



International Tax

Ireland Tax Alert

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Budget announcement on double Irish structure

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On 14 October 2014, Ireland's Minister for Finance presented budget 2015. The minister reaffirmed the government's commitment to the 12.5% corporate tax rate as settled tax policy and outlined measures for providing a competitive tax environment for multinationals to operate in the country.

To assure international investors of Ireland's commitment to, and focus on, tax competitiveness, the Minister announced the Base Erosion and Profit Shifting (BEPS) consultation process in May 2014, which aimed to gather views on how Ireland's tax system may need to change in response to the rapidly changing international tax landscape. The consultation process focused on three key factors: rate, regime and reputation. The Irish government has taken on board the feedback provided by various groups and the BEPS papers released by the OECD on 16 September 2014, and has outlined a roadmap on tax policy and measures to enhance Ireland's intellectual property (IP) regime and underpin the government's commitment to making Ireland a destination for the "best and most successful companies in the world."

In a widely anticipated move, the minister announced that the "double Irish" structure (described below) will be abolished and a broad range of measures will be introduced to provide a competitive alternative to the double Irish regime. The key measures announced as part of budget 2015 include:

- The double Irish structure will no longer be available to multinationals establishing such structures as from 1 January 2015.
- A grandfathering period of six years (up to 31 December 2020) will be available for multinationals that have a double Irish structure in place on or before 31 December 2014
- A "knowledge development box," similar to IP and patent box regimes across the EU will be introduced in Finance Act 2016, or earlier if the outcome of EU/OECD review is known.
- The R&D regime in Ireland will be enhanced, most notably by the abolition of the base year expenditure threshold, which will allow companies to achieve larger tax credit benefits starting from 1 January 2015.
- Significant enhancements will be made to the onshore IP regime.
- The Special Assignee Relief Program (SARP) will be enhanced.

The minister has published reports focusing on the importance of tax for investment location decisions. The reports recognize that multinationals, as part of their responsibilities to shareholders and to the capital markets, focus on countries' competitive corporate tax policies, which drive location decisions. In acknowledging the tax environment and that tax is recognized as playing a key role in the making of location decisions in all developed economies, the minister is recognizing in the reports the need to balance the BEPS process with the requirements of both companies and countries.

Double Irish structure

The double Irish structure has gained widespread international media attention in recent years with a number of high profile cases garnering unprecedented scrutiny from the OECD, US and a number of European countries. The structure exploits different tax rules, particularly in the context of the US and Irish tax law.

To address the reputational concerns arising from the intense focus on the double Irish structure, the minister has announced that, with effect from 1 January 2015, no new structures will be able to avail of the double Irish regime. A grandfathering period of six years will be available for structures in existence on 31 December 2014, which will allow companies to continue to benefit from the existing double Irish regime up to 31 December 2020 and also provide companies with a timeline to explore alternative IP structures.

Knowledge development box regime

As discussed above, the minister has announced details of a patent/innovation box regime as part of the budget package. The proposed regime would complement the existing onshore regime, attract new inward investment and provide a strong commitment to the international community in relation to the Irish government's foreign direct investment policy. Although the information in the minister's budget statement is relatively light on detail, the regime is expected to be similar to existing patent/innovation box regimes in other European countries, offering a low and sustainable Irish corporate tax rate.

The following countries have implemented IP regimes that vary in their terms and tax rates, but all convey a significant advantage to multinational companies that invest in those countries:

Belgium	Luxembourg	Spain
France	Malta	Switzerland*
Hungary	Netherlands	United Kingdom

* The Swiss federal government recently published draft legislation on corporate tax reform, the main objective of which is to enhance Switzerland's attractiveness as a location for multinational companies; the proposed reform includes a broad-based patent box regime.

These regimes indicate the level of increased tax competition for IP-intensive industries, and the introduction of an Irish patent/innovation box will allow Ireland to compete for such business.

Several of the European IP regimes currently are the subject of discussions and a review under the EU's Business Code of Conduct Group, the outcome of which is expected by the end of 2014. This will facilitate securing EU approval for the Irish patent/innovation box regime.

Onshore IP regime

The removal of the minimum corporate tax of 2.5% of taxable profits (which means that, subject to meeting the conditions for the regime, there will no longer be a minimum level of corporate tax that must be paid) is welcome as it provides another attractive alternative for IP structuring. While there has been some use of this regime by life sciences and tech companies, it has been perceived as overly complex. The extension of the scope of the IP regime to include customer lists will broaden the definition of IP on which relief can be granted and improve the attractiveness of this regime.

Special Assignee Relief Programme

The minister announced that improvements will be made to the SARP regime, the details of which will be included in the Finance Bill to be published on 23 October 2014.

The SARP is an incentive scheme designed to attract international executives to work in Ireland. If certain requirements are met, an employee can request that 30% of his/her income be disregarded for income tax purposes. The key changes announced are the removal of the upper salary threshold (EUR 500,000) and the reduction in the requirement to be employed abroad prior to arrival in Ireland to six months. The announcement will enhance Ireland's competitiveness in attracting mobile employees and is welcome, particularly at a time where the focus of the BEPS project is aligning substance with taxing rights and key people functions.

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