Brexit

Where stands Brexit from an Irish perspective as we head into the second half of 2017. If we end up with the famous "...no deal rather than a bad deal..." how will this effect Ireland?

John Stewart at Deloitte says that the current negotiations between the EU and the UK, which are at a very early stage, do not involve discussion on the Single Market and the Customs Union and the EU 27 will only decide in October, at the earliest, when trade talks with the UK can begin. This raises the strong possibility that come Brexit there may not be a trade deal. However, notwithstanding the lack of progress in talks, a recent survey carried out by Deloitte has found that many businesses have not yet begun planning for the possibility that there may be no deal. Our customs specialists, who are working with clients both North and South of the border to prepare for all of the possible implications from Brexit, have found that the administrative burden that will follow the introduction of border controls post Brexit will be a significant issue for many Irish businesses and will also bring additional costs for those businesses.


John Stewart

Kelleher at Mazars says that having Ireland's largest trading partner outside the Single Market would have a profound impact on Ireland that cannot yet be foreseen. The introduction of tariffs, customs and travel restrictions would go against what so many of us are used to and could greatly affect the €14 billion of exports to the UK annually. Not knowing what kind of system will be in place or if we will return to a 'hard border' creates uncertainty about trade relations.

From a VAT perspective, goods acquired by Irish companies from the UK will be considered "imports". Under current provisions, importers must pay VAT to the Revenue Commissioners at the time when the customs duties are paid, rather than declare it at the time of filing the VAT returns. This will essentially result in an upfronting of VAT and present a strain on cashflow.

Rather than seeing this wholly as a negative, Brexit should be seen as an opportunity for Ireland. If the UK were to end up outside the European Market, Ireland should look to increase its FDI attractiveness to companies who want a presence in the Single Market. Potential new companies should be reminded of our long standing history of FDI, helped by our simplified tax system, investment incentives, R&D tax credits and access to 440 million customers across Europe.

Tax Strategy to Grow Indigenous Exports

On 28 June, the Irish Tax Institute published a 140 page seminal paper on the challenges facing Irish indigenous exporters. The issues identified by the ITI included: CGT; skills shortage for Irish SMEs and high personal taxes; The lack of a workable share options regime; The inability of Irish SMEs to access the international assignee programme. Do you think that the ITI paper will influence Government policy and what improvements are required to provide a more equitable deal for SMEs?

Dave Shanahan at Deloitte says that for Irish indigenous SMEs to thrive it is crucial that they can obtain suitable sources of finance and attract and retain talent. The ITI publication should, and I believe will, influence government policy as we move into an era of change in the global environment, and at a time when attracting talent and funding is challenging.


Dave Shanahan

Ireland must seek to maximise opportunities for indigenous businesses to complete in the local market and globally; something which is vital to protect ourselves against wider global uncertainty.

One ITI recommendation is in relation to a targeted share option scheme aimed at SMEs. The current regime results in employees being hit with large tax bills long before they sell any shares, which in most cases is completely unfeasible. The Department of Finance has already conducted a public consultation process and the ITI publication should help further influence the Department to take action; particularly as Sweden received EU approvals in recent weeks for a similar SME-focused regime.

Kelleher at Mazars says that when discussing economic growth and exports, indigenous firms are often overlooked in favour of larger MNCs and risk being left behind in the effort to attract more companies to Ireland and to increase their exports. In the Government's latest trade strategy it sets out its plan to increase Ireland's indigenous exports in a number of different ways.

There are issues highlighted in the ITI report which the Government could take on board such as that of the low R&D tax credit participation for SMEs. It is seen as difficult to prepare for and administer. Also the limits imposed by the R&D regime on outsourcing and collaboration, limit its desirability. By allowing the credit to be claimed by two or more companies or companies and universities, it would be possible for them to pool resources and expertise to progress the aims of the companies. This kind of system is in place in a number of the other EU countries, which have a greater uptake of R&D tax credits among SMEs.

Employee skill shortage is becoming a real issue for the SME sector. While it is openly recognised that SMEs are the backbone and largest employer group in the country, from a tax perspective, the current employee share scheme legislation is not designed with them in mind.

Strategic HR advisors will advise that employee share schemes are a valuable tool in attracting and retaining key talent. However, it is hardly an effective tool if the current legislation will result in the SME employee being faced with a tax bill they are not in a position to discharge.

The issue of high personal tax rates is being much debated. Speculation is that there will be some degree of relief announced in the October Budget. What remains to be seen though is whether this is a nominal rate reduction, or more targeted. Subject to the fiscal space, now in the era of BREXIT is the opportune time to consider the treatment of international assignees. This has the potential to attract not only the large multinationals, but afford SMEs an opportunity to recruit international talent.

McGrath at William Fry says that the ITI is to be commended for the hard work and effort invested in producing this comprehensive paper. Some of the statistics it highlights brings into sharp focus how uncompetitive Ireland is in certain areas, for example it highlights that the 33% CGT rate is the fourth highest in the OECD and 10 percentage points above the median OECD CGT rate. One can only hope that the well-made and comprehensive arguments put forward by ITI for a tax regime more supportive of SME business are heard.

PAYE Modernisation

In his October 2016 Budget statement, the then Minister for Finance, Michael Noonan, announced the launch of a consultation process regarding the modernisation of the PAYE system. Revenue has acknowledged that this will be the most fundamental change to the PAYE system since its introduction. The launch date will be 1 January 2019. What should Irish companies be doing now to prepare for this significant change? How will it work in practice?

Sarah Conry at Deloitte says that her firm has actively engaged with Revenue to seek to understand, at the earliest possible stage, how PAYE modernisation will work in practice. The stated intention is that employers will report to Revenue pay, tax and other deductions, at the same time as they run their payroll.

Details of employees leaving will also be reported with these payroll details, while details of employees starting will be reported before their first pay day. The exchange of this data as payroll is processed will mean that the current forms P45, P60, P30 and P35 will cease to exist. On a monthly basis Revenue will, following receipt of the payroll data, raise an assessment for the taxes payable, with the payment date remaining as currently set.

In preparation for this employers should ensure that payroll is currently operating correctly. As Revenue will have more detailed information available each time payroll is processed, it is vital that all elements of remuneration are being reported and taxed appropriately. Employers should do a health check, whether with internal resources or on an outsourced basis, of the existing payroll process and procedures, and in particular ensure that all taxable benefits are being processed correctly.

Kelleher at Mazars says that the implementation of the modernised system will enable Revenue to examine the operation of the PAYE by employers in "real-time". This will substantially increase compliance pressures on employers and it is critical that employers are aware of their requirements under the modernised system in advance and plan accordingly.

For now, employers should ensure that their payroll reporting systems are robust and that all correct PAYE processes and procedures are being followed. With respect to payroll reporting systems, employers need to review the current accuracy and timeliness of information received for PAYE reporting purposes, whether from internal or external parties.

Process improvements may need to be implemented in advance of January 2019 to ensure that the requirements under the modernised system are satisfied. Employers will also need to ensure that their payroll staff, or external payroll providers, are familiar with changes to payroll software in advance of this date.

McGrath at William Fry says that an online approach is becoming the norm for many aspects of our lives and is often more convenient. However, for complex areas of taxation, it is important that the convenience is shared, and not an additional burden on employers and/or employees. There are various aspects of PAYE modernisation that will need to carefully considered, particularly the ability for the new system to deal with more complex situations.

Business Travellers

Just before the Christmas holidays in 2016 Revenue released a new interpretation of the rules governing business travellers to Ireland, resulting in PAYE withholding tax implications and reporting obligations for companies, if that employee spends more than 30 days in Ireland in a calendar year.

Prior to this, such a person had to spend more than 183 days in Ireland before any such obligation arose. This new interpretation appears to have gone 'under the radar' and has not generated much, if any publicity. The approach is draconian in comparison to our European neighbours, not least the UK.

Where is this issue going, in your opinion, and what should companies be doing about it? Should Irish industry be lobbying vociferously against this change, given its potential significant impact on Irish competitiveness?

Colin Forbes at Deloitte says that this is certainly the biggest change in the cross-border taxation of individuals in a decade and is a substantial negative departure from previous practice by Revenue. The new rules are not only draconian, but also contain vague terms, which has exacerbated the problem for multi-national employers.

Every week there are announcements of financial services companies looking to set up a base here in preparation for Brexit. They will naturally need senior executives to come to Ireland for short periods to oversee the set-up of the new operations. These new rules are undermining the country's attractiveness for such companies considering locating here, as these senior executives could come within the PAYE net here. They may then need to file a tax return both in Ireland and in their home jurisdiction in order to avoid double taxation which leads to high administrative costs for the companies.

If multinational employers believe they may be negatively impacted they could consider making representations to their industry associations or groups.

Kelleher at Mazars says that in practice, Revenue has proved difficult in cases where employers have claimed Irish tax exemptions under double tax treaties for internationally mobile employees who work here and this announcement is reflective of its current approach. If this approach is not challenged now, it will allow Revenue to embed a practice whereby Irish tax will be sought in respect of most, if not, all overseas employees who spend less than 183 days working here.

Colin Forbes

According to the CSO, there were approximately 1.25m business trips made to Ireland in 2015, of which 48% were from the UK. The current practice will detract from Ireland's offering as a location of choice for foreign direct investment, particularly in light of Brexit, as it will increase the administrative and tax burden for overseas companies seeking to locate here.

Employers and industry representatives need to increase their efforts in lobbying Government for a relaxation of the rules.

McGrath at William Fry says that the application of Irish PAYE on non-Irish employments is complex and a significant area of tax risk.

The pre-Christmas notification referred to an updated Revenue Statement of Practice that runs to 42 pages. The approach is administratively burdensome and compliance with it is an additional cost of doing business in Ireland. For those impacted careful consideration and compliance with the requirements will be important to ensure material tax exposures do not arise.