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Pre-Budget perspectives 2019.
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Introduction

The Irish economy is expected to record strong growth in 2018 and into 2019. According to the European Commission, the GDP growth in the Republic of Ireland in 2018 is predicted to be 5.6%, the highest growth rate forecasted in the EU and 3.5% more than that forecasted for both the Eurozone and the EU as a whole. This strong growth rate is timely; 2018 marks the 10 year anniversary of Ireland being the first country in the Eurozone to enter recession in the 2008 global economic collapse.

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10 years on and Ireland's economy is strong, unemployment levels are below 6% and 2017 saw a record year for exchequer receipts at €50.7 billion. However, the Irish economy is being tested with social and economic challenges domestically. The economy is also contending with difficult Brexit negotiations, escalating trade disputes, and a changing international tax environment expedited by US tax reform, EU tax policy changes and OECD tax developments.

As Brexit negotiations continue, the Irish economy is faced with a high level of uncertainty and unprecedented challenges. The National Competitiveness Council identifies Brexit as the single biggest, and most immediate threat to Ireland's medium-term prosperity. With limited time remaining until the UK leaves the EU next March, negotiations have faltered and progress has been lacking, which has created uncertainty in an already unsettled and fragile environment. The lack of clarity of how the UK and Ireland will look post-Brexit impacts on strategic planning. The Government should continue to focus on Brexit proofing the economy. However, there remains opportunity for Ireland to secure investment from businesses seeking to relocate to an EU base or to increase operations in Ireland to strengthen their European presence.

US tax reform

The Tax Cuts and Jobs Act 2017 was signed into law on 22 December 2017 which implemented one of the biggest reforms to the US tax system in decades. This reform was introduced concurrently with sweeping changes globally. The purpose of US tax reform was to create jobs, drive economic growth in the US and make the US competitive for business and investment internationally. While it is too early to call in terms of the future impact on investment and business flows, it is an important new factor which Ireland has to bear in mind in assessing its own competitiveness, and in ensuring that Ireland can continue to position itself to attract new investment and re-investment opportunities from US business. Companies invest in Ireland for a multitude of reasons, including access to our skilled workforce, our talent pool, our vibrancy, our gateway to Europe and our infrastructure. From 1 April 2019, Dublin will be the largest English speaking capital city in the EU, therefore we can be optimistic in the face of this uncertainty.

Current climate domestically

Ireland has recorded strong growth in recent years but challenges still remain. The Government should look optimistically to the future but with a sense of caution and prudence. This year's Summer Economic Statement saw the creation of the Rainy Day Fund with €500 million being deposited over the next three years in addition to the initial deposit of €1.5 billion. The creation of the fund acknowledges Ireland's overreliance on corporate tax receipts which tend to become exposed in economic downturns. Budget 2019 will be prudent providing modest changes in key areas. The Government should still continue to enhance Ireland's international tax strategy and increase Ireland's attractiveness as a key EU location for investment, especially in a post-Brexit era.

Finance Bill 2018 will unveil new tax measures that will be implemented into our tax law from 1 January 2019, as required by the EU Anti-Tax Avoidance Directive (ATAD). A notable new tax measure in Irish legislation will be Controlled Foreign Company (CFC) rules. Irish CFC rules will aim to attribute undistributed income arising from non-genuine arrangements put in place for the essential purpose of obtaining a tax advantage from the CFC and tax it in Ireland (subject to conditions). These rules alone will provide challenges to companies both from a technical tax perspective and administratively. CFC rules will not be designed as a revenue generating tax measure but one that will act as a deterrent to base erosion and profit shifting. Notwithstanding the CFC rules, other rules under the ATAD will be required to be adopted by Ireland over the coming years which will require companies to assess transactions through a new lens, under new rules. On adoption of the new ATAD measures, Ireland needs to implement these rules in the context of competitiveness. Ireland should not adopt more onerous rules than the ATAD requires as to do so would make Ireland less competitive than our European Union colleagues who implement the rules contained in the ATAD as stated.

All of the above is set against a backdrop of a critical need for investment in housing, infrastructure, and education. There is a real opportunity for Ireland to position itself for the future and for future economic growth and stability. Ireland 2040 was a welcome announcement in 2018 but we need to ensure there is momentum now and appetite to accelerate the development of infrastructure. Unless the current situation in relation to housing and rented residential accommodation in particular is addressed, this will become a binding constraint on Ireland's economy and our ability to attract investment and ensure new jobs can be created or retained here.

Tackling infrastructure and housing supply should be part of a larger goal to improve Ireland's competitive climate to attract international talent and large scale FDI, as well as ensuring Irish business and entrepreneurs can grow and scale their business from Ireland. We need people to want to live and work in Ireland, to want to move to Ireland and add to the economic potential and opportunity for the country – we need to invest to ensure this happens in the future, that accommodation is available, as well as schools (including those of an international stature) and with the necessary infrastructure to support a dynamic growing economy.

For the individual taxpayer it is acknowledged that the marginal tax rate remains too high, and this is an important factor in the war for talent, in particular in seeking to attract individuals to work in Ireland. It would be a positive move if the standard income tax rate band was increased thereby raising the entry point to the higher rate band. It is difficult to see a change to the rate but increasing the bands will be welcomed not only domestically but this will further enhance our international competiveness in attracting business travellers to Ireland. Ideally, one would like to see the publication of a personal tax reform roadmap, setting out a strategy to reduce the tax burden on work, as well as broader reforms to the taxation of share based remuneration and assignees.

Ireland has always competed internationally for investment and should continue to do so in an increasingly competitive environment. Ireland should play fair but play to win. Ireland has considerable challenges to face over the next few years but I remain optimistic of further investment into Ireland whether that is increased FDI or companies looking for an EU base in a post-Brexit era. The environment remains uncertain, but uncertainty breeds opportunity. Ireland knows how to deliver for companies that locate here but the Government need to make sure we are in position to compete and win first.

Deloitte will continue to engage with the Government in the period leading up to Budget and Finance Bill 2018 to provide input not just on the technical assimilation of the ATAD into our rules, but also on policy matters more closely. Consultation with both industry and practice will be critical during this period and we encourage our clients to contact us should you wish to feed any perspectives into any of the consultation papers to be published in the period leading up to Finance Bill 2018.

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Ireland Inc. and Foreign Direct Investment

Over the last year developments in the international tax landscape have continued steadfastly. These developments range from the ratification by a number of jurisdictions of the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS (MLI), to the introduction in the EU of the Mandatory Disclosure regime, to reform at a national level such as US tax reform.

Given that the deadline is looming for implementing into Irish taxation legislation additional changes arising from projects such as the OECD's Base Erosion and Profit Shifting (BEPS) project and the various EU Directives, it is with no surprise that changes in the area of international tax are expected in Budget 2019.

In anticipation of these significant changes to our Irish taxation legislation, and taking account of the recommendations set out in the Coffey review, Ireland's Corporation Tax Roadmap (the Roadmap) was published by Finance Minister, Mr. Paschal Donohoe, on 5 September 2018. The Roadmap identifies a programme of action for implementing changes in relation to Ireland's corporation tax regime, not only in Budget 2019, but over a number of years. It is a welcome document from which it is evident that the Department of Finance is committed to taking on the views of all stakeholders while also continuing its commitment to a certain and stable tax regime. The Roadmap references a number of additional consultation processes that will take place during the remainder of 2018 and during 2019. This will hopefully allow additional clarity and certainty for taxpayers in terms of ongoing tax developments, factors which are critical for investment decisions.

It is clear from the Roadmap that the Irish Government has remained fully engaged and committed not only to ongoing discussions and developments at an international level but also in relation to the implementation of these changes into our domestic taxation legislation.

Given the importance of foreign direct investment (FDI) to the Irish economy, it is vital that the Government ensures Ireland responds to the international tax developments in a way that is not only compatible with the developments but in a way that protects and enhances Ireland's competitiveness as a location for FDI. This will be key in terms of any developments announced as part of Budget 2019.

In recent years, the FDI landscape has become a lot more competitive. This is not only as a result of some FDI competitor locations introducing changes to their national tax regimes, like lower corporation tax rates, but also due to other key factors relevant to investment decisions such as access to a highly skilled labour force, cost competitiveness and sufficient infrastructure.

Ireland's corporation tax regime has played a significant role in attracting FDI to Ireland. It was welcome that the Roadmap reaffirmed commitment to the 12.5% corporate tax rate. However, the overall tax regime and upcoming changes need to be monitored in the context of how various changes are implemented in EU Member States as well as any changes made in countries to take account of US tax reform.

ATAD, BEPS and Brexit

One of the key changes expected in Budget 2019 will be the introduction of Controlled Foreign Company (CFC) rules. As a result of the EU Anti-Tax Avoidance Directive (ATAD), Ireland is required to introduce CFC rules effective 1 January 2019.

CFC rules aim to deter companies from shifting profits into non-genuine low tax structures. The ATAD provides two alternatives to taxing the income of a CFC and the Department of Finance has confirmed that Ireland intends to implement "Option B", as included in Article 7 of the ATAD. Option B has two required elements to be met being income arising from (i) non-genuine arrangements which (ii) have been put in place for the essential purpose of obtaining

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a tax advantage. As included in Article 7 of the ATAD, two carve out options exist for Option B.

The introduction of CFC rules will have a significant impact on our existing Irish tax regime and hence it is key that taxpayers have an opportunity to consider the impact of this complex matter for their businesses.

Acknowledging this and in line with their commitment to do so, on 7 September 2018 the Department of Finance published a CFC Feedback Statement which encourages stakeholders to provide feedback on the proposed CFC rules that will be included in Finance Act 2018. Responses are required to the Feedback Statement by 28 September 2018 and we would encourage stakeholders to engage with this process. A number of areas in the Feedback Statement go beyond ATAD. We are of the view that Ireland's CFC regime should not extend beyond ATAD in order to maintain Ireland's competitiveness as a location of choice and welcome responding to the Consultation. We expect further updates in relation to the CFC rules throughout Q3 2018.

It was hoped by many that when introducing the CFC regime, that the Irish Government might also take the opportunity to make changes around the existing regime for foreign tax credits. However, the Roadmap has indicated that a public consultation will be launched in early 2019, seeking further input on the alternative options of moving closer to a territorial regime and simplification of the double tax relief rules. As such no changes are expected in this area in Budget 2019.

The ATAD also requires the introduction of an ATAD-compliant interest limitation rule, the general implementation date for which is 1 January 2019. However, Member States that have national targeted rules that are equally effective as Article 4 in the ATAD are granted a transitional period for implementation until 1 January 2024 or until such time that it becomes a minimum standard, if earlier. The Irish Government are of the view that our existing rules in relation to interest deductibility are equally as effective as those in the ATAD and therefore filed a notification with the European Commission in this regard. The Roadmap acknowledges that initial responses from the European Commission was that it has indicated a stringent ratio-based approach is required to have equally effective rules, which Ireland does not have. In the absence of a response from the European Commission at this point, it is not clear if the Irish Government will be required to implement the ATAD interest restrictions prior to 1 January 2024. This was confirmed in the Roadmap with the earliest transposition being flagged as Finance Bill 2019 (i.e. 1 January 2020). As a result of this a consultation process with taxpayers on this topic, and the ATAD anti-hybrid provision, is planned for Q3 2018.

The ATAD also requires the introduction of a general anti-abuse rule (GAAR) in Member States with effect from 1 January 2019. The general view is that Ireland's current Irish GAAR provisions are in fact more stringent and broader in scope than that under ATAD. This was confirmed again in the Roadmap, such that no changes are expected in this area of Irish taxation legislation.

The MLI permits changes to the interpretation of tax treaties without individual renegotiation. While the MLI was signed by Ireland in June 2017, ratification commenced in Finance Act 2017 and it is expected that the final steps required to complete the ratification will be completed before the end of 2018. The Irish Government needs to carefully consider the tax policy aspects in relation to implementation of the MLI given that Ireland has an extensive double tax treaty network that is vital for our competitiveness as an FDI location. In our view, the Government should reconsider the introduction of areas that are not minimum standards e.g. anti-fragmentation provisions for permanent establishments.

While Brexit negotiations continue, from an FDI perspective, no direct changes are expected to the Irish corporate tax regime in Budget 2019 as a result of Brexit. However, given that March 2019 is impending, it would be good to see further commitment from the Irish Government in terms of reviewing Irish tax law to ensure that there are no unintended negative consequences as a result of Brexit.

Transfer Pricing

While aspects of Action 13 of BEPS were enacted in 2015, the remaining changes arising from the BEPS projects in Action 13 and Action 8-10 were not formally legislated for in Ireland. As confirmed in the Roadmap, action in this area is not expected to happen in Budget 2019 but legislation will instead be introduced in next year's Finance Bill so we can expect changes to the Transfer Pricing rules from 1 January 2020. The Roadmap also signalled a public consultation in early 2019 to allow for changes in Irish rules to be made in a careful and considered manner as one coherent package and to allow stakeholders an opportunity to input into same.

Separately, it is important that additional resources be provided to the Revenue's competent authority division as companies value the ability to have a competent authority with adequate resources to be able to negotiate Advance Pricing Agreements especially in the context of an Irish company holding IP.

Innovation

Ireland needs to continue to foster an innovative mindset and to enhance development in this area. Ireland's BEPS compliant Knowledge Development Box (6.25% tax rate) has had limited uptake to date but given it only applies for accounting periods on or after 1 January 2016, the KDB regime is still in its infancy.

It is important that the Irish Government continues to monitor the take up and effectiveness of the KDB to ensure it is achieving its objectives, while also ensuring that it is monitoring the evolution of other countries' IP tax offerings. At present the KDB is due to expire at the end of 2020. As such we would like to see that the Irish Government confirm its commitment to the regime by extending this expiration date beyond 2020, or removing the sunset provision altogether.

Given that many jurisdictions have similar R&D tax credit regimes, the Irish Government should consider further enhancements to our R&D tax credit regime. For example, increased flexibility for qualifying outsourcing regimes, together with increased cash refunds in the first year following the claim (as opposed to over three years) would help in improving the attractiveness of this regime.

Our view

The Roadmap has indicated a number of items that will be included in the upcoming Budget. The window of consultation in relation to the CFC rules is very short but we hope that the Department of Finance will take on board the comments provided in relation to the CFC Feedback Statement so that Ireland is not put at a competitive disadvantage compared to other EU Member States.

It would be helpful if the Budget provided certainty as to the rate of exit tax applicable following the changes to exit tax due to ATAD, although such changes would not need to be effective until 1 January 2020. However based on recent comments by Minister Pascal Donohue it would seem unlikely that this will be included in the Budget.

The Irish Government also need to ensure that Ireland continues to be a location of choice for FDI. It is therefore important that the Irish Government also addresses the wider aspects of Ireland's offering and in particular in relation to housing, education and infrastructure in Budget 2019.

Our prediction

Amendments to legislation are imminent due to the deadlines for implementing the ATAD actions and further BEPS actions; the introduction of CFC rules will be the most significant change. While the Irish Government's commitment to pro-active consultation regarding proposed new taxation measures is welcome, given the complexity of many of these changes and the short timeframe for implementing same, it will be important that the Irish Government does so in a manner that is clear, unambiguous and transparent for taxpayers.

The European Agenda

The EU's Anti-Tax Avoidance Directive (ATAD) has to be implemented into our law over the next number of years. This year's Finance Bill will legislate for the Controlled Foreign Company Rule (CFC) contained within the directive and has been mentioned throughout this document.

The draft legislation contained in the feedback statement has taken much of the above on board but goes beyond the ATAD's requirements. Among various other issues, it seeks to ensure that companies other than the controlling company can have income attributed to them rather than the controlling company. Further, the ATAD requires that the controlling company own 50% of the voting rights, capital profits available for distribution whereas the draft legislation contained in the Department's feedback statement uses a provision existing within current Irish legislation which also includes a company's ability to acquire such rights in the future. Therefore it would appear that Ireland may be leaning towards a "best in class" or more stringent approach regarding the implementation of the Controlled Foreign Companies rule whereas other countries may not. In our view it is necessary that a desire to engage in "best practice" does not lead to Ireland agreeing to non-mandatory or more onerous provisions which are contrary to its competitive offering and position going forward.

On a separate matter, the EU Tax Intermediaries' directive which requires mandatory reporting by tax intermediaries and the automatic exchange of information by the tax authorities of member states for certain cross-border arrangements in relation to individuals, companies and other entities took effect earlier this year. The directive, which takes the form of an amendment to the Directive for Administrative Cooperation (DAC), is part of the efforts to tackle tax abuse and ensure fairer taxation in the EU, and broadly reflects the elements of action 12 of the BEPS project on the mandatory disclosure of potentially aggressive tax planning arrangements.

The directive will provide EU tax authorities with information about such schemes by requiring intermediaries, such as tax advisors, accountants, banks and lawyers, who design and promote tax planning schemes for their clients, to report to the tax authorities in the country in which they are resident any cross-border tax planning arrangement they design or promote that contains specific broadly defined criteria ("hallmarks"). That EU member state then will share the information with all other member states on a quarterly basis. Penalties will be imposed on intermediaries that do not comply with the transparency measures.

If the taxpayer develops the arrangement in-house, or is advised by a non-EU adviser, or if legal professional privilege applies, the taxpayer must notify the tax authorities directly. The directive will apply as from 1 July 2020, and member states will have until 31 December 2019 to transpose it into their national laws and regulations. It should be noted that arrangements, the first step of which is implemented between the date the directive entered into force (June 25, 2018) and its effective date (1 July 2020), would have to be reported by 31 August 2020. However, it is likely that we will not see the legislation implementing the directive until Finance Act 2019 so taxpayers need to be aware that transactions being entered into currently may have to be reported.

Our view

The implementation of the above directive will create substantial change to our law and practice. In our view the CFC rule if implemented in the form suggested by the Feedback Statement goes beyond the requirements of the ATAD and may bring about tax competitiveness questions.

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Our prediction

It is to be hoped that the suggested CFC rule in the Feedback Statement will be amended to take account of competitiveness comments which should be reflected in responses to the above statement.

Tax and Entrepreneurship

There is no doubting the importance of FDI to the Irish economy but do the exchequer figures indicate an overreliance? Last year, 80% of the corporation tax payments were made by foreign owned multinationals and 40% of all corporation tax collected is now paid by just ten companies. This is the first Irish budget since the US reformed their tax system and the Irish government have a real opportunity to signal how we will reduce the reliance on multinationals and to provide more support for Irish entrepreneurs to invest, grow and expand indigenous Irish businesses.

CGT entrepreneur relief

The lack of attractiveness of Ireland's entrepreneur relief, when compared to the UK equivalent, have led to repeated calls for the Irish regime to be aligned with the UK system. As many will be aware, under the UK regime a 10% CGT rate applies on gains up to £10 million whereas under the Irish regime the lower rate only applies on gains of up to €1 million in a lifetime.

Some commentators would argue that the cost to the exchequer is not justified as entrepreneurs do not make business to set up a company based on tax rates. However, one of the key benefits of entrepreneur relief is that entrepreneurs would have more capital to foster and grow their next venture. We need to be encouraging serial entrepreneurs.

The recent Tax Strategy Group (TSG) report also acknowledged that reduced CGT can also boost entrepreneurship and investment from those not directly involved in the management of the companies.

With significant uncertainty remaining as to what form Brexit will take, and with many entrepreneurs evaluating where they will base themselves in a post-Brexit world, any changes to attract them to Ireland have to be welcomed.

There may be a variety of commercial reasons why an Irish trading group would be held by a Holding Company which would ultimately sell the operating companies. In such a scenario, entrepreneur relief is not available to shareholders when they ultimately wind up the Holding Company. The corresponding UK regime allows the relief to shareholders in such scenarios, subject to some restrictions, and this is an area that there is merit to be considered in Ireland.

Tax efficient financing arrangement

Another avenue for the government to support entrepreneurial activity would be the introduction of a tax efficient financing arrangement for SMEs. This could include the introduction of a special loan finance arrangement whereby individuals could lend money to SMEs and, provided certain safeguards are in place, the individual would be taxed on the interest received at the standard rate of income tax (i.e. 20%) as opposed to the marginal rate of income tax (i.e. up to 55%). At a time when interest rates being offered by banks remain at historic lows, the introduction of such an incentive could provide SMEs with much needed funding and an incentive for individuals to provide them with funding. Such a regime would also compliment the EIIS scheme, which provides tax relief for individuals making equity investments in companies.

EIIS

While the EIIS provides some finance options to SMEs the scheme is overly cumbersome, particularly with respect to follow up investment for which relief is no longer allowed where the original business plan did not explicitly state that this follow on investment was foreseen. The number of

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applications in 2017 was half that in 2016 and investor appetite for this scheme has certainly waned.

Similar to Entrepreneur Relief, the Irish EIIS regime is lacking when directly compared to the UK regime. Income tax relief is available in both Ireland and the UK but in addition to providing for more generous company and investor limits, the UK regime enables UK investors to sell their shares without any CGT (in Ireland CGT applies at a rate of 33%). We would like to see the Irish EIIS being enhanced to bring it in line with the corresponding UK relief.

Our view

In order to further support and encourage entrepreneurs, amendments to Entrepreneur relief and the EIIS are required to bring these reliefs more in line with their UK equivalents. For those investors that are not influenced by tax rates, support should be provided by way of introducing a tax efficient financing arrangement for SMEs.

Our prediction

While there may be changes to entrepreneur relief, any changes are not expected to be sufficient to bring the Irish regime in line with the UK regime. It might be the case that more fundamental changes would make a bolder statement of intent, particularly with a view to attracting entrepreneurs to Ireland post-Brexit.

It is unlikely we will see any major changes to EIIS, or the introduction of a new SME financing regime, but at least signalling the intent to evaluate such changes, or similar ones, would be a hugely welcome step in acknowledging the need to do more to support indigenous businesses.

Individuals

The Central Bank's latest quarterly financial accounts report that Irish households are wealthier than they were during the boom. Broadly, this arises as house prices have gone up and debt has been paid down. However, most households will not be feeling the benefit of this wealth increase as in the 10 years since the crash, few individual taxpayers have seen an improvement on the very heavy tax burden they continue to bear.

There is a need to consider the impact the tax regime for individuals is having on our entrepreneurial culture, on international competiveness, incentivising people back into the workplace and on the housing market.

You have to ask the question why is Ireland the poster child once again in terms of its financial recovery. I believe the reason is because Ireland is driven by a deep-rooted entrepreneurial spirit. This is evident in the number of wonderful Irish business success stories we read about every day. Although how does our tax system reward our entrepreneurs? If you are self-employed you pay 3% more on your earned income than a person employed and earning the same amount. If you are fortunate enough having taken the risk of starting the business and creating employment and you successfully sell the business you are paying significant amounts in CGT as the current entrepreneur relief is inadequate. The Tax Strategy Group ("TSG"), a government "think tank" which makes recommendations for consideration as part of the budgetary process, has called for improvements to the relief. This has to be a priority in this budget. In the Brexit era we need to encourage new businesses to start up and stay in Ireland. So the Government should start with two simple things – improve entrepreneurial relief and align the USC for self-employed income with the employed income rate.

From an international competitiveness point of view, whilst our top income tax rate is 40% - USC is the main factor driving up our marginal rates to 52% for all income over €70,000 and 55% for non-PAYE income over €100,000. These headline numbers have to be seen as a negative from an international competitiveness point of view. You have to remember that USC was brought in as a "blunt instrument" during the crash to "shore up" our finances. It is time to re-examine its presence in the tax system – it has been promised but it is taking too long. In the meantime, the TSG recommended reducing the USC's highest rate of 8% on income over €70,000 plus and we would agree. However not forgetting also to align the self-employment income rate with the employment rate.

On income tax generally, it would be a positive move if the standard income tax rate band was increased thereby raising the entry point to the higher rate band – that would benefit all and may make us feel a little "wealthier".

Any measures which have the effect of both reducing the tax burden and bringing the marginal rates closer to 50% or even below can only be seen as positive in terms of our competitive position globally and to assist people in re-joining the workforce.

Given the ongoing crisis in the private rental sector there may be scope for some measure to stimulate that sector and to increase the housing stock available for long-term letting. There has been a lot of discussion recently in relation to the negative impact of short-term lettings on the long-term rental stock. Whether there would be any targeted measures introduced in this regard, or simply a positive measure for landlords remains to be seen. It would however be helpful to fully restore the interest deductibility on loans taken out to purchase, improve or repair rented residential property. Currently the deduction is restricted to 85% and will be fully deductible by 2021. A further incentive may be to allow for a deduction of the 'LPT' (Local Property Tax) paid by landlords in respect of rented property, or the provision of a more favorable tax regime

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where landlords commit to longer term leases.

In the area of gift and inheritance tax, given the increasing values of property prices, and the significant curtailment of reliefs and exemptions (e.g. the dwelling house exemption is now almost obsolete) an increase in the tax-free thresholds should be forthcoming, in line with the measures included in the programme for government. Any increases are likely to be to the class 'A' threshold on gifts/inheritances between and parent and child. The programme for Government references restoration of this threshold to €500,000. While a restoration to this level would not be expected in a single Budget, some movement should occur as the current threshold of €310,000 is a long way off the Government objective.

The rate of capital gains tax remains high at 33%. It would be encouraging to see a reduction in the rate of CGT in this budget. If you cast your mind back to the 1998 Budget when the CGT rate was halved form 40% to 20% - the move was seen as one of the most controversial of its time. However, it was designed to promote economic growth by encouraging people to dispose of assets which could be used more productively. The net effect was that the Government coffers benefited from the huge increase in revenue. Does the Government of today need to make a similar bold move? A reduction of the CGT rate should trigger an increase in the level of disposals with the costs of such a reduction somewhat offset by the increase in the number of such disposals. With so much wealth currently tied up in investments, any measure to assist/encourage the release of such funds, which may be made available for investment in other areas of the economy would be welcome.

Our view

Significant reforms to the income tax regime are required. While the reforms by way of the merger of PRSI and USC have been announced, the pace of reform is slow. The ongoing high levels of personal taxation and the complexity of the system are certainly in need of attention - an indication of the likely timescale for change would be welcome. Ongoing high rates of CAT and CGT continue to affect the level of transfer of wealth, thus resulting in a significant amount of wealth being unavailable for investment into the wider economy and new business ventures.

Our prediction

While no major changes are anticipated in the area of personal taxation, we would expect to see some adjustments to income tax/USC, as well as adjustments to the tax-free thresholds for gift/inheritance tax. An increase in the entry point to the higher rate of income tax would be one measure that might be expected, albeit the size of the increase may not be significant. Some measures for the private rental sector should be forthcoming, but at a minimum, we would expect the interest deduction on borrowings to be accelerated. A reduction in the CGT rate could have a positive impact. However, we will more likely see a measured reduction rather than a significant one.

Finally, as a Brexit proofing measure the stamp duty rate on shares could be reduced to 0.5% in line with the UK rate.

Financial Services

While the immediate focus is on Budget 2019 and what it might hold for Financial Services (FS) companies, it is impossible to ignore the recent publication of Ireland's Corporation Tax Roadmap issued by the Irish Government/ Department of Finance as aforementioned above.

Key roadmap messages

Before commenting on some of the specific aspects of the roadmap, what is important is that it reiterates some key messages that I believe are important in the international environment in which FS companies operate-

01. Continued commitment to the 12.5% tax rate.
02. Ireland is not a tax haven.
03. Ireland is committed to international tax reform and has taken significant actions on corporate tax over the last five years.

Some of the changes in Ireland's tax framework include changes in corporate tax residence rules, enhanced tax transparency and exchange of information, early adoption of the Multilateral Instrument (MLI) and agreement of the various EU and OECD initiatives on Base Erosion Profit Shifting (BEPS) and Anti-Tax Avoidance Directives ("ATADs"). For a number of the BEPS and ATAD initiatives, Ireland has been an early adopter and in other cases our existing rules were already best practice.

Impact on financial services

You might well ask, why is the Roadmap relevant to Budget 2019? It is relevant for three main reasons;

01. It confirms that the introduction of new rules on Controlled Foreign Company "CFC" and the MLI will be in Finance Bill 2018, as anticipated.
02. It is the first sign that amendments to our interest deduction rules are likely to occur prior to the anticipated 2024 date. The earliest the rules will be introduced will be in Finance Bill 2019, but the effective date is uncertain.
03. It illustrates the significant challenge to draft the volume of detailed and complex legislation in a short space of time. Given that challenge, the authorities will not be looking to make other tax changes while they have this burden ahead of them- put frankly, they have enough on their plate already.

The CFC and MLI rules will apply to the FS sector but their impact will vary on a case by case basis. As mentioned above, these changes have been flagged for some months now and all FS companies should be assessing what these rules mean to them given the 1 January 2019 effective date (and the current consultation) on CFC. The MLI is likely to have a 2020 effective date.

Of more significance to the FS sector are the rules around hybrid mismatches and reverse hybrid mismatches ("hybrids") and the interest limitation rules outlined under the EU ATADs.

The legislation governing hybrid mismatches will be introduced into law in Finance Bill 2019 for a 1 January 2020 start date, with the anti-reverse hybrid rules coming into effect on 1 January 2022. There has always been clarity around the hybrid dates but the Roadmap has indicated a possible acceleration of the interest deductibility rules which is a new development. Although Ireland is of the view that our interest deductibility rules are robust and there are case studies which support the position that Ireland should not have to adopt the ATAD rules until 2024, it is unclear whether the EU concur given the stringent ratio based approach being taken to determine if the rules are "equally effective" to the ATAD Article 4 provision. As a result, it makes sense to have a consultation process on the impact of both the anti-hybrid and interest deductibility rules at the same time. The reality is that Ireland may be forced

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into introducing the interest rules in advance of the intended 2024 deadline if following engagement with the EU they don't agree to the 2024 extension or if the interest limitation rule is adopted as a minimum standard.

Interest limitation rules

If we assume that some regulated financial institutions such as licensed banks and insurance companies will benefit from a carve out from the rules, it will still mean that any change in interest deductibility is likely to have an impact on a variety of FS operations, particularly securitisation, leasing and treasury companies. Of particular concern will be the timing of such rules coming into effect and whether there is sufficient time for companies to review their financing arrangements, model the impact of the rules and restructure where needed. How the rules will be interpreted will be critical to their operation as one of the concerns is how wide (or narrow) the definition of borrowing costs will be. For example, will it include fair value movements on the debt from which interest income arises? If not, many securitisation structures would be severely impacted where the interest on loan notes matches income and gains, but where those income and gains includes such fair value movements. There is a concern that securitisation structures which have non-interest income (e.g. dividends and leasing income), will suffer increased taxation of any interest costs currently sheltering such income and gains will be considered excess interest and subject to the interest limitation rules (resulting in non-deductibility of interest and tax payable in Ireland at 25%).

Anti-hybrid rules

The rules on hybrids are wide ranging. It means looking at all arrangements to consider if you have a hybrid entity or instrument in your structure to see whether they could fall within scope. The impact of being in scope can include non-deductibility of payments on a hybrid instrument as well as changing the current treatment of a hybrid entity in the future. For something like a profit participating note in a securitisation vehicle, it has the potential to be a hybrid instrument if Ireland treats the payment on the note as interest, but the recipient treats it as a dividend. Other examples include examining whether a hybrid entity would include an Irish Common Contractual Fund that is tax transparent in Ireland but not transparent in Japan? Is stock lending over dividend dates now a "structured arrangement"? This is just to give you a flavour of the challenges that lie ahead.

Our view

There are lots of tax changes that I would like to see in the budget from an FS perspective and I have mentioned them many times before such as SARP enhancements, carried interest rules and modern deferred compensation tax frameworks. However with the volume and complexity of legislation that the authorities need to draft they won't want to be distracted with anything else. If there are any changes, it will be small technical amendments to existing legislation.

Our prediction

You don't need that crystal ball to tell you that a raft of legislation will be coming down the tracks in the next couple of years. What is important is that you get involved in shaping those rules as it is vital that any change in the tax infrastructure is appropriate but not over engineered.

Consultation on the CFC rules is ongoing at the moment, closing on 28 September 2018 (having been announced on 5 September 2018). Further consultation on the interest and anti-hybrid rules will be in Q3 2018. Make your voice heard – the changes will have long lasting implications for the FS sector and for the Irish economy as a whole.

Real Estate

Another year on, undersupply of residential housing remains the key issue in our property market. In the rented residential sector, the number of landlords at the end of 2017 was 18% lower than it was in 2012.

Contributing factors to this decline include:

- Higher prices allowed accidental landlords to exit the market. These landlords have not been replaced.
- Perception that the reward for being a landlord does not justify the risks/costs of investment i.e. the high rents on offer do not outweigh the high cost of acquisition, the interest costs on debt funding, the rent cap in rent pressure zones and high personal tax rates on rental profit.
- Insufficient number of apartments being developed.
- Stock which might otherwise be used for new tenancies being used for short term lettings with investors seeing same as a more appealing route to market (e.g. the rise of 'Airbnb' "hosts").

The suggestion that institutional landlords might be responsible for this decline is not supported by the statistics which show that at the end of 2017, 70% of landlords held just one rental property.

With FDI remaining crucial to Ireland Inc., it is imperative that action is taken to improve the supply of available stock to ensure Ireland does not lose out due to an inability to house new workers.

On a positive note, increased focus in the past year on the development of student accommodation should positively influence supply pressures. In the absence of unplanned private sector movements such as this, the budget available to the Government to make meaningful changes remains small.

Stamp duty on commercial property transactions increased from 2% to 6% in October 2017. It was hoped that this change would bring in additional revenue of €376m. The stamp duty intake was €38m (34%) below target at the end of June 2018.

A stamp duty refund scheme was also introduced for residential land with the intention of ensuring the net rate payable by a purchaser would remain 2% where land was used for the development of housing. The Government has faced criticism on the design of the scheme from industry participants who have described it as unnecessarily complex and impractical. As this refund scheme only recently became operable, it remains to be seen how refunds will impact on the intake target for the year.

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Our view

The decline in the number of residential landlords is compounding supply issues in our property market. Recent discussions on what can be done to incentivise long term lettings is welcome but immediate action is needed to keep existing landlords in the market and to drive new entrants to the market.

The introduction of a personal tax credit for landlords should encourage new entrants to participate. Full interest relief on residential lettings should be re-instated immediately given the current practice can still result in a tax liability for landlords where no economic profit was made. In addition, consideration should be given to allowing the LPT as tax deductible for landlords at least until the supply issue has been overcome. Furthermore, we suggest reducing the write down period for capital expenditure on plant and fit out from 8 years to 5 years.

On the residential stamp duty refund scheme, consideration should be given to engaging with industry participants to make the stamp duty refund scheme workable in practice.

To further help with underutilised housing stock, "empty nesters" could be incentivised to downsize by introducing a stamp duty exemption for those who sell their home and relocate to a smaller property. Incentives to develop new retirement communities may also help to free up housing stock.

To mobilise large scale capacity in the development sector, consideration could be given to providing for a tax exemption on profits which relate to the development and sale of social housing. The Government should encourage local authorities and the private sector to work together to carry out the developments necessary or indeed partner with the private sector to develop same.

All of these measures would help the current market in our view.

Our prediction

We noted last year that the challenges in the property sector would only get worse if insufficient action was taken. On review, little has changed.

We hope that some of the measures suggested above or similar measures are taken to protect existing stock and bring new supply into to the market.

On a separate note, given the increase in residential property prices since the first valuation date for LPT in 2013 and the next revaluation date in November 2019, it is likely that changes will be made to how the tax is calculated to ensure LPT remains affordable post the revaluation.

If the Government fails to meet its intake target with respect to stamp duty on commercial property, we may see the rate increase further. It is hoped that rather than taking this approach the Government would incentivise activity in the development and rental sectors of the market instead which should drive additional tax revenues as a result of this increased activity.

We await the October budget with interest.

Global Mobility, Immigration and Employment

Share-based remuneration
In a widely anticipated move the Minister announced the introduction of the Key Employee Engagement Programme (KEEP) for SMEs in Budget 2018. The scheme was broadly welcomed by Irish private companies and their employees as it provided for a deferral of tax on the exercise of share options until the point of sale and a taxation of the gain at Capital Gains Tax rather than Income Tax rates. However once the legislation was published it became clear that the scheme has limitations which make it unworkable for many SMEs. One of the most notable drawbacks is the capping of an award at 50% of the annual emoluments of the individual for that year. The options must be granted at market value thereby requiring share valuations to be performed which will place additional cost burdens on employers wishing to avail of the scheme. In addition, the company has a number of technical restrictions and also has to continuously monitor its issued but unexercised options throughout the grant to vest period to ensure the market value does not exceed €3m.

PAYE modernisation
Real time payroll reporting will come into effect on 1 January 2019. This has been acknowledged as being the most significant change in the PAYE regime since it was first introduced which will present challenges to Irish employers to capture and report payroll data on a real-time basis. Revenue have indicated that employers who operate shadow payroll for expatriate and mobile employees will be under the same obligation to report payments and benefits on or before the payment date. This is causing significant concern for Irish employers due to the complexities associated with establishing the amounts ultimately liable to Irish tax in light of net pay arrangements, multiple payment sources and the impact of Irish workdays and currency adjustments. The practical difficulties in obtaining details of compensation and benefits from overseas jurisdictions in a timely manner should not be underestimated and is an area which is outside of the control of the Irish based employer.

Mobile employees
In light of the potential opportunities arising out of Brexit it is vital that Ireland is well positioned to attract companies who are considering relocating out of the UK to another EU jurisdiction. Our marginal rate of 52% is one of the highest in the EU and puts us at a competitive disadvantage compared to other countries competing for this inward investment.

The Special Assignee Relief Programme (SARP) is a valuable initiative aimed at encouraging skilled personnel to relocate to Ireland by granting an exemption from income tax for 30% of earnings over a €75,000 threshold. However changes introduced in 2015 place on obligation on employers to certify within 30 days of the assignees arrival that the employee is a 'relevant employee' for the purposes of the relief. This has resulted in certain individuals being denied the relief for the duration of their assignment due to administrative delays or oversights.

Attracting foreign workers in a full employment environment is essential in order to drive domestic economic growth. Irish companies can and should leverage the experience and expertise of overseas counterparts to benefit their business locally. Revenue's recently updated guidance on temporary assignees working in Ireland has significant negative implications for overseas personnel who regularly travel to Ireland for business meetings or short-term projects. The changes mean that there is potentially a payroll obligation for individuals who spend minimal days in Ireland each year or at the very least an increased administrative burden on companies to track the movements of these individuals in order to apply for a dispensation from payroll withholding.

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Our view

The marginal rate of tax should be reduced from its current level of 52% and the entry to the higher rate of tax should be increased. At the very least a roadmap should be put in place to demonstrate to workers when this burden will be reduced.

The KEEP legislation needs to be amended to achieve the stated aim of helping Irish SMEs to recruit and retain appropriately skilled workers. The UK equivalent share scheme, the Enterprise Management Incentive, does not cap the value of the share options granted by reference to the employee's annual emoluments and it would be a step in the right direction to remove this restriction. We would also welcome the introduction of a mechanism to agree the valuation of a company with Revenue for KEEP purposes in line with the UK regime. A further enhancement would be to allow the option period to be included for the holding period requirements of the CGT Entrepreneur relief. Furthermore the extension of the KEEP scheme to employers who do not meet the SME thresholds would greatly enhance Ireland's competitiveness in the global war for talent.

The UK introduced real-time payroll reporting some years ago however HMRC relaxed the strict reporting obligations for tax equalised foreign employees working in the UK whereby employers could avail of a Modified PAYE arrangement. The advantage of this relaxation is that PAYE can be calculated and reported monthly on an estimated basis and a review is carried out pre-year end to adjust for any material changes. A similar arrangement should be introduced in the context of Irish PAYE Modernisation which would ease the administrative burden for employers in complying with their reporting obligations for inbound workers.

A reinstatement of the long-standing practice of treating not more than 30 workdays as being incidental and exempt from payroll withholding would provide much needed certainty to companies and would enhance Ireland's attractiveness for businesses considering locating here as a result of Brexit and other global economic conditions.

The obligation for employers to certify within 30 days of arrival that an employee is eligible to claim SARP should be extended to a more practical timeframe e.g. 90 days. There should be no adverse implications in terms of Departmental oversight of the impact of the incentive as the certification process merely provides details of the number of individuals seeking to avail of the scheme rather than the associated tax cost.

Our prediction

We predict that there may be minor amendments to the KEEP scheme to encourage uptake by employees of Irish private companies however unfortunately we do not expect to see an extension of the regime beyond the SME sector or any relaxation of the CGT entrepreneur relief holding period for KEEP options.

We expect that employers will see an increase in Revenue interaction in terms of compliance checks and onsite visits as we move towards the go-live date of 1 January 2019 for real time payroll reporting. We are hopeful that Revenue will provide greater clarity around the penalty regime for payroll corrections in the context of shadow payrolls and certain non-cash benefits where accurate information may not be available in real-time.

We predict that there will be no fundamental changes to the income tax regime, particularly in light of recent data published indicating that we are now at the highest level of employment ever within the State. While there may be minor tweaks to the bands, we would not expect any material reductions in the tax rates. We remain hopeful that there will be some practical changes introduced to reduce the administrative burdens for employers, but given experience over the past few years, this is more in hope than expectation.

Glossary

ATAD	Anti-Tax Avoidance Directive
BEPS	Base Erosion and Profit Shifting
CAT	Capital Acquisitions Tax
CFC	Controlled Foreign Company
CGT	Capital Gains Tax
EIIS	Employment Incentive and Investment Scheme
FDI	Foreign Direct Investment
GAAR	General Anti-Abuse Rule
GDP	Gross Domestic Product
HMRC	Her Majesty's Revenue and Customs
KDB	Knowledge Development Box
KEEP	Keep Employee Engagement Programm
LPT	Local Property Tax
MLI	Multilateral Instrument
OECD	Organisation for Economic Cooperation and Development
PAYE	Pay as you earn
R&D	Research and Development
SARP	Special Assignee Relief Programme
SME	Small-to-Medium Enterprises
TSG	Tax Strategy Group
USC	Universal Social Charge

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