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Budget perspectives 2020.
Captured in full.

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Introduction

Deloitte Ireland's tax experts have analysed Budget 2020 and are pleased to provide our perspective on what it will mean for you, your family and your business.

Deloitte's tax specialists in Ireland have analysed Budget 2020 and are pleased to provide our perspectives on what it means for you, your family and your business in the future.

We invite you to view our articles and some analytics about the Government's financial position. Please also find a link to view and download our infographic. Feel free to follow our Budget commentary on Twitter at @DeloitteIreland. Our budget highlights video can also be viewed here.

While previous budgets took place against a backdrop of relatively strong and balanced domestic economic growth, the context and the environment for the current Budget is somewhat more challenging and has been developed "in the shadow of Brexit".

Against a backdrop of potential domestic overheating and foreign disruption, Budget 2020 has been formulated on the assumption of a no-deal Brexit outcome at 31 October 2019. Accordingly, the Budget announced by the Minister involves a budgetary package of just over €2.9 billion for 2020.

Throughout the course of the Minister's Budget speech, it has become apparent that the tax and fiscal policy for 2020 has been very much shaped by concerns relating to Brexit, the environmental agenda, EU and OECD developments, and pressing social issues such as housing and property. A range of Brexit related supports and measures were announced in the Budget, with a particular focus on the food/agri sector, vulnerable but viable businesses, and tourism.

The environmental agenda has undoubtedly gained significant traction in recent times, and its presence has been noted in the introduction of increased carbon taxes and a new nitrogen oxide charge on petrol and diesel cars in the Budget. Relief for hauliers who are likely to experience increased cost pressures as a result of Brexit, was announced and is a welcome development for those involved in this industry sector.

An increase in dividend withholding tax from the current rate of 20% to a new rate of 25% was announced with a view to improving cash flow for the Exchequer. With a range of exemptions at both domestic, EU and treaty level available for dividends paid to corporate shareholders, it is expected that the improved cash flow will be driven from dividends paid to individuals. While the withholding tax rate increase does not impact the final level of tax due by Irish tax resident shareholders, it is clear that the measure is also targeted at avoidance or non-declaration of dividend income by taxpayers to date, where a higher rates of tax should have been accounted for.

While we welcome the Minister's ongoing commitment to the 12.5% corporate tax rate, it is clear that international tax developments at EU and OECD level continue to dominate the corporate tax agenda. Significant reforms to the Irish corporate tax code from 1 January 2020 were noted by the Minister in his Budget announcement.

Notable changes to Irish corporate tax rules will be the introduction of anti-hybrid rules from 1 January 2020 to deny tax benefits obtained in cases of cross border arbitrage through differing characterizations of instruments or entities for tax purposes. The true scope of the new rules

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will rest on the wording contained in the Finance Bill 2019.

Finance Bill 2019 will also see the introduction of revised Transfer Pricing rules in Irish law. The changes to our domestic Transfer Pricing rules are the most significant change in the Irish law in this regard since the introduction of Transfer Pricing in 2011. Continued guidance and stakeholder engagement on the new changes and their application in practice will be key in the coming months and years.

The ever present issue of housing and property was further highlighted in the Budget through extensions to the Help to Buy scheme, in addition to an increase in stamp duty on commercial property. While such changes are undoubtedly geared towards influencing the actions and investment decisions by property developers towards more residential construction, we would advise caution to the extent that such measures could unduly slow down commercial development and investment post Brexit. There are other potential measures on the tax policy side that could be considered to assist with supply in the residential sector.

While there were very limited changes on the personal tax side, a range of measures to assist with the cost of living were announced by the Minister. Measures to support entrepreneurship and Irish business were also announced, including positive changes to the R&D Tax Credit regime (increasing outsourcing limits and increasing the credit to 30% for small and micro companies). Some positive changes to the Key Employee Engagement Programme and Employment and Investment incentive are being introduced, and other tax reliefs which were due to expire have been extended to 2021 or 2022. Overall however, there continue to be opportunities to enhance a range of these measures further to support entrepreneurship and the domestic economy.

Overall, Brexit and other international pressures remain key challenges to the Irish economy in the short and medium term. 2019 has been a year of consultations on the various proposed changes to the Irish tax landscape, and it is our hope that this trend of stakeholder engagement continues as we move into the Finance Bill process.

We hope you will find Deloitte's commentary on Budget 2020 useful and look forward to bringing you further insights on the Finance Bill when it is released.

If you have any questions on what the Budget means for you or your business, please do not hesitate to speak with your usual Deloitte tax adviser or any member of the Deloitte tax team.

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Budget 2020
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Business

Measures impacting international and domestic businesses

Brexit fund of €1.2 billion to protect businesses and citizens from the impact of a no-deal Brexit

Modernisation of **transfer pricing rules**, introduction of **anti-hybrid rules** and increase in **dividend withholding tax** rate to 25% for 2020

Targeted enhancements to the **R&D** tax credit, **KEEP** and **EII**, with extensions to **SARP** and **FED** to 31 December 2022

Budget 2020 aims to prepare Ireland for Brexit, secure sustainable growth and continue the implementation of international tax reform

Personal

Budget 2020 contains measures to reduce the income tax burden on the lower paid

Increase in the **Home Carer** Tax Credit (+€100), the **Earned Income** credit (+€150), and a 1 year extension to the **reduced USC rate** for medical card holders

Expansion of **medical card** scheme for over 70s, **GP care** for under 8s, and **dental care** for under 6s

Increase in **Group A inheritance tax threshold** from €320,000 to €335,000

These measures should assist lower and middle income earners.

Sustainability & Housing

Tax measures to improve Ireland's climate impact and to maintain a balanced property market

Carbon Tax increase of €6 per tonne, new **VRT Environmental Health Surcharge** and extension of **VRT relief** for hybrids and plug-in electric vehicles

Extension of **Help-to-Buy scheme** and **Living City Initiative** until 31 December 2021

Stamp duty on non-residential property to increase from 6% to 7.5%

Budget 2020 aims to deliver on Ireland's commitment to climate action and to ensure a sustainable property market

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Individuals

Key measures:

- There have been no changes to the income tax or Univeral Social Charge ("USC") rates or rate bands.
- The reduced rate of USC for medical card holders has been extended for a further year until the end of 2020.
- The earned income tax credit for the self-employed is to be increased by €150 to €1,500.
- The home carer tax credit has been increased by €100 from €1,500 to €1,600.
- Dividend Withholding Tax ("DWT") on dividends paid from Irish companies will increase from 20% to 25% from 1 January 2020 and will increase further in line with the individual's tax rate from 1 January 2021 onwards.
- Farm restructuring relief from capital gains tax (e.g. on selling and purchasing or exchanging parcels of land to bring them closer together) has been extended to 2022 with no changes to relief.
- The CAT class A threshold (the tax free threshold on gifts and inheritance passing from parents to children) has been increased by €15,000 to €335,000 from €320,000.

When? What to do now?

The majority of measures will apply from 1 January 2020 (with the exception of the further increase in the CAT class A threshold which will apply from 9 October 2019 and the DWT which will apply from 1 January 2021).

Our view

The risk of a no-deal Brexit has heavily affected the ability of the Minister to make the further reductions in USC rates and the income tax/USC rate bands that the Government had previously committed to. However, given the projected reduction in growth from 5.5% in 2019 to just 0.7% in 2020 in the event of a no-deal Brexit, it is not surprising that the Minister has exercised considerable caution. Nevertheless, in the event that a no-deal Brexit does not materialise, it would be hoped that the Minister might consider reassessing the budget measures and providing some relief to taxpayers.

The increase in DWT with effect from 1 January 2021 to link in with the PAYE modernisation system is interesting. For the majority of compliant taxpayers this will merely result in an acceleration of the payment of their tax liabilities. For some individuals with significant dividend income and little in the way of any other taxable income, it should mean that they will have paid all of their income tax before they have even filed their income tax returns which is a considerable difference to the current regime.

The increase in the CAT Class A threshold is welcome but the government are some way off returning this threshold to €500,000 and this is unlikely to happen any time soon.

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Tax and Entrepreneurship

Key measures:

- The earned income tax credit for the self-employed has been increased by €150 to €1,500
- The KEEP scheme will be amended to apply to company group structures (as opposed to applying to single companies), with a view to facilitating greater flexibility for employees to move within such structures. Further revisions to the programme will account for "part-time and family-friendly working arrangements" for KEEP employees.
- The Minister has also stated that there will be reforms to improve the Employment and Investment Incentive (EII) which was introduced in 2018 to include;

1. Full income tax relief which will be provided in the year of investment. This is a welcome amendment, favoured over the current form of the relief which was split over years one to four.
2. An increase in the annual investment limit for the incentive to €250,000.
3. A new €500,000 annual investment limit for those investors who are prepared to invest in EII programme for ten years or more.
4. The above listed amendments will take effect from today's date.

- With respect to the research and development tax credit, the Minister announced changes specifically aimed at assisting smaller companies. The R&D credit will increase from 25% to 30% for such companies. Improvements will be made in respect of the method of calculating the limit on payable credit. A provision shall be introduced to allow small companies to make an R&D claim in respect of qualifying pre-trading R&D expenditure prior to the commencement of a company's trade. The availability of the credit will be limited to offset against VAT and payroll taxes. The Minister has committed to increasing the limit for third level institutes of education to 15%, with a view to benefiting smaller companies who rely on outsourcing to undertake R&D.
- No changes have been made to CGT Entrepreneur's Relief (currently under review) while the SARP and FED schemes shall be extended in their current form until the end of 2022.

Non-tax measures:

In addition to the Brexit Loan Scheme and the Future Growth Loan Scheme (funding up to €600 million), the Minister has stated that the Government will be backing businesses by allocating nearly €1 billion to the Department of Business, Enterprise and Innovation in 2020.

Who will be affected?

Self- employed individuals and domestic companies.

Our view

While some measures have been introduced to support domestic entrepreneurship, it cannot be said that such taxation measures will create any radical improvements in terms of incentivising growth in the private sector by entrepreneurs.

As predicted, no changes have been made to the CGT Entrepreneur Relief, which is disappointing as the current relief is quite restrictive and contrasts starkly with the level of relief available in the UK. Updates to this relief would have been well received in an effort to support and incentivise entrepreneurs as we enter a period of uncertainty.

We welcome the changes to the EII scheme on foot of the significant changes last year. The provision of a full tax relief in the year of investment is a positive change along with the increase in the annual investment limit and provision of investment incentives for long term investors. It remains to be seen whether a difference in internal rate of return will arise for investors with a four year time limit as opposed to a ten year time limit as the ten year period may amount to a drag on investment return.

The combination of SARP, FED and KEEP is designed to facilitate cross border employees and in the case of KEEP, to incentivise employees through equity. However the level of take up in KEEP remains low and one must ask why?

It remains to be seen whether there will be any exclusions from transfer pricing in respect of domestic only transactions which would assist our domestic businesses. We await sight of the Finance Bill in respect of this area.

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Indirect tax (VAT)

Key measures

From a VAT perspective the only change was the announcement of a reduction in the C02 threshold for VAT reclaims on commercial vehicles.

The majority of the Indirect Tax changes are directed at transport. As expected carbon tax on auto fuels will increase by €6 per tonne with the result that the price of diesel and petrol will increase from midnight tonight, 8 October. The increase will apply to other fuels including home heating oil but only from May 2020.

A new Nitrogen Oxide tax will be introduced on the purchase of all passenger vehicles from January 2020. However, there was also some good news for motorists as the VRT relief for Hybrids is extended to 2020 subject to emission thresholds. Also hauliers will benefit from an increase in the diesel rebate scheme to offset against the increase in carbon tax.

The only change to tax on the "old reliables" was an increase in excise duty of 50 cents per pack of 20 cigarettes and pro-rata on other tobacco products.

Who will be affected?

The main changes are to transport costs which will impact a broad range of businesses across a variety of sectors.

Our view

We welcome the fact that there have been no major increases in the level of Indirect Taxes and the proposed changes to transport taxes should not be a "game changer" for any particular business sector. However, the increase in carbon tax and the introduction of the nitrogen oxide tax will be a cost for business which is always challenging but particularly so as we face the uncertainty of Brexit.

No details were given on the new lower C02 threshold for VAT reclaim on commercial vehicles and our hope is that the reduction will be kept to a minimum so that businesses can continue to reclaim VAT on their commercial vehicles.

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Financial Services

Key measures:

Budget 2020 contained some measures impacting the financial services industry, both directly and indirectly. Specific measures aimed at Irish Real Estate Funds ("IREFs") and Real Estate Investment Trusts ("REITS") have been introduced by way of Financial Resolution effective tonight. There was also an increase in the stamp duty rate from 6% to 7.5% for transfers of non-residential property. The changes are discussed in further detail by our Real Estate and Indirect Tax colleagues.

While not outlined by the Minister during his speech, the Tax Policy Changes document makes reference to amendments to the anti-avoidance provisions in S.110 TCA 1997 to ensure they operate as intended. The changes will be brought in via the Finance Bill so it will be interesting to see what exactly is proposed to a section with significant anti-avoidance provisions as it stands. A key measure, or more accurately a key omission, was the lack of any announcement or clarity on the introduction of the interest limitation rules in line with the EU Anti-Tax Avoidance Directive ("EU ATAD") and the timing thereof. While there are likely to be significant relieving measures for financial institutions when these rules do eventually come into Irish tax law, there will still be an impact on financial services industry participants and clarity is needed urgently on the proposed effective date of any such rules.

A substantial measure introduced in this year's budget is the introduction of anti-hybrid rules, as expected. Considerable public consultation went into the creation of the rules, which are being introduced in line with the EU ATAD. However given the complexity of the legislation the devil will be in the detail and so it will be important to analyse the proposed legislation in this year's Finance Bill. OECD 2017 Transfer Pricing Guidelines will be introduced into Irish tax law effective 1 January 2020. The expected extension of Transfer Pricing rules to "non-trading" and capital transactions, while anticipated, may impact some financial services entities.

The Minister referenced technical amendments to be made to the Exit Charge which was introduced in last year's budget. The amendment is by way of Financial Resolution and clarifies the scope of entities within the charge as well as the timing as to when a company ceasing to be resident in the State is deemed to have disposed of and immediately reacquired all its assets at their market value.

The applicable rate for the Financial Institutions Levy will be increased from 59% to 170% so as to maintain the €150m yield in 2019 and 2020. Finally, in a somewhat surprising change, the rate of dividend withholding tax has been increased from 20% to 25%. While not directly targeting financial services companies, given the frequent use of dividends as a method of cash repatriation it may have an impact on certain structures – albeit the expectation is this will be minimal. The increase in dividend withholding tax along with the amendments to property fund anti-avoidance provisions and the increase in stamp duty, were not widely anticipated.

Who will be affected?

Budget 2020 measures will impact the financial services industry as a whole, with IREFs and REITS a particular focus area.

When? What to do now?

Many taxpayers have already begun to actively consider the impact of anti-hybrid rules on their businesses. For those taxpayers who have not yet considered the impact they should do so urgently as the anti-hybrid rules will be in effect from 1 January 2020. It had been understood that changes to Transfer Pricing legislation would be introduced so this should not be a surprise however it remains important that taxpayers understand the potential bearing this may have.

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Our view

Stability and certainty are key requirements for taxpayers and the Minister referred to the importance of both in his budget address. While many budget measures were anticipated, others were not. In light of providing some forward looking certainty for taxpayer's, reference to when the EU ATAD interest limitation rules will be introduced would have been welcome.

Amendments and/or extensions to non-financial services specific reliefs, in the areas of KEEP, SARP and the R&D tax credit are welcome and may have a positive impact on the industry. The affirmation of the Government's commitment to Ireland's 12.5% rate remains important to hear.

Financial Services entities should consider the impact of changes in the IREF, REITS and S.110 legislation on their structures as well as the potential impact of significant amendments in the areas of Transfer Pricing and Anti-Hybrid rules. Financial resolutions have dealt with the changes to IREFs and REITs. The Finance Bill will provide a first look at legislative changes as a result of Transfer Pricing and Anti-Hybrids so watch this space.

Real Estate

Overview

As expected in the context of Brexit, on balance, the budget as it relates to property, contains little in terms of tax measures.

The housing crisis rumbles on and although indicators are that house prices are levelling off, this is probably more to do with fears over Brexit and mortgage limitations, imposed by the Central Bank, rather than supply keeping up with demand. The consensus is that we need to build at least 10,000 more homes per year to cope with demand.

Help to Buy Scheme

One successful measure is the Government "help to buy scheme", an effective tax credit of up to €20,000, i.e. €500,000 @ 4%, which can be claimed towards a deposit, is set to continue for another two years until the end of 2021. While this is welcome we had hoped for a longer term commitment to help new house buyers.

There were rumours that the cap on qualifying properties would be lowered in an effort to ensure that those who can already afford a home won't be subsidised. This has not happened this time.

Stamp Duty Increase

The Minister announced an increase in the rate of Stamp Duty on commercial property from 6% to 7.5% from midnight. He said that this sector should be able to sustain this increase without significant impact. Normal transitional arrangements will apply for transactions in process.

This will of course, have an effect on house prices because, although the rate of 2% remains on residential purchase, the land on which those dwellings are built is considered commercial land for stamp duty purposes. There is a tax refund mechanism available to refund the difference on completion of the dwellings which would reduce the stamp duty to 2% and this will continue. However, this scheme has proved complex and difficult to avail of in practice.

There was concern that the rate of stamp duty of 2% on residential properties with value above a certain threshold would also be increased. However, this hasn't happened. Perhaps the fear that this would deter further investment by large scale funds and institutional buyers has influenced the decision to leave the stamp duty rate on residential as is.

Otherwise for individual landlords there is nothing of significance to encourage them to remain in the rental sector. High personal tax rates don't make it easy to remain.

We need to encourage such investors back to the market and a lower rate of tax should be considered to do this. The reality is that the fund investors and the Real Estate Investment Trusts (REITs) have an effective 20% rate so why not match that for those in the population who can afford to help rebuild and rehouse our fellow citizens. It would be a fair measure.

Anti Avoidance for Real Estate Funds and REITs
The Minister announced that there would be anti-avoidance measures relating to property investment funds effective from midnight.

The measures include new provisions for Irish real estate funds, to ensure that the tax take from such funds is increased. The measures are targeted at what are termed aggressive activities, including the use of excessive interest charges to avoid the payment of tax in respect of profits from Irish property.

The anti-avoidance measures are being introduced to address these issues, including the introduction of limitations on interest expenses based on debt to property cost and on an income to interest ratio, whereby the disallowed amount would be charged to income tax in the IREF.

In addition a number of amendments are being made to the REIT framework to ensure that the appropriate level of tax is being collected from the regime, particularly in the area of capital gains. The distribution of proceeds from the disposal of a rental property will be subject to dividend withholding tax upon distribution. An existing provision whereby a deemed disposal and re-basing of property values occurs should a company cease to be a REIT is being limited to apply only where the REIT has been in operation for a minimum of 15 years. These changes will be effective from midnight tonight.

Hospitality Sector

The VAT rate increase from 9% to 13.5% on the hospitality sector which was imposed last year, seems to be having an effect of making this sector struggle, particularly in rural areas. It looks like no further tax support will be forthcoming. However we note that the Minister has allocated €40m towards support for the Tourism sector as part of the Brexit strategy.

We await the Finance Bill for more detail and any potential new measures.

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Ireland Inc. and Foreign Direct Investment

In his introduction to the corporation tax section of his budget speech, Minister Paschal Donohue noted Ireland's competitive 12.5% corporation tax rate has served us well and that it will not be changing.

Regarding corporation tax reform, the Minister announced that he would continue to take action on measures as outlined in Ireland's Corporation Tax Roadmap, which the Department of Finance published in September 2018.

The two areas for action noted in his speech were the anti-hybrid rules and transfer pricing reform. Both the adoption of the anti-hybrid rules and transfer pricing reform were set out in Ireland's Corporation Tax Roadmap and subsequently both were the subject of separate consultations with taxpayers and their representatives undertaken by Department of Finance.

The Minister's speech confirmed that transfer pricing reform would take effect from 1 January 2020, bringing the Irish transfer pricing regime into line with up to date OECD standards.

Budget 2019 saw the introduction of Exit Tax rules effective from 10 October 2018. Budget 2020 announced changes to these Exit Tax rules; there are two amendments both effective from 9 October 2019. The first amendment extends the charge to Irish Exit Tax to the transfer of business/business assets of Irish permanent establishments of companies resident in any jurisdiction, not just EU Member States. The second amendment relates to the charge to Exit Tax where a company migrates tax residence from Ireland, and clarifies that the time of the deemed disposal for Exit Tax purposes is the time immediately before the company ceased to be Irish tax resident to avoid any arguments that the deemed disposal occurs once the company has left the Irish tax net.

Other measures of relevance for corporate taxpayers in the multi-national sector include:

- An increase of 10% (from 5% to 15%) in the amount of a company's qualifying R&D expenditure that can be outsourced to third level institutions.
- The Minister announced a change in the withholding tax rate on dividends from 20 to 25%. However, there are various exemptions and reliefs from the charge to dividend withholding tax that Irish companies in multi-national groups avail of. We expect that these exemptions/relief should continue to apply and that this measure should not impact the majority of multi-national corporates.
- The Budget 2020 Tax Policy Changes document released by the Department of Finance today includes a measure to correct unintended additional relief due to the interaction of s765 TCA 1997 with another legislative section.

The Minister's budget speech presented a budget drafted in the shadow of Brexit, and the defining challenge of climate change and changes in the global economy. From a corporation tax perspective however, following from the EU Anti-Tax Avoidance Directive, the Coffey Report in 2017 and the Corporation Tax Roadmap published by the Department of Finance last year the ground had been laid out for Irish corporation tax reform measures.

The alignment of Irish Transfer Pricing rules to 2017 OECD Guidelines is a welcome step in the right direction given the increasing focus on "substance over form" underscoring BEPS Actions, but will create work for Irish taxpayers who must now assess their pricing in light of the revised rules. Concise guidance and continued engagement with stakeholders on these changes will continue to be vital in order to ensure taxpayer certainty and the effective operation of these new rules.

In particular, the introduction of anti-hybrid rules, forthcoming in Finance Bill 2019, will have the potential to impact a number of taxpayers across a range of sectors including financial services, life sciences and technology. Following a public consultation on the introduction of the new rules, a key focus will be on ensuring that the scope of the legislation does not depart from the Directive unnecessarily and thus threaten Ireland's competitiveness globally. The "Summary of Taxation Measures Estimates" document expects additional tax in 2020 in relation to a combination of the transfer pricing changes and introduction of the anti-hybrid rules.

We welcome the Minister's clear statement that the 12.5% rate will not be changing. This should continue to provide multi-national corporations with confidence in the 12.5% rate.

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Transfer Pricing

Overview

In Budget 2020, the Minister has committed to introducing significant changes to Ireland's transfer pricing rules contained in Part 35A of the Taxes Consolidation Act 1997 (TCA 1997). In doing so, the Minister highlighted the importance of the changes to ensuring Ireland's rules are in line with international best practice.

The detailed contents of the changes will be included in Finance Bill 2019 and are expected to come into force for accounting periods beginning on or after 1 January 2020. However many of the measures have been trailed in the Department of Finance's Feedback Statement on Ireland's Transfer Pricing Rules in August 2019.

It is expected the new transfer pricing rules will align Ireland's current rules with the 2017 OECD Transfer Pricing Guidelines and broaden the scope of transfer pricing in Ireland to cover

- Non-trading transactions;
- Arrangements that had previously been considered grandfathered (i.e., pre- 1 July 2010 arrangements when Ireland first introduced specific transfer pricing rules);
- Capital transactions (where the value is over €25m); and
- Transactions within SME groups (with the timing of this measure subject to ministerial order).

The changes will also introduce more prescriptive transfer pricing documentation requirements and enhanced language in Irish transfer pricing legislation dealing with recharacterisation.

Who will be affected?

Irish companies with transactions with related parties will be affected. The new rules significantly broaden the scope of Irish transfer pricing rules so many groups will be affected for the first time and/or have transactions that were not previously subject to transfer pricing rules.

When? What to do now?

The new transfer pricing rules are expected to apply for financial periods beginning on or after 1 January 2020. Groups need to rapidly identify where they have transactions with related parties that will now be subject to transfer pricing rules. For such arrangements, companies will need to analyse whether the terms and pricing are consistent with the new requirements or if changes are required. Companies with intra-group transactions will also need to consider how best to manage the new documentation requirements and whether their existing transfer pricing support is suitably robust.

Our view

Whilst the proposed rule changes represent a significant update to Irish transfer pricing rules, the nature of the changes has been well signalled over the last number of years through consultations and Feedback Statements.

The most significant change for many groups will be the broadening of the rules to a wider set of transactions, particularly non-trading transactions. Groups will need to assess the arm's length nature of such transactions and potentially restructure.

The changes will also provide Irish Revenue with an increased ability to challenge the transfer pricing arrangements of groups operating in Ireland, particularly where the substance differs from the form of the arrangement(s).

Overall, the changes mean groups will need to more closely review and manage their compliance with the Irish transfer pricing rules.

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Global Mobility, Immigration & Employment Taxes

The introduction of the Key Employee Engagement Programme ("KEEP") was heralded as a welcome move to incentivise small & medium-sized enterprises ("SMEs") to attract and retain staff in a tax efficient manner. This scheme allows employees to defer the tax on the exercise of share options until the point of sale whereby the gain is taxed at Capital Gains Tax rates instead of Income Tax rates. We understand the take-up to date has been very low and the Department of Finance launched a consultation process in 2019 to see how KEEP could be improved. The Minister announced the following amendments to the scheme:

- The scheme will apply to group company structures as well as allowing for greater flexibility for employees to move within such structures,
- It will permit the use of existing rather than just new shares; and
- The rules will be adjusted to allow for part-time and family friendly working arrangements for KEEP

The Minister did not announce any changes to income tax rates or bands. Credits will remain unchanged for employees with the exception of an increase of €100 in the Home Carers Tax Credit. Similarly no changes were announced in relation to USC other than an extension of the reduced rate of USC for medical card holders for 1 year to the end of 2020.

In relation to company cars the Minister announced that the 0% benefit-in-kind rate for electric cars is being extended to 2022. He also announced that he plans to introduce an environmental rationale for benefit-in-kind for commercial vehicles from 2023.

In relation to the Special Assignee Relief Program (SARP) and Foreign Earnings Deduction (FED) the Minister stated that the public consultation confirmed that the policy rationale for their existence is strong and that he will be extending both schemes to the end of 2022.

While not specifically related to employment taxes the Minister announced that it is intended to use the information from the PAYE modernisation system to implement a modified Dividend Withholding Tax (DWT) regime from 2021 to allow for an individualised rate of DWT to be applied to distributions from Irish companies. The Minister stated that this will increase compliance by facilitating the payment of taxes at the correct time.

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Our view

It is welcome that the Minister has announced that he is taking some action to make the KEEP scheme more attractive to employers. The amendment to allow for part-time and family friendly working arrangements should allow the relief to extend to part-time workers who work reduced hours on a permanent basis. This may be particularly relevant in the context of allowing SME's to retain women within the workforce. It is anticipated that the expansion of the relief to group structures will allow qualifying companies to grant options over shares in the parent company which is positive. We await the Finance Bill for full details of the proposed changes. The question will be whether it's enough to encourage take-up of the scheme.

It is disappointing, however, that there is no indication of a move towards providing a safe harbour in relation to share valuations. We recognise that Revenue may not wish to formally approve valuations on an on-going basis for KEEP, however, as an alternative, we recommended in our response to the KEEP consultation that Revenue develop and issue guidance on appropriate valuation methodologies to support SME companies in adopting KEEP. In the absence of such guidance companies may see the cost of valuations, which are required at the outset and on the grant of new tranches of options, as too high to allow them to utilise KEEP.

The Minister did not make any announcements regarding some of the other conditions which have proved to be the main blockers to take up of the scheme; namely the broad definitions of companies excluded from the KEEP scheme and the limitation by reference to a percentage of remuneration. In addition, the lack of an exit mechanism for employees appears not to have been addressed.

The Minister has again this year not taken the opportunity to announce any broader changes to the taxation of share schemes, which will be disappointing for domestic and foreign MNCs who do not meet the SME thresholds. However, it is hoped that there will be a continued focus by the Government on the area of reward in 2020.

The lack of changes to USC, other than the extension of the reduced rate for medical card holders, and income tax is regrettable. At 52%, we still have one of the highest marginal rates in the EU and OECD and it is disappointing that a roadmap has not been announced to demonstrate to workers when this burden will be reduced. Despite the many references to Brexit proofing the economy in the Minister's speech, there were no references to changes to the Foreign Earnings Deduction (FED) or the Special Assignee Relief Programme (SARP) other than extending both schemes to the end of 2022. Given that, in the Brexit context, most companies have chosen to increase their presence in a number of locations, now is the time to ensure we are competitive in attracting the bulk of the talent to Ireland, and capitalising on this important opportunity from a jobs creation perspective.

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 between a €75,000 threshold and a €1m cap. Given the relief is due to expire in 2020, a separate public consultation was initiated by the Department of Finance as part of its obligations to review the scheme and how it operates. As part of that submission, we made a number of recommendations. It is disappointing to see that there has been no change other than an extension of the relief to 2022. Administrative changes to the SARP could be made in the Finance Bill although that may be wishful thinking.

There was no reference to a reinstatement of the long-standing practice of treating not more than 30 workdays as being incidental and exempt from payroll withholding. This change 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. It is hoped that this will come either through a legislative change in the Finance Bill or by way of updated guidance from Revenue before the end of 2019. In the absence of this change there will be a significant administrative burden on employers from 2020 who have business visitors to Ireland.

The extension of the 0% BIK rate on Electric Vehicles to 2022 is very positive move and this is now one of the largest tax free benefits that can be provided to employees.

The proposed use of the information from the PAYE modernisation system to implement an individualised DWT rate is a smart use of technology available to Revenue and may be a sign of the future digitisation of tax returns.

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