Confidence in uncertainty
Pre-budget perspectives 2018
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Introduction

The Irish economy is growing at a healthy pace - The European Commission has forecast that the Irish economy will be one of the fastest growing EU economies in 2017 and 2018. The Irish Government is aiming to ‘balance the books’ next year, and Ireland is moving closer to full employment, with unemployment on track to fall below 6% by the end 2017. A good news story so far; however, our open economy is more exposed than most to international developments given our global economic ties, in particular with the UK and US, and there remain some pressing social and economic challenges across Ireland that require attention.

As Brexit negotiations continue the Irish economy is faced with a high level of uncertainty and unprecedented challenges. The ESRI along with other international analysts have predicted that as the UK is one of Ireland’s closest economic partners, the Irish economy could be particularly negatively impacted by the effects of Brexit, particularly in the context of a hard Brexit.

Upcoming Brexit negotiations are due to cover issues affecting the Republic of Ireland and Northern Ireland. The question of how much Brexit will cost the Irish economy is at the forefront of everyone’s mind. Government should be focused on Brexit proofing the economy by putting us in a position to deal with such impacts to the maximum extent possible. As it is yet to be determined what final form Brexit will take, Government should focus on issues within our control in the domestic economy - to provide resilience from the impacts of Brexit, enhance Ireland’s competitiveness and attractiveness to foreign investment and re-investment, and position Ireland to take advantage of new opportunities that exist.

All of this comes at a time when the potential for US tax reform remains uncertain. While there is general bipartisan acceptance in the US that there is a need for US tax reform, it is not yet clear what form this would take. It is not clear whether US tax reform would be as significant as indicated in the Trump proposals, how it would be funded, and whether it is really feasible in the near term for US tax reform that will really be permanent and transformational. Suggestions of a 15% US corporate tax rate have been dismissed in many quarters as unrealistic as things stand currently, and a US tax rate in the mid-20s may be a more realistic target. Clearly as one of Ireland’s main trading partners, and Ireland is a significant location for US investment, this remains a key area to be monitored in terms of potential impacts and opportunities for Ireland.

Uncertainty can bring opportunity

Ireland has a strong track record of attracting foreign direct investment and re-investment. Brexit is likely to create a level of new investments into Ireland, particularly in the financial services and broader life sciences, FinTech sectors, but broader investment opportunities will emerge. There will remain many businesses globally that will wish to have a hub in Europe in an EU Member State with access to EU markets – Ireland can continue to attract its fair share of that investment, provided the right policies and issues are prioritised. Indeed, a level of future US investment into Europe which may otherwise have been located in the UK, may determine that Ireland or other EU locations are more appropriate and provide greater certainty and stability.
There is also opportunity for Irish business to grow and expand by exploiting European and global markets which may not have been previously considered. In this respect, Government will need to provide focused support to Irish entrepreneurs and business with growth potential to compete internationally. There are a number of measures outlined in our pre-budget perspective document which Government should consider for adoption in order to improve conditions for business and the wider entrepreneurship agenda in Ireland.

More broadly, there is an opportunity for Ireland to position itself at the heart of new business opportunities and global business developments, for example in areas such as digital transformation and the digital economy.

**Taxation**
The Summer Economic Statement 2017 outlined fiscal space of €1.2 billion for spending and tax reductions. Of that amount, €390 million relates to tax, including €220 million available for new tax measures in 2018. Therefore, our expectations are that only modest changes will be on offer. However, Budget 2018 still provides Government with an important opportunity to signal the path ahead in terms of corporate and personal tax strategy and reform.

Ireland has made a strong commitment to continue to offer a competitive, stable, and transparent tax environment. Ireland has committed to the OECD BEPS process and is playing its full part in implementation. Indeed, in June earlier this year, Ireland, along with 67 other countries, signed the Multilateral Convention to implement tax treaty measures to prevent base erosion and profit shifting (which will move into implementation mode over the next number of years). On foot of the BEPS proposals, the EU has implemented Anti-Tax Avoidance Directives that go beyond the OECD’s recommendations, and these measures will also need to be adopted as part of Ireland’s tax code in the coming years.

The international tax landscape continues to evolve at pace, and we will see the impact of BEPS and ATAD measures in Ireland and internationally in the period from now to 2020 in particular. Our corporate tax strategy, focused on rate (12.5% rate), reputation (playing fair but playing to win), and regime (competitive tax regime) has been an important cornerstone of our corporate tax positioning, providing confidence and certainty to corporate taxpayers. It is important that Ireland continues to focus on our competitiveness and overall tax regime, in particular as it approaches the introduction of BEPS and ATAD measures into Irish law.

The recommendations from the recently published review of the corporate tax code undertaken by Seamus Coffey, provide an ideal platform for consultation and engagement on the evolution of the Irish corporate tax regime, on the mandatory changes which need to be introduced, to demonstrate Ireland’s steadfast commitment to the 12.5% rate, and to identifying within a strategy framework what other measures might be taken to enhance our corporate tax regime.

In the area of personal taxation, the road ahead is less clear-cut and Budget 2018 provides Government with an opportunity to set out its perspectives – not just in terms of measures that it will introduce as part of Budget 2018, but its priorities in this area in the years ahead. 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. A roadmap should be developed to determine the approach and timing to reduce the marginal tax rate, as well as ensuring that assignee reliefs are operating at competitive levels to attract key roles and talent into Ireland (which is an important factor impacting location decisions for investments).

From a broader business perspective, the new SME-focussed share-based remuneration incentive expected to be introduced in Budget 2018 would help employers attract and retain key talent. Increasing the lifetime limit on the Entrepreneur’s Relief would incentivise innovation and enterprise. The continued phasing-out of USC, or other reform mechanisms to reduce the marginal tax rate, is likely to take place over a number of budgets. In Budget 2018, we expect this might take the form of a reduction in USC rates which would provide a modest improvement to the taxation of individuals’ incomes, particularly of middle and lower-income earners.

While these improvements would certainly be welcomed, there are a range of further recommendations that should be considered from a policy perspective (and which we note within this publication) to support Ireland’s economic positioning – supporting the FDI agenda, Irish business and entrepreneurship.

**Infrastructure and housing challenges must be tackled**
The foregoing comments in relation to tax policy, the impact of global developments such as Brexit and potential US tax reform, and opportunities for Ireland at a time of increased uncertainty – this is all 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. However, 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.

We at Deloitte look forward with a focus on opportunity in the face of uncertainty and what measures Budget 2018 may bring on a range of important policy matters.

Lorraine Griffin
Head of Tax
Attracting and retaining talent is vital to Ireland’s competitiveness as a location for FDI.

Substantial developments in the international tax landscape in recent times have resulted in many jurisdictions and companies alike, reassessing their status in the area of foreign direct investment (“FDI”).

Due to the importance of FDI to the Irish economy, in responding to these changes, the Irish Government needs to do so in a way that is not only compatible with the developments in the international tax landscape, and in particular with the developments arising as a result of the OECD’s Base Erosion and Profit Shifting (“BEPS”) project and the EU’s Anti-Tax Avoidance Directive (“EU ATAD”), but in a way that ensures Ireland remains competitive and well placed when compared to other competitor locations.

Major changes are not expected in Budget 2018 in the area of FDI. However, in this continuously changing international tax landscape, the Irish Government needs to apply a robust approach to ensure we refine our offering so that the future of FDI in Ireland remains bright. Ireland’s tax regime is only one element of Ireland’s offering in terms of attracting FDI and as such it will also be important that the Irish Government also addresses the wider aspects of Ireland’s offering and in particular in relation to housing, education and infrastructure.

**General**

Ireland’s low corporate tax regime has been a vital part of Ireland’s industrial policy. But in recent times, many other FDI competitor locations have committed to reducing their corporate tax rates. This makes the landscape more competitive for Ireland, placing emphasis on the need to ensure not only do we have a competitive tax regime, but also that other key factors relevant to investment and re-investment decisions are attractive in an Irish context. At a minimum Budget 2018 should reaffirm Ireland’s commitment to the 12.5% corporate tax rate - certainty is a critical factor in investment decisions - while also enhancing (where relevant) the overall tax regime, in particular to ensure competitive R&D and IP tax treatments, as well as a particular focus on the taxation of work and talent.

Attracting and retaining talent is vital to Ireland’s competitiveness as a location for FDI, and particularly at a time where there is an increased focus on substance in light of BEPS and transfer pricing developments. Many of our competitor FDI locations have more attractive personal tax regimes – combine this with falling corporate tax rates - Ireland will need to be prepared to respond (within the confines of BEPS/EU rules). The Irish Government should look to reducing the marginal tax rate for all taxpayers in Ireland whilst also improving current incentives or introducing additional incentives to not only attract but also to retain talent in Ireland.

**BEPS, EU ATAD and Brexit**

Developments in the international tax landscape as a result of the BEPS project continue. As recently as 7 June 2017, over 68 jurisdictions, including Ireland, signed up to the OECD Multilateral Instrument (“MLI”) designed to implement a number of changes to double taxation treaties (“DTT”) in response to recommendations from the BEPS project. Some areas of the MLI are likely to add uncertainly in relation to the access to DTT benefits. Whilst the MLI is not anticipated to take effect until 2019, the Irish Government needs to carefully consider the tax policy aspects in relation to the access to DTT benefits. Whilst the MLI is not anticipated to take effect until 2019, the Irish Government needs to carefully consider the tax policy aspects in relation to the access to DTT benefits. Whilst the MLI is not anticipated to take effect until 2019, the Irish Government needs to carefully consider the tax policy aspects in relation to the access to DTT benefits. Whilst the MLI is not anticipated to take effect until 2019, the Irish Government needs to carefully consider the tax policy aspects in relation to the access to DTT benefits. Whilst the MLI is not anticipated to take effect until 2019, the Irish Government needs to carefully consider the tax policy aspects in relation to the access to DTT benefits. Whilst the MLI is not anticipated to take effect until 2019, the Irish Government needs to carefully consider the tax policy aspects in relation to the access to DTT benefits.

In July 2016, the EU ATAD was formally adopted and amendments to the EU ATAD (ATAD 2) were approved by the European Parliament in
April 2017. Under the EU ATAD, the required introduction of CFC legislation, exit taxes and interest deductibility restrictions from 2019/2020 will clearly have a significant impact on our existing Irish tax regime. While it is anticipated that the interest restriction rules will not be applicable until 2024, clearly there will be a change agenda to be managed in relation to BEPS/ATAD measures in near term. Budget 2018 should provide Government with an opportunity to set outs its vision for consultation/engagement on the introduction of these measures and overall corporate tax framework.

From an FDI perspective, no direct changes to the Irish corporate tax regime are expected in Budget 2018 as a result of Brexit. However, it would be good to see a commitment from the Irish Government to review Irish tax law to ensure that there are no unintended negative impacts on taxpayers once the UK leaves the EU (e.g. clawback of capital gains tax group relief). Although the UK remains committed to the BEPS agenda, it will likely have greater autonomy outside the EU in relation to its tax strategies post Brexit. In light of this, and the pre-existing commitment by the UK to reduce their corporation tax rate to 17%, it further highlights the importance of the response of the Irish Government to ensure we are seen as an attractive and competitive location for FDI investment.

**Transfer Pricing**

On the 10th of July 2017, the OECD issued a cumulative update to the Transfer Pricing Guidelines for Multinational Enterprises and Tax Administration. Ireland’s exiting transfer pricing laws specifically refer to the 2010 version of the Transfer Pricing Guidelines. In 2015, legislation to introduce the Country-By-Country Reporting (“CbCR”) aspects of Action 13 of BEPS were enacted. However, the remaining changes arising from the BEPS projects in Action 13 and Action 8-10 were not formally legislated for. It would be helpful for Budget 2018 to signal the potential timing for adoption of these measures, to ensure that there is a transparent roadmap in terms of implementation of the BEPS and ATAD measures in the period up to 2020, and we note a similar recommendation in the Coffey review that Ireland incorporate BEPS Action 8-10 into domestic legislation.

**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) only applies for accounting periods on or after 1 January 2016. Therefore, 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, 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.

Ireland’s current IP amortisation regime (s.291A TCA 1997) is a critical feature of Ireland’s tax regime, particularly given our knowledge economy. In our view, further amendments could be made to enhance Ireland’s IP offering and simplify the operation of the tax amortisation regime. Equally, any measures, such as those outlined in the Coffey review, that might restrict/amend the current regime should be carefully considered, particularly in light of comparator jurisdictions – it is important to ensure that Ireland can compete effectively for mobile IP related investment.

On a related IP theme, the forthcoming end of the grandfathering provisions in December 2020 for non-resident Irish companies (“NRI”) incorporated pre 1 January 2015, means that many companies are considering their future IP ownership model. However, our existing grandfathering rules are presenting challenges in certain situations, where clarity or legislative reform would be welcome. Under the grandfathering provisions, the grandfathering period will end earlier than 2020 if there is both a change of ownership of the company, and a major change in the nature or conduct of the company’s business. This can present concerns on how the operation of grandfathering and the cessation of grandfathering will operate in situations where there has been a change of ownership, and subsequently the NRI is collapsed (prior to 2020).

**Our view**

As the international tax landscape continues to change, in our view it is imperative that Budget 2018 seeks to ensure Ireland’s competitive tax regime is retained and that Ireland continues to be a location of choice for FDI.

While it acknowledged that the fiscal space available is limited, it is important that Budget 2018 is used as an opportunity to provide certainty to the multinational community in relation to a low tax competitive corporate tax regime, particularly in providing a roadmap for consultation and implementation of BEPS/ATAD and other measures, where appropriate in the next number of years. We also note the findings and recommendations outlined in the Coffey review of the Corporation Tax Code, and welcome its suggestion to reduce uncertainty in tax matters by introducing pro—active consultation regarding proposed new measures.

**Our prediction**

Whilst significant changes are not expected in the Budget in the area of FDI, amendments to our taxation legislation are imminent due to the deadlines for implementing the EU ATAD actions and further BEPS actions in the coming years. As such we would expect to see some response, and potentially the announcement of a consultation process, in relation to the implementation of EU ATAD by the Irish Government.
There are two proposals currently working their way through European institutions: Public Country by Country Reporting (CbCR) and Cross Border Mandatory Disclosure Regime (MDR). At the time of writing these initiatives are in proposal mode but require your attention.

In April 2016 the European Commission proposed a directive that would require public disclosure of certain tax information by certain undertakings and branches. This goes beyond the current Country by Country Reporting (CbCR) in our tax law.

It would require additional financial reporting for multinational entities (MNEs) with consolidated worldwide turnover of €750 million or more, requiring disclosure of tax information on an annual basis in a common template in each tax jurisdiction in which they operate. This data would be made publicly accessible on the website of the entity. Broadly speaking, for MNEs having their headquarters in the EU, the obligation to provide this information would lie with the ultimate parent enterprise in the EU. When the ultimate parent is not governed by the law of an EU Member State, the reporting falls on EU subsidiaries or branches. Companies established only in the territory of a single Member State and in no other tax jurisdiction will be exempt from these rules.

Since the proposal was first published, Ireland submitted a reasoned opinion to the European Parliament arguing that the proposal breaches the EU law concept of subsidiarity, in particular because ‘the objectives of the proposal fall generally within the area of tax policy rather than accounting and thus impinges on a national competency’. Contributions were also formally submitted by the Swedish, German, Portuguese, Romanian and Italian Parliaments.

Currently, the tax information that will be publically disclosed by tax jurisdiction include:

- the name of the ultimate parent and, where applicable, the list of all its subsidiaries,
- a brief description of the nature of their activities and their respective geographical location
- Information such as employees, assets, turnover, profits, tax accrued and paid, political donations and whether entities benefit from preferential tax treatment due to patent box or equivalent regimes.

This is substantial information, and the latter area in particular includes significant information that may not have been in the public domain previously (which could cause concern for business in areas such competitive position, information disclosed to competition and suppliers, privacy and personal protection concerns for privately held businesses and its shareholders).

This is not, so far at least, a tax directive which means that it can be voted in on a majority basis. There is little doubt that a number of EU Member States in the Council will oppose the Commission’s public CbCR proposal.

Moving on to Cross Border MDR. The EU Commission has recently outlined a proposal for an EU Mandatory Disclosure Regime (MDR) which will be discussed at the ECOFIN later this year. Unlike public CbCR, this is a tax directive and therefore requires unanimity across Member States for it to be accepted. However, Ireland already has its own MDR focused on situations where an Irish tax advantage may be at issue and fall within the reporting regime under certain criteria.

However, for the EU proposal, a disclosable transaction is referred to in the directive as a “reportable cross-border arrangement” which means any “cross border arrangements or
The proposed list of hallmarks are extensive and go beyond what exists in the Irish MDR. In particular, the EU version goes further including arrangements involving deductible cross-border payments made between two or more related parties where certain criteria apply, including situations where the income/payment received is taxed at a statutory corporate tax rate lower than half of the average statutory corporate tax rate in the Union and various other conditions. The last example is known as “effective rate taxation” and is something that Ireland opposed at ECOFIN’s discussions regarding the Anti-Tax Avoidance Directive earlier this year.

Other hallmark examples include where the same asset is subject to depreciation in more than one jurisdiction or more than one taxpayer can claim relief from double taxation in respect of the same item of income in different jurisdictions. There are hallmarks which comprise circumventing EU legislation or agreements on the automatic exchange of information, including agreements with third countries. There are also specific hallmarks concerning transfer pricing, including arrangements which do not conform to the arm’s length principle or with OECD transfer pricing guidelines.

The EU version goes far beyond the Irish legislation. Some of the hallmarks are “mechanical” without the need for a “main purpose” test and so if the directive was to be implemented in its current form then it would be a substantial move away from the approach taken in Irish law, not to mention the level of compliance obligations that would arise in identifying whether genuine transactions might have any of the hallmarks currently outlined.

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**Our view**

The issue of Public Country by Country Reporting is a sensitive one. The level of confidential information that would be available publicly means the recommendations go far beyond the BEPS proposals. The former Finance Minister Noonan said that Ireland “could not serve two masters” in the EU or BEPS and chose adhering more closely with the latter. This is something that should continue. A similar approach should be taken for the EU Mandatory disclosure regime.

**Our prediction**

We live in a world of increased transparency and it is clear that versions of these proposals may come about, particularly the Mandatory disclosure reporting.
While the economic climate for businesses in Ireland has improved in recent years there is still a lot more to be done to help Irish entrepreneurs and their businesses to succeed in a climate of heightened uncertainty. Initial results from a recent Deloitte entrepreneurs’ survey highlight the crucial role of the taxation system in supporting entrepreneurs and how it influences their decision making at each stage of the entrepreneurial journey. Examples of such decisions include how to fund their business, where different functions within the business should be based, how best to fund personal living expenses whilst still maintaining sufficient capital to grow the business and ultimately when and how to exit.

Our domestic tax system is key in propelling our entrepreneurial sector and it is imperative that the system incentivises innovation, encourages longevity and does not punish failure. In this regard, we note the following areas of taxation as key to enhancing Ireland’s attractiveness to entrepreneurs when compared with our nearest neighbours:

**CGT entrepreneur relief**
Although this relief is welcome, it is of limited value when compared to similar benefits offered under the UK regime. The relief currently applies a reduced CGT rate of 10% on qualifying gains of up to €1m in a vendor’s lifetime. The UK equivalent applies up to a £10m threshold. This has led to entrepreneurs questioning whether Ireland is the best location from which to operate their business, particularly given the proximity of the UK. We would suggest that this relief is improved in order to enhance Ireland’s attractiveness to entrepreneurs and help ensure indigenous companies flourish beyond start-up phase.

A further issue is the premature exit of entrepreneurs upon a business reaching a value milestone, thus stifling the ambition to grow and scale an Irish-owned company. To encourage longer-term commitment to and scaling of Irish indigenous business, we suggest the introduction of a tapered CGT rate that would reflect the length of time the individual has held his/her shares. This relief could be linked to other reliefs (discussed below) which would also allow an entrepreneur to access cash as necessary.

**Preferential dividend rate**
The recent Deloitte survey highlights how the high marginal tax rate imposed on individuals is a major barrier to Irish entrepreneurship, punishing such individuals for accessing cash for living expenses and for enjoying the fruits of their success.
of their labour and risk-taking. Why reward an entrepreneur with a low CGT rate for selling their company yet penalise them with high income tax rates if they choose to retain and grow the company? Surely there should be an incentive in either scenario? We suggest that a 20% tax rate on dividends should be provided to entrepreneurs, subject to an annual and/or lifetime dividend cap and subject to the company having been trading for a period of 5 years. This incentive would reward successful entrepreneurs who have emerged from the start-up period, whilst encouraging retention of cash within the business to allow for growth.

The relief would be capped and linked to the increased CGT entrepreneur relief lifetime cap, discussed above, such that two separate reliefs cannot be claimed on the same investment.

**CGT retirement relief**

We suggest that the application of the 66 year age threshold for CGT retirement relief is outdated and counterproductive. This is particularly important in light of a culture of older entrepreneurs, government’s policy to increase the pension age and the overall increasing age of Ireland’s population. Whereas CGT retirement relief on transfer of a business to a child is uncapped if the vendor is below the age of 66, a €3m threshold applies where the transferor is aged 66 years or over.

While the original policy objective was to encourage early transfers (i.e. prior to an individual reaching 66), it has in fact had the opposite effect in many instance with many age 66+ business-owners opting to retain their shares, allowing them to pass to the next generation upon death in order to avoid this CGT issue. We would suggest that the policy objective could be achieved by distinguishing family transfers (irrespective of the transferor’s age). This would encourage the individual to take the right decision for the business, rather than allowing the timing of a business transfer to potentially be largely tax-driven.

A further issue with CGT retirement relief arises in its interaction with CGT entrepreneur relief. In many family businesses, parents transfer some shares to a child in order to introduce the child to the family business, incentivising him/her upfront and will reserve the transfer of the remaining shares to an appropriate future time. If in the meantime a decision is made to exit the business, the parent may very well not be in a position to avail of entrepreneur relief as all prior gains are aggregated for this purpose – including on transfer to a child (albeit that the transfer itself may have been exempt under retirement relief). We would suggest that the aggregation test for entrepreneur relief should be amended to exclude those gains to which retirement relief has applied.

**Our view**

In order to encourage entrepreneurs to commit to their business for the longer term, the CGT position should be amended by granting such individuals higher lifetime limits and lower rates of CGT, commensurate with how long they have held their shares in the business. In addition, cash extraction and exit measures reflecting a longer holding period should be considered to further incentivise an entrepreneur to stay in the business and grow it for either an IPO or the next generation.

**Our prediction**

There may be minor enhancements to the CGT entrepreneur relief, but they will not be sufficiently significant to bring us in line with the UK equivalent and how the issue is approached in other locations. At a time when entrepreneurs may be considering an alternative home in a post-Brexit world, the absence of a significant improvement (or a clear strategy in terms of how the CGT entrepreneur relief might evolve) would represent a missed opportunity.
The income tax regime in Ireland continues to be overly complex and applies a significant tax burden on a narrow sector of taxpayers. The ongoing restriction of interest deduction for residential properties, the current prohibition on the deduction of LPT from rental profits, coupled with the high level of marginal taxation applied to rental income (up to 55%), results in a disincentive to property owners to make properties available to the rental market. Indications in previous Budgets suggest a gradual return to full interest deduction and a possibility of a LPT deduction for rental properties. Such measures should be accelerated to relieve stress on the rental market by incentivising property owners to make properties available.

In relation to CGT and CAT, the current rate of both taxes remains stubbornly high at 33% thus acting as a disincentive for assets to pass to the next generation.

The tax free thresholds for CAT, particularly those with regard to close family relations and strangers remain historically low. While the Class “A” threshold (parent to child) has increased slightly in the last few Budgets it is still significantly behind where it was prior to the recession. Given the increases in property values in the last couple of years, and the changes to CAT residential relief, the tax free thresholds should be restored to their pre-recession levels. Reliefs and exemptions in the area of CAT have been heavily restricted in the last number of years and as such it would be hoped that no further changes will arise.

The current aggregation of gifts and inheritances received since 5 December 1991 when determining the amount of tax free threshold remaining is long overdue a review.
Our view

The simplification of the income tax regime is long overdue and the proposed measures to deal with same should be brought forward as soon as possible. It is positive that Government are focusing on this important topic. Given the complexities involved, we would anticipate such reforms taking a number of years to be enacted. We would recommend that an extensive consultation process should be undertaken with relevant stakeholders to ensure a fair system emerges.

The stresses on the rental market might be somewhat alleviated by incentivising property owners to make vacant properties available for rent. This might be aided by measures such as restoration of the full interest deduction and deductibility of LPT charges.

Our prediction

We would expect some measures to be announced to incentivize property owners with regard to renting properties, and the gradual restoration of the interest deduction. Measures may be announced to review simplifying the tax system but it would be somewhat surprising if specific measures are announced and brought forward for implementation immediately.

We would hope to see changes to CAT thresholds particularly for benefits passing between parents and children and an increase in the small gift exemption.

Further, the quantum of the annual small gift exemption of €3,000 should also be reviewed to reflect current cost of living/assets values. This is particularly acute since Finance Act 2014 effectively abolished the ability of a parent to provide support to their children once out of full time education. In the UK for example there is no gift tax regime, provided the parent survives 7 years beyond the date of the gift. Such measures encourage the transfer of assets to the next generation during your lifetime.
Financial Services

One of the critical elements of our policy for attracting FS companies to Ireland is to ensure that we have certainty and stability in our tax policy.

Financial Services is everywhere these days. Whether you pick up the newspaper, read online reports or watch the news, there is plenty of commentary and analysis on Brexit and the impact it will have in Ireland in the financial services sector. There is the constant flow of information updating you on the FS companies and operations that have confirmed they will locate new or expanded operations here, such as JP Morgan, Bank of America, Barclays, Citi, TD Bank, Beazley, Chaucer, Standard Life, Legal & General and Aviva. There are also companies that still have to decide/announce their chosen location. The coming months are key to a number of the decisions that need to be made on where those financial institutions will locate their operations that must move in order to be Brexit ready. The old adage of “Location, Location, Location” equally applies to buying a property as it does in making the Brexit decision.

The other stories that hit the news and for which there is plenty of commentary over the last twelve months, is the spotlight on Irish funds and securitisation (S110) companies, particularly with respect to those funds and S110s investing in Irish property and property related assets. Since September 2016, new tax rules were introduced in respect of S110s holding Irish real estate related assets such that only interest on profit participating notes that are arm’s length, or are paid to certain investors such as Irish corporates or EU investors who are fully taxable on such interest and carry on genuine business activities, will be deductible. In the case of Irish funds investing in Irish related real estate assets, (called Irish Real Estate Funds “IREFs” ) from 1 January 2017 there is a 20% tax applied to returns such as dividend/distribution payments and redemptions where the fund or subfund has more than 25% of its investments in such Irish real estate assets. Again, there are exemptions available to certain investors such as EU individuals, funds and pension funds, providing they meet certain conditions including being fully taxable in their home country on the returns from the IREF.

Certainty and stability
One of the critical elements of our policy for attracting FS companies to Ireland is to ensure that we have certainty and stability in our tax policy. The changes brought in last year in the funds and S110 areas did raise questions with investors and FS companies as to whether this was a growing trend for Ireland to change the rules mid cycle. While there was a discreet focus on reclaiming Ireland’s taxing rights on Irish real estate, it would be damaging to Ireland’s international perception if we were to expand the IREF rules to beyond Irish real estate, or to rethink the existing gross roll up funds tax framework. Likewise to make wholesale changes to the S110 regime would equally cause significant concern.
Open for business
At a crucial time when we are clearly open for business and successfully pitching our tent in competition with the likes of Frankfurt, Luxembourg and Paris in the Brexit race, we do not want to pull the pegs away by amending tax legislation and practice in a negative way. Such changes result in uncertainty and reputational damage to Ireland’s positioning and status. As highlighted above, many FS companies have made long-term commitments to Ireland as a result of reorganising their operations post Brexit, or by choosing Ireland as a favourable location for new operations. There are changes that could be made to enhance Ireland as a location, such as amending the short term business traveller rules to ensure that business travellers to Ireland (particularly to newly enhanced or start up Brexit operations here) do not face nasty surprises on finding they have payroll tax obligations here.

Our view
While the financial services industry has a list of changes that it would like to make to our tax law to make it more business friendly, such as enhancements to SARP, legislation for carried interest and deferred compensation for example, there is a reticent acceptance that the landscape has changed and the Finance Bill each year will not contain a list of measures that the industry would like introduced-particularly in light of the limited fiscal space available for tax measures this year. However, with that grumbling acceptance, the quid pro quo must be “if you are not going to do something nice, then don’t do it at all”.

Our prediction
While there are a small number of technical changes needed to tidy up some of the IREF and S110 rules for unintended consequences from the last years Finance Act, it would be important not to make any changes that could damage the perception of Ireland in the international markets where investor confidence is key.
There continues to be significant activity and discussion on our property market, with the main focus being on the undersupply of residential units primarily in Dublin and surrounding counties but becoming evident now as well in the west and south. The pressure in the system resulted a level of Government intervention in the form of rent capping in certain areas, and the Central Bank continues to limit borrowing levels.

There continues to be delays experienced in obtaining planning for sites which has resulted in the recent introduction of fast tracking some larger sites. Funding and viability of building to make a reasonable profit are still difficult for many involved in construction.

The Government are obviously very focused on the issues and our second housing minister is actively looking for solutions. There is a need to fix the problem of homelessness, increase the levels of social housing, encourage new landlords to enter the market and maintain the existing number of landlords. On top of that, there is a need to build thousands of new homes for those currently seeking same as their private residence. Once the supply side is making progress it should be the case that prices stabilise as we move towards a normal market. We are all conscious of the need for a solution in the context of additional investment and jobs creation opportunities in Ireland, post Brexit and more generally, with the potential for a further influx of people as we hit full employment.

The commercial property market is strong and has grown hugely over the past four years with arguably sufficient supply being built in Dublin and new schemes in the pipeline in our larger cities.

Rents are strong and a lot of the REIT’s and funds are managing assets, having spent billions over the past number of years.

It is now a year since the publication of draft legislation relating to S.110 companies which invest in certain Irish property related assets. The legislation introduced a level of restriction on the deductibility of interest paid to the holders of profit participating notes issued by such securitisation companies. As the draft legislation made its way through the legislative process, amendments were introduced allowing for some exemptions from the interest restriction, as well as other measures to ensure that the law worked as intended by the Department of Finance. However, there remain several points requiring clarification to provide tax payers and investors with certainty on the functioning of the new regime and it is hoped that these points can be addressed through Revenue guidance expected in the coming months.

Finance Act 2016 also introduced new Irish tax rules in relation to IREFs (Irish funds investing in certain Irish real estate assets). The new legislation results in a 20% tax being applied to returns such as dividends and redemptions where broadly the fund or subfund has more than 25% of its investments in relevant Irish real estate assets. The IREF rules were added to Finance Bill 2016 quite late in the legislative process and as a result, gave rise to uncertainties in how the rules should work in practice. Irish Revenue have begun to publish guidance to clarify those aspects of the IREF regime, although further guidance is expected in the coming months to provide greater certainty to investors and tax payers.
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Our view

There will be a need for radical solutions, some of which can be delivered through the tax system, if as a country we are to deal with the residential crisis that many saw coming three to four years ago. The budget for spending is small so there has to be “thinking outside the box”.

There have been calls for a reduction in the VAT rate, similar to what was done for the hospitality industry at a minimum – however, the concern is whether this will really boost the supply side, and it would appear that Government would not be favour of this approach. In addition, the reinstatement of full interest relief on borrowed money to buy rental property should be immediately restored rather than on the drip, currently 80% and moving north at 5% per annum. The question of a deduction against rent for property tax is a discussion point given it is akin to rates on a property and would perhaps be one of a number of changes that would help landlords stay in the rental market.

Should there be a targeted “s23” relief in the cities to boost supply together with a capital gains tax rollover relief to allow deferral of CGT once the proceeds of sale are reinvested in further rental property. There could also be a loosening of rules around refurbishment of buildings for residential use and living over commercial premises to facilitate increased supply and allow a tax deduction akin to repairs for such a spend.

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

Our prediction

We do feel that some of the changes suggested above could well happen. One would expect that the cost of such measures would be financed by increased levels of activity in delivering housing supply, resulting in additional tax revenue as a result. The challenges in relation to housing and rented residential accommodation will only get worse if there is insufficient action taken; if at a minimum some radical measures such as those set out above are introduced, and in addition other non-tax solutions (such as the government funding infrastructure deficits and perhaps dealing with the cost of development levies) this might allow real progress to be made in dealing with these challenges.

While the changes to S110 and funds regime were specifically targeted at Irish real estate assets held by such entities, the changes were unexpected in a time when providing international investors with confidence in the Irish tax regime and encouraging inward investment as a result of international changes such as Brexit and BEPS, remains of critical importance. While there may be some amendments required to tidy up the changes introduced last year and further guidance for both regimes is expected from Revenue, it is hoped that there will no further material changes to these regimes. We await the October budget with interest.
A number of items that were relevant last year remain relevant for Budget 2018.

**Share-based remuneration**
The Minister noted last year that a new share based remuneration scheme for Small and Medium sized enterprises (SMEs) will be introduced in Budget 2018. Share based remuneration has long proven to be an effective tool for rewarding, motivating and retaining employees. In turn, positive employee performance can drive growth for the company. We expect that the new regime will be similar to the UK Enterprise Management Incentive scheme. This will allow share options to be granted to employees of qualifying companies and defer the point of taxation to the date when the employee disposes of the shares. It is also possible that a favourable regime for Capital Gains Tax will apply to such a disposal of shares.

**Brexit and mobile employees**
Over a year on from the Brexit vote, it is now becoming clearer as to how Ireland will be impacted from the decision to relocate employees and associated functions from the UK. A number of announcements have been made by companies around their decision to increase their presence in Dublin, particularly in the Financial Services industry.

However, now that the high-level planning has been carried out, the implementation steps to be taken are in full swing and the issue that is constantly being referred to is that of our high marginal rate of tax at 52%. We have one of the highest marginal rates in the OECD and even the Special Assignee Relief programme, which exempts income above €75,000 from income tax, compares unfavourably to other competitor locations.

Given that 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, an important opportunity from a jobs creation perspective.

**Employment Taxes**
The trend in the Budget over the past few years has been to promise Revenue increased resources for audits and then use that increased income to fund other tax initiatives. This has resulted in companies having to deal with more and more Revenue audits. In principle, there is a logic to this argument in ensuring the correct amount of tax is collected. However, this has had a knock-on effect in the number of resources companies require to deal with such Revenue enquiries.

The Minister noted last year that a new share based remuneration scheme for Small and Medium sized enterprises (SMEs) will be introduced in Budget 2018.
Our view

**Share-based remuneration**
A new share scheme for SMEs will be important to drive share ownership within private companies in Ireland as it will remove some of the blockers that currently exist (such as an illiquid market for sale, valuation requirements etc) while also providing a tax effective way of remunerating employees.

We do believe wider changes to the taxation of share-based remuneration should be implemented in order to offer broader incentives to all employees rather than just those employed by SMEs. Whether this is feasible as part of Budget 2018 is questionable given the level of fiscal space available, but it would be an ideal opportunity to signal as part of a review of the personal tax system, in particular the taxation of work, how Ireland might work towards and over what timeline to a more competitive overall tax system in the context of share based reward.

**Brexit**
It is positive to hear An Taoiseach refer to bringing the marginal rate of tax below 50%. Thus far we have seen no new ground-breaking changes from the Government which would attract companies and their employees to Ireland. In fact, the most dramatic change has been to Revenue guidance on the taxation of mobile workers which brings those who travel to Ireland for more than 30 days in a calendar year into the Irish payroll net. This move makes Ireland far more challenging to deal with for business with cross border travellers coming in and out of Ireland. We now have a far more challenging regime in this area as compared with our EU counterparts. This has resulted in a significant administration and compliance burden on business, adds to the lengthy red-tape that already applies to reliefs such as the Special Assignee Relief Programme and in our view, is unlikely to provide any material benefit for the exchequer in terms of cash receipts.

**Employment taxes**
Care needs to be taken not to unnecessarily increase the levels of administration that companies have to deal with in relation to employment taxes while at the same time ensuring the correct amount of tax is collected. It would be useful for Revenue to provide clear and easy to implement guidance on frequent audit topics, particularly where there is a change in practice or multiple interpretations such as the taxation of professional subscriptions.

Our prediction

**Share-based remuneration**
We predict that the new share scheme for SMEs will be introduced along the lines of the EMI scheme in the UK and will be positively received by private Irish companies and their employees. Unfortunately, we do not see any broader changes being made at this point to the taxation of share schemes, which will be disappointing for domestic and foreign MNCs who do not meet the SME thresholds – but Government should, in this instance, provide a commitment to reform the taxation of share based reward, to make it more competitive, in the near term.

**Brexit**
We predict that given the current fiscal constraints, there will be no radical changes to the income tax regime. Instead we would be hopeful of minor changes that at least reduces administration for companies while having a limited cost to the exchequer.

**Employment taxes**
Optimistically, there may be some movement on the marginal rates of tax or at least a timeline to bring below 52%.

We predict increased resources will again be given to Revenue, and have noted increased levels of Revenue audit activity around payroll taxes. Businesses should look at carrying out a health-check or review of their payroll taxes before year-end.
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