UPDATE ON
IRELAND'S INTERNATIONAL TAX STRATEGY

OCTOBER 2015

An Roinn Airgeadais
Department of Finance

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In Budget 2014, I published Ireland's International Tax Strategy, which was followed in Budget 2015 by a Road Map for Ireland's Tax Competitiveness. Together, these documents set out where we stand and where we are going on corporation tax.

It is now timely to provide an update on our international tax strategy. Much of what we set out to do has been delivered. While the core policies and principles underpinning our international tax strategy remain the same, the publication of the OECD Base Erosion and Profit Shifting (BEPS) reports and the EU Commission Action Plan on Corporate Taxation provide a new international context for us to work with.

Ireland is well positioned for the post-BEPS world. This is not something that has happened by accident. Difficult but necessary changes to our residency rules have enabled us to manage change on our own terms and in a way that provides certainty for those affected. While the OECD BEPS actions may present challenges for policymakers and businesses around the world, there are also opportunities for countries like Ireland, where the alignment of tax and substance has been a long-standing feature of our economic and international tax policy.

The OECD BEPS reports do not affect Ireland's 12.5% corporation tax rate. The OECD has explicitly stated that taxation is at the core of countries' sovereignty, and that each country is free to set up its corporate tax system as it chooses, including charging the rate it chooses.

While we value stability and certainty, and build our corporation tax policies for the long-term, being acutely alert and responsive to a rapidly changing environment is vital. For that reason, in successive budgets, I have made competitive enhancements to the R&D tax credit, the intangible asset amortisation regime and the SARP, while also ensuring that the openness and transparency of our tax system consistently meets the highest international standards.

This year we will add a further dimension to our best in class offering by introducing the Knowledge Development Box ("KDB"). The KDB will be the first and only box in the world to meet the tough new standards of the OECD's 'modified nexus' approach. Our commitment to the OECD standard provides long-term certainty to taxpayers at a time when many international businesses are re-evaluating their structures and investment choices to compete and succeed in a post-BEPS world.

This update on our international tax strategy provides a chance to reaffirm our commitments; to take stock of what we have already achieved; and to set out how we will respond to the OECD BEPS reports and emerging EU proposals.

As Ireland continues to recover and grow, we face important policy choices in a changing international environment. We must retain our core strengths while evolving and adapting to the world around us. By making the right decisions now we will ensure that Ireland's corporation tax regime continues to offer a competitive and robust platform for our continued growth as a country into the future.

Michael Noonan.

Michael Noonan, TD
Minister for Finance

Corporation Tax Policy and the Irish recovery

A major piece of work was commissioned and undertaken in 2014 to examine the Economic Impact of Ireland's Corporation Tax Policy. In total, the Department of Finance published eight detailed reports which reaffirm the economic case for Ireland's corporation tax policy. The findings of this research demonstrated that:

- Ireland needs a competitive corporation tax offering to attract knowledge-based investment, related to research and development and intellectual property.
- The FDI sector is very important for economic growth and employment in Ireland.
- The 12.5% rate is very important for Ireland and the effective rate of tax is very close to the headline rate.
- By aligning our corporation tax regime with international standards, we maintain our relationships with key partner countries and provide greater certainty to our taxpayers.

The Irish economy continues to improve and the recovery has gained momentum over the past two years. The recovery has become broader based with domestic demand making its strongest positive contribution to growth since the crisis began.

GDP growth has consistently exceeded expectations and Ireland's debt to GDP ratio continues to fall. GDP per capita is now above its pre-crisis peak although with a more balanced and sustainable composition then was the case previously. The recovery is also clearly evident in the labour market with increased job growth and falling unemployment.

In order to ensure a sustained recovery it is important that the overall structure of taxation supports economic growth and jobs. In particular, a competitive corporate tax policy has been shown to improve innovation and increase capital investment which can help to maximise the economy's potential in the future.

Update on Ireland's International Tax Strategy

Ireland's International Tax Strategy sets out a Charter with the principles and objectives underlying Ireland's international tax policy. Last year, we published an update on those commitments. A lot more has happened since then. Set out below is the further progress that we have made since last year.

Ireland is committed to maintaining an open, transparent, stable, and competitive corporate tax regime. ***We will achieve this by:*** ▪ Maintaining a rate of 12.5% on active, trading, income and 25% on passive, non-trading, income for all domestic and international businesses ▪ Considering any proposed changes to our tax legislation in terms of its impact on sustainable jobs and economic growth	
Ireland is committed to full exchange of tax information with our tax treaty partners ***We achieve this by:*** ▪ Responding to requests for information in an efficient manner ▪ Providing information in as comprehensive a manner as possible taking account of the nature of the request ▪ Complying fully with our responsibilities and obligations as set down in our tax treaties	***Developments since October 2014*** ▪ Three new Double Taxation Agreements signed. ▪ One Protocol to a Double Tax Agreement signed. ▪ Three new Tax Information Exchange Agreements signed.
Ireland is committed to global automatic exchange of tax information, in line with existing and emerging EU and OECD rules ***We promote this by:*** ▪ Timely transposition of relevant EU legislation into Irish law ▪ Full participation in OECD developments, making appropriate provision in Irish law as necessary ▪ Promoting the use of automatic exchange of information with tax treaty partners	***Developments since October 2014*** ▪ FATCA-related bilateral exchange of information between Ireland and the US began in September 2015. ▪ The OECD's Common Reporting Standard was legislated for in Finance Act 2014. ▪ Ireland has actively supported work at EU level on revisions to the Directive on Administrative Cooperation to facilitate the automatic exchange of financial account information and information on cross border tax rulings.

Ireland is committed to actively contributing to the OECD and EU efforts to tackle harmful tax competition	*Developments since October 2014*
We achieve this by: ▪ Active participation in the EU's Code of Conduct and the OECD's Forum on Harmful Tax Practices ▪ Rejecting introduction of measures in national legislation which could constitute harmful tax competition ▪ Eliminating any measure in national legislation if it is found to be harmful ▪ Active participation in the OECD Base Erosion and Profit Shifting project	▪ Ireland has actively engaged in the OECD's BEPS project and will continue to engage in the project's remaining work. ▪ Ireland continues to engage constructively on EU tax files. ▪ Country by Country reporting, as recommended in BEPS Action 13, will be introduced in Finance Bill 2015. ▪ The Knowledge Development Box will be designed in a manner that ensures it complies with the international best practice agreed in BEPS Action 5.
Ireland is committed to engage constructively and respectfully with developing countries in relation to tax matters including by offering assistance wherever possible	*Developments since October 2014*
We achieve this by: ▪ Supporting international efforts to build developing country capacity to benefit from enhanced global tax transparency ▪ Promoting the extension of Country-by-Country Reporting to areas beyond the "extractive" sector and greater international reporting to competent authorities ▪ Offering financial support to regional initiatives to strengthen tax administrations in Africa ▪ Strengthening the Public Financial Management systems of developing countries	▪ The Spillover Analysis, which is being published with Budget 2016, can provide a road-map for best practice in future interactions with developing countries, and potentially provide a model for other countries to follow in conducting such analyses. ▪ Country by Country reporting, as recommended in BEPS Action 13, will be introduced in Finance Bill 2015. ▪ Tax Treaties with two developing countries have been re-negotiated to provide for greater source country taxation.

A Road Map for Ireland’s Tax Competitiveness: What Have We Delivered?

There are 10 key elements to the Road Map, covering corporation tax and income tax. In the table below, we provide an update on the action taken to deliver on these commitments.

Item	Summary of Action	Action taken
1	Maintain the 12.5% Corporation Tax Rate	The 12.5% rate remains the cornerstone of Ireland’s corporate tax strategy.
2	Introduce default Irish tax residence rule for Irish-incorporated companies	Default corporate tax residence rule introduced in Finance Act 2014.
3	Improve intellectual property regime - Consult to develop “Knowledge Development Box” and enhance existing IP regime	The Knowledge Development Box to be introduced in Finance Bill 2015 following extensive consultation. Enhancements to intangible asset amortisation regime included in Finance Act 2014.
4	Enhance R&D regime – remove base year restriction	Base year restriction removed in Finance Act 2014.
5	Enhance Special Assignee Relief Programme (SARP) to attract mobile talent	Enhancements to SARP introduced in Finance Act 2014.
6	Enhance Employment & Investment Incentive (EII) to support indigenous businesses	Enhancements to EII introduced in Finance Act 2014.
7	Enhance the Foreign Earnings Deduction (FED) tax regime, to support Irish businesses in accessing foreign export markets	Enhancements to FED introduced in Finance Act 2014.

Item (contd.)	Summary of Action	Action taken
8	Increase Revenue competent authority resources to defend transfer pricing disputes	Additional resources provided.
9	Continued expansion of Tax Treaty Network	Two new Double Tax Agreements and three Protocols to existing agreements ratified in Finance Act 2014. Three new Double Tax Agreements and one Protocol are in the process of being ratified.
10	Maintain commitment to ensuring an open and transparent tax regime	Legislation introduced in Finance Act 2014 to implement the OECD's Common Reporting Standard on Exchange of Financial Account Information. Ireland actively supported work at EU level on the revision to the Directive on Administrative Cooperation to facilitate the automatic exchange of information on cross border tax rulings. Ireland will be among the first countries to introduce the OECD's recommended approach on Country by Country reporting, beginning in 1 January 2016.

Ireland and the OECD BEPS Project

Ireland is a founder member of the OECD and has been fully engaged throughout the OECD BEPS project.

> "Ireland has been staying the course and it is making the necessary modification and the adjustments and I'm very happy, very proud to say Ireland has been a strong and very exemplary case of adapting and adopting."
>
> *– Ángel Gurría, Secretary General of the OECD, speaking about Ireland and the OECD BEPS process.*

Now that the final BEPS reports have been agreed and published, countries and companies around the world are reflecting on the implications of the reports, including what they mean for their ability to compete. Naturally, we get asked where Ireland stands on the implementation of the measures contained in the BEPS reports.

Ireland has committed to the BEPS process and will play its full part in implementation. As a small country with an open economy, we must keep pace with this international movement for change. It is important to us that the remarkable international consensus, which led to the agreement of the BEPS reports, remains in place to implement the measures contained in the reports.

To start with, we are legislating in the Finance Bill for country-by-country reporting in accordance with the OECD standard. Many other OECD countries – big and small – are taking this early step together.

We are also introducing a Knowledge Development Box in accordance with the OECD 'modified nexus' model. This will be the first and only OECD-compliant box in the world. This offers certainty to those who see the box as an important new dimension to our best in class offering, alongside our headline 12.5% rate, R&D tax credit and IP amortisation regime.

Work is already underway among over 90 countries towards finalising a multilateral instrument ("MLI") by the end of 2016. This MLI will provide the mechanism for extensive changes to tax treaties and will deliver upon a number of important OECD BEPS actions, including agreed standards on treaty shopping and dispute resolution as well as best practice recommendations on permanent establishment rules. Ireland will continue its close engagement at OECD level on the MLI and looks forward to the satisfactory conclusion of this important work.

On transfer pricing, the OECD Council will approve the BEPS report on Actions 8-10 in 2016. Countries, including Ireland, will then be expected to update the references in their national tax laws to the revised OECD Transfer Pricing Guidelines.

In the OECD BEPS reports there are a number of other actions described as "best practice" or "common approach": controlled foreign company rules; interest deductibility; and hybrid mismatches. These areas are not minimum standards requiring early action but we will continue to engage constructively with international developments on these issues.

Ireland and the EU agenda

In supporting a competitive and growth friendly Single Market, Ireland emphasises that taxation is a key policy tool for Member States, particularly small Member States, to respond to changes in their economic cycles. It is a vital aspect of Member States' sovereignty. Adjustments to labour taxation, capital taxation and the ability to leverage corporate taxation were vital tools in Ireland's economic and fiscal recovery leading to the strong growth rates we see today.

The European Commission’s Action Plan for Fair and Efficient Corporate Taxation in the EU was published on 17 June 2015. It proposes a review of the corporate tax framework in the EU, with the aim of reforming the EU framework and how national tax systems interact. The purpose of the plan is to provide a fairer, growth friendly corporate tax framework for the EU.

Ireland has welcomed the postponement of the consolidation aspect of the Common Consolidated Corporate Tax Base (CCCTB) as a pragmatic solution given the standstill in discussions to date. Splitting the CCCTB proposal in this way was initially agreed during the Irish Presidency in 2013. We await the Commission's relaunched proposal on the common base (the CCTB) and will constructively engage in discussions to ensure that Ireland's perspective is fully heard in this decision. Ireland will maintain its position that taxation remains an area for unanimous decision making at Council, as laid out in the Treaties.

Ireland disagrees with any harmonisation of tax rates, or minimum levels of taxation. This is a key Member State competence. Ireland does not support the extension of the Code of Conduct Group criteria to include the examination of practices that do not result in preferential taxation of profits. However Ireland supports improvements to the functioning of the Code of Conduct Group and we have tabled a paper to this effect which was discussed at official level.

Ireland is a strong supporter of the work of the Commission in areas of tax transparency and administrative cooperation, which are key to tackling the global problems of tax avoidance and aggressive tax planning. The second amendment to the Directive on Administrative Cooperation dealing with the automatic exchange of financial account information will be implemented in Irish law in Finance Bill 2015. Ireland is also fully supportive of work at EU level to further update the Directive on Administrative Cooperation to provide for the automatic exchange between Member States of information on tax rulings issued by tax authorities if they have a cross border impact. We expect this Directive to be finalised by the end of 2015.

Ireland is also an active participant in the EU Code of Conduct Group which examines harmful tax practices in the EU and the EU Platform for Good Tax Governance which brings together representatives from governments, business and civil society to discuss approaches to targeting tax evasion and avoidance.

Ireland's Engagement with Developing Countries

One of the principles contained in Ireland's International Tax Charter is a commitment to engage constructively and respectfully with developing countries in relation to tax matters. It also outlines our intention to support these countries in raising domestic tax revenues in ways that are more efficient and that promote good governance and equitable development.

In addition, Ireland's "One World, One Future" policy for international development commits to an all-of-government approach to international development. It recognises that the achievement of international development goals must be underpinned by the ability of all countries, including developing countries, to raise their own revenue.

As part of this commitment, the Department is publishing a spillover analysis of the impact of Ireland's tax system, including the tax treaty network, on the economies of developing countries on Budget day. Ireland is a thought leader in this area of research: only one other country, the Netherlands, has previously carried out a similar spillover analysis project.

The Spillover Analysis consists of two strands: a public consultation, which received submissions from a broad range of NGOs, academics and private individuals; and a research project comprising an analysis of trade and capital flows between Ireland and developing countries, an analysis of Ireland's tax treaty network with developing countries, and a review of relevant provisions in domestic tax legislation.

The quantitative spillover analysis has identified very limited flows of capital and trade between Ireland and developing countries, indicating a small likelihood of spillovers from the Irish tax system. Limited flows make it difficult to draw firm conclusions, but there are some indications that Ireland's treaties with developing countries may have the potential to increase trade flows, in particular in the trade of differentiated goods where treaty provisions can enhance the alignment of tax rules. The analysis is broadly positive in respect of Ireland's treaty network with developing countries.

Some points of concern were identified in relation to certain elements of Ireland's old treaties with Zambia and Pakistan, dating from 1971 and 1973 respectively. However, these treaties were already in the process of being renegotiated to reflect developments in international tax policy and the replacement treaties have been signed and are in the process of being ratified.

The analysis of the impact of domestic tax legislation is also broadly positive. It notes the work ongoing internationally to update the anti-abuse provisions in multilateral agreements, such as the EU Parent Subsidiary Directive.

Last year Minister Noonan called on the OECD to adopt, at least in spirit, a 16th action in the BEPS project that would recommend all countries to undertake spillover analyses of how their taxation regimes impact the developing world. It is hoped that our analysis will provide a roadmap for best practice in future interactions with developing countries, and potentially provide a model for other countries to follow in conducting such analyses.

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