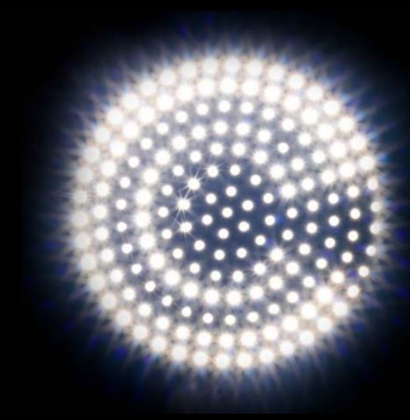
International Tax
Ireland Highlights 2018



Investment basics:

Currency – Euro (EUR)

Foreign exchange control – None, and no restrictions are imposed on the import or export of capital. Repatriation payments may be made in any currency. Both residents and nonresidents may hold bank accounts in any currency.

Accounting principles/financial statements – IAS/IFRS/Irish GAAP. Financial statements must be prepared annually.

Principal business entities – These are the public and private limited liability company, partnership, sole proprietorship and branch of a foreign corporation. The private limited company and the public limited company are the two main forms of corporate organization in Ireland, and there are two types of private limited company: the private company limited by shares and the designated activity company.

Corporate taxation:

Residence – A corporation is resident in Ireland if it is managed and controlled in Ireland or, in certain circumstances, if it is Irish-incorporated. Specifically, companies incorporated in Ireland after 1 January 2015 are deemed to be tax resident in Ireland, while companies incorporated before 1 January 2015 will be deemed to be resident in Ireland from 1 January 2021. However, these incorporation-based residence rules will not apply to Irish-incorporated companies that are currently tax resident in a treaty country by virtue of management and control, nor will they apply to non-Irish incorporated companies that are resident in Ireland by virtue of management and control.

Basis – Residents are taxed on worldwide profits; nonresidents are taxed only on Irish-source income. Foreign-source income derived by residents is subject to corporation tax in the same way as Irish-source income. Foreign branch income is charged to tax as foreign investment income or trading income, as appropriate.

Taxable income – Corporation tax is imposed on a company's profits, which consist of business/trading income, passive income and capital gains. Normal business expenses incurred in a trade may be deducted in computing taxable income.

Taxation of dividends – Dividends received by an Irish-resident company from another Irish company generally are exempt from corporation tax. Dividends received from a foreign company are subject to corporation tax in the period the dividends are payable, but a credit for underlying corporate and withholding tax generally is available for foreign tax paid. Dividends received from a company resident in an EU member state may qualify for an enhanced credit up to the rate of tax on profits in that country.

Capital gains – Capital gains are taxed at 33% and 40%. Gains on the sale of substantial shareholdings in companies resident in EU member states or a tax treaty country are exempt if certain conditions are satisfied.

Losses – Trading losses may be carried back to the immediately preceding period of equal length, or carried forward indefinitely.

Rate – The corporation tax rate is 12.5% for trading income and 25% for non-trading income. Certain dividends from EU and tax treaty territories are taxed at the 12.5% rate.

Surtax – No

Alternative minimum tax – No

Foreign tax credit – Foreign tax paid generally may be credited against Irish tax on the same profits, but the credit is limited to the amount of Irish tax payable on the foreign income. Dividends received from a company resident in an EU member state may qualify for an enhanced credit up to the rate of tax on profits in that country. The pooling of credits for foreign dividend income is available. Any surplus double tax credits attributable to foreign dividends taxable at the 12.5% rate are not available against tax on foreign dividends subject to the 25% rate. The pooling of credits for foreign branches also is available.

Participation exemption – A participation exemption may apply to capital gains derived by an Irish-resident holding company on the disposition of a substantial shareholding in a company located in Ireland, another EU member state or a country that has concluded a tax treaty with Ireland. To qualify for the exemption, the Irish company must hold a participation of at least 5%; the investee must be a trading company or a member of a "trading group"; and the interest must have been held for a continuous 12-month period ending within the two years before the date of disposal.

Holding company regime – See "Participation exemption," above.

Incentives – Expenditure on revenue items, royalties, certain buildings and plant and machinery related to R&D may benefit from a credit of 25% on a volume basis, which may be set off against a company's corporate tax liability in the year in which the expenditure is incurred. Companies in receipt of this credit also have the option to use a portion of the credit to reward key employees who have been involved in the development of R&D.

A company may carry back any unused R&D tax credit against the corporation tax liability for the previous period of equal length. If a company has not paid sufficient corporation tax in the current or previous year to fully use the credit, it may claim a payment from the Revenue Commissioners of the excess over a three-year period (on claims made within 12 months from the end of the accounting period in which the qualifying expenditure is incurred) or it may offset the excess credit against payroll taxes, subject to certain limits.

For start-up companies, there is an exemption from corporation tax on income and gains up to specific limits where a new trade commences in the years 2009 to 2018.

Tax relief is provided for capital expenditure incurred by companies after 7 May 2009 on the provision or acquisition of intangible assets for the purposes of a trade. The relief applies to intangible assets, such as brands, trade names, know-how, copyrights and other intangibles. In addition, certain acquisitions of customer lists also qualify for tax relief, provided they are not transferred directly or indirectly in connection with the transfer of a trade as a going concern.

A knowledge development box (KDB) regime provides that profits from patented inventions and copyrighted software (qualifying assets) earned by an Irish company, to the extent they relate to R&D undertaken by that company, may be effectively taxed at a rate of 6.25%.

Withholding tax:

Dividends – Dividends paid to another Irish company are exempt from withholding tax. Dividends paid to a nonresident company or an individual (whether resident or nonresident) are subject to a 20% withholding tax, unless the rate is reduced under a tax treaty or the dividends are exempt from withholding tax under the EU parent-subsidiary directive or under a specific exemption under domestic legislation.

Interest – The withholding tax on annual interest paid to a nonresident is 20%, unless the rate is reduced under a tax treaty or the interest is exempt from withholding under the EU interest and royalties directive or under a specific exemption under domestic legislation.

Royalties – The withholding tax is 20% on patent royalties. All other royalties are exempt. The rate may be reduced under a tax treaty or the payment may be exempt from withholding under the EU interest and royalties directive or under a specific exemption under domestic legislation.

Technical service fees – No

Branch remittance tax – No

Other taxes on corporations:

Capital duty – No

Payroll tax – No

Real property tax – The municipal authorities levy "rates" on the occupation of commercial real property (which are deductible in calculating corporation tax liability). Residential real estate is subject to an annual tax at 0.18% on values up to EUR 1 million, and at 0.25% on values over EUR 1 million. In certain situations, reduced rates will apply.

Social security – Employers are required to make pay-related social insurance (PRSI) contributions by deducting up to 10.75% from the salary of employees.

Stamp duty – Stamp duty at rates of 1%-6% is levied on the transfer of property. The top rate of stamp duty for nonresidential property is 6%.

Transfer tax – No

Other – Shipping companies may opt to pay tonnage tax in lieu of the normal corporate income tax.

Anti-avoidance rules:

Transfer pricing – The arm's length principle generally should be observed, and transfer pricing rules apply to certain transactions. No tax deduction is available for any amount paid or payable by a person to a connected person in another territory for adjustments made to the profits of that connected person for which relief is available under the provisions of a tax treaty with Ireland, or for a similar adjustment made to the profits of a connected company resident in a nontreaty country.

Thin capitalization – There is no specific thin capitalization legislation, but interest paid by a non-trading company to a nonresident parent company that is not resident in a tax treaty country and that owns at least 75% of the Irish payer generally is reclassified as a dividend.

Controlled foreign companies – There currently are no CFC rules. However, Ireland will be required to introduce CFC rules as part of the EU anti-tax avoidance directive (ATAD).

Disclosure requirements – Certain tax arrangements that result in an Irish tax advantage and fall within certain limited prescribed hallmarks must be disclosed to the Irish tax authorities, and the user must note the use of such arrangements on the tax return.

Country-by-country (CbC) reporting applies in Ireland, and companies with global revenues in excess of EUR 750 million are required to file a CbC report for accounting periods commencing on or after 1 January 2016.

Other – There is a statutory general anti-avoidance rule.

Compliance for corporations:

Tax year – The tax year is the shorter of 12 months or the period for which accounts are prepared. The tax accounting period may not exceed 12 months in total.

Consolidated returns – Consolidated returns are not permitted; each company is required to file a separate return. However, losses may be relieved between group members resident in the EU. Companies are considered part of a group if one is a 75% subsidiary of another, or both are 75% subsidiaries of the same parent.

Filing requirements – Ireland operates a self-assessment regime. A preliminary corporate tax payment is payable during the accounting period, amounting to 100% of the corporate tax liability. To avoid an interest charge arising on an underpayment, the amount to be paid as preliminary tax must be no less than 90% of the current-year tax liability, with the balance payable upon filing the return. The tax return, together with iXBRL-tagged financial statements, must be filed within nine months of the accounting year end, but no later than within eight months and 21 days of the company's year end. In certain circumstances, the tax authorities may extend the due date of iXBRL filings by three months.

Companies with a tax liability of more than EUR 200,000 in their previous accounting year must pay preliminary corporation tax in two installments (on 21 June and 21 November of the accounting period, for companies with a calendar year end). The amount payable on 21 June is 50% of the preceding year's liability or 45% of the current year's liability, with the balance payable on 21 November. To avoid interest charges arising, the amount paid by 21 June must be either 50% of the preceding-year or 45% of the current-year liability, and the total amount paid by 21 November must be 90% of the total liability for the relevant year.

Most companies must file and pay using the Irish Revenue's online service system (in which case, an additional two days is granted to meet the above obligations).

Penalties – Various penalties apply for failure to comply with the filing and payment requirements.

Rulings – Irish tax legislation includes a number of specific provisions for which advance statutory clearance may be sought.

Also, under a nonstatutory clearance procedure, the tax authorities' view of the tax consequences of specific transactions may be sought on a named basis, with full disclosure, where there is both commercial significance and material uncertainty.

Personal taxation:

Basis – Irish residents are taxed on their worldwide income and capital gains, as are individuals who are not resident, but who are "ordinarily resident" (as defined). Nonresidents are taxed on Irish-source income and gains from immovable property in Ireland. Reliefs such as the remittance basis of tax and Special Assignee Relief Program (SARP) may apply for Irish resident individuals.

Residence – An individual is resident in Ireland if he/she spends more than six months (183 days) of the tax year in Ireland, or has a combined presence of at least 280 days in Ireland over that tax year and the preceding tax year. An individual is considered ordinarily resident if he/she was resident in Ireland during the previous three tax years. A day is counted for residence purposes if the individual is present in the state at any time during the day.

Filing status – Married couples and civil partners living together may opt for joint or separate assessment.

Taxable income – Income is taxed under a schedular system. Employment income, including most benefits, is taxable. Profits derived by an individual carrying on a trade or profession are taxed in the same manner as profits derived by companies. Investment income in the form of dividends is subject to a 20% tax at source.

Capital gains – Capital gains tax at 33% (40% in certain instances) is charged on gains derived from the disposal of assets.

Deductions and allowances – Subject to certain restrictions, deductions are granted for medical expenses and insurance, retirement annuities, mortgage interest, etc. Medical expense relief is available at the standard rate of tax (20%) against the lesser of the premium paid or EUR 1,000 per adult and EUR 500 per child. Personal allowances are available to the taxpayer and his/her spouse/civil partner, children and dependents.

Rates – Progressive rates are imposed up to 40%; a universal social charge applies where the annual income exceeds EUR 13,000. From 1 January 2018, the rate of the charge is 0.5% on gross income up to EUR 12,012; 2% on gross income between EUR 12,013 and EUR 19,372; 4.75% on gross income between EUR 19,373 and EUR 70,044; and 8% on gross income exceeding EUR 70,044. There is an additional 3% USC surcharge where an individual's non-PAYE (Pay-As-You-Earn) income is more than EUR 100,000 a year.

Other taxes on individuals:

Capital duty – No

Stamp duty – Stamp duty at rates of 1%-6% is levied on the transfer of property. The top rate of stamp duty for nonresidential property is 6%.

Capital acquisitions tax – 33%

Real property tax – The municipal authorities levy a real estate tax, known as "rates," on the occupation of commercial real property. Residential real estate is subject to an annual tax at 0.18% on values up to EUR 1 million, and at 0.25% on values over EUR 1 million. In certain situations, reduced rates will apply.

Inheritance/estate tax – See "Capital acquisitions tax," above.

Net wealth/net worth tax – No

Social security – Employed and self-employed individuals are required to make PRSI contributions, with the amount based on the individual's salary.

Compliance for individuals:

Tax year – Calendar year

Filing and payment – Tax on employment income is withheld by the employer under the PAYE system and remitted to the tax authorities. Income not subject to PAYE is self-assessed; the individual must file a tax return by 31 October in the year following the year of assessment and make a prepayment of at least 90% of the final tax due by 31 October in the year of assessment. Individuals who file and pay using the Irish Revenue's online service system are granted an additional period (approximately 14 days, but this is determined by Irish Revenue on an annual basis) to meet the above obligations.

Penalties – Various penalties apply for failure to comply with the filing and payment requirements.

Value added tax:

Taxable transactions – VAT is chargeable on the supply of taxable goods and services in Ireland, on the importation of goods into Ireland and generally on the intra-community acquisition of goods from suppliers in other EU member states. It is also chargeable on certain deemed supplies.

Rates – The standard VAT rate is 23%, with reduced rates of 0%, 4.8%, 9% and 13.5%.

Registration – The registration threshold for VAT purposes is EUR 75,000 per annum where 90% of turnover is from the supply of goods, and the goods being sold are not zero-rated but are produced from zero-rated raw materials.

A lower threshold of EUR 37,500 per annum applies otherwise, except for non-established persons that make taxable supplies of goods or services in Ireland, who must register for VAT regardless of the level of sales made (i.e. the thresholds noted above do not apply).

Filing and payment – VAT returns and payments generally are required to be filed every two months.

Source of tax law: Taxes Consolidation Act 1997, Capital Acquisitions Tax Consolidation Act 2003, Stamp Duties Consolidation Act 1999, Value-Added Tax Consolidation Act 2010 and annual finance acts

Tax treaties: Ireland has concluded 73 tax treaties, 72 of these are in effect—the new agreement with Kazakhstan is not yet in effect.

Ireland signed the OECD MLI on 7 June 2017.

Tax authorities: Office of the Revenue Commissioners

Contact:

Joan O'Connor (joconnor@deloitte.ie)

Louise Kelly (lokelly@deloitte.ie)