadvantaging those companies outside Pillar 2's scope who also claim this credit.

- 4.7 The Knowledge Development Box provides a corporation tax relief for companies on profits from qualifying patents, computer programmes and, in limited circumstances, certain other IP. This has been extended for a further four years, however the rate will increase from the current rate of 6.25% to 10%. This increase will be made so as to align the regime with the Pillar 2 'subject to tax rule', once that rule is implemented.

5 FINANCIAL SERVICES

- 5.1 While no notable changes have been made to Ireland's investment funds regime in the last year, a review has been commenced into the REIT (Real Estate Investment Trust) and IREF (Irish Real Estate Fund) regimes. A review is also being undertaken into the use of 'Section 110 companies' (a favourable tax regime, primarily used for structured finance transactions) and a working group has been established to consider the taxation of funds, life assurance policies and other investment products.

- 5.2 These reviews commenced in March 2023 and, at the time of writing, there has been no published update from these reviews, so it remains to be seen if these will result in any changes to these regimes in 2024 or beyond.

6 CLIMATE CHANGE

- 6.1 As previously planned, the rate per tonne of carbon dioxide emitted for petrol and diesel increased from €41 to €48.50 from 12 October 2022. However, the effect of this increase on consumers is offset by a corresponding reduction in the National Oil Reserves Agency levy applied to petrol and diesel.

7 TAX TREATIES

- 7.1 A new double taxation agreement between Ireland and Kosovo began to take effect from 1 January 2023.
- 7.2 A protocol to the existing agreement for affording relief from double taxation with respect to certain income of individuals and establishing a mutual agreement procedure between Ireland and the Isle of Man entered into force on 19 December 2022, with its provisions taking effect from 1 January 2023.
- 7.3 Also on 19 December 2022, a protocol to the existing agreement for affording relief from double taxation with respect to certain income of individuals and establishing a mutual agreement procedure between Ireland and Guernsey entered into force, with its provisions taking effect from 1 January 2023.