2025 VOLUME 38 NUMBER 2 ISSN 1649-7899

Irish Tax Institute

Irish Tax Review

The Journal of the Irish Tax Institute www.taxinstitute.ie

ALSO IN THIS EDITION

Hanrahan v Revenue: Tax Avoidance and the GAAR

Irish Tax Institute

Published by/Origination by
Irish Tax Institute,
South Block, Longboat Quay,
Grand Canal Harbour, Dublin 2
Tel +353 1 663 1700
taxinstitute.ie
Copy-edited by
Aisling Flood
Typeset by Deanta Global Publishing Services
Design and layout by Deanta Global Publishing Services
Production Liaison
Judy Hutchinson
Advertisers please contact
Judy Hutchinson
Tel +353 1 663 1700
jhutchinson@taxinstitute.ie

ISSN 1649-7899
2025, Volume 38, Number 2

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President's Pages

Aoife Lavan
Irish Tax Institute President

Introduction

It has been a busy time in the Institute and a worrying few months for everybody in the profession. The decision by US President Trump to impose worldwide tariffs was announced amid much fanfare on 2 April in the Rose Garden of the White House. Since then we've been in a tariff tailspin, including facing the spectre of a 50% rate on EU products, and there is no knowing where it will all land. The only thing that we can be sure of is continuing uncertainty, and it shows no signs of abating.

Tax Talk

The implications of the current chaos for the Irish economy have been top of the news agenda since President Trump's inauguration. The Institute got in early on the subject with a Tax Talk podcast. The guests were our former President, Karen Frawley, who is International Tax Partner with Deloitte, and Lucinda Creighton, a former Minister of State for European Affairs and CEO of Vulcan Consulting.

Notwithstanding the chaotic developments since the recording, the insightful discussion of the implications for the Irish multinational sector of the tariffs and the action that the Government should take to mitigate them, continues to be relevant. Whatever the outcome, the importance of enhancing the attractiveness of Ireland's economy to foreign investment cannot be overstated.

Annual Conference

In early April just short of 400 members gathered in the Galmont Hotel in Galway for our Annual Conference. This year's theme was "Finding Clarity", which, as it happened, was a tall order, given that President Tump had just two days earlier called time on free trade. Little did we know, on that bright, sunny Friday, the spiral of tariff confusion that would unfold.

But we did what we do best and got on with the matter in hand. There were 12 very informative sessions held over the two days on topics ranging from the technical and practical developments in pensions to how ESG (environmental, social and governance) impacts all CTAs. I want to thank all of the speakers who participated. I can safely say that their valuable insights did indeed bring clarity to practical issues that are important to the work of our members. The feedback from the sessions was overwhelmingly positive, and thank you to everyone who attended.

The Annual Conference reaffirms what we all know to be true: the role of CTAs and our ability to share knowledge and best practice are vital for our clients' financial wellbeing.

R&D Submission

On 19 May the Institute submitted its response to the Department of Finance's public consultation on the R&D tax credit and options to support innovation. Incentives to attract high-quality, innovative inward investment will be critical to our small, open economy in the current hostile and deeply uncertain trading environment. The Institute knows from members who work in international tax that many countries are currently introducing new incentives for R&D or improving existing ones. This kind of investment can be moved with ease to more advantageous locations. Therefore it is essential that our R&D tax credit is continually benchmarked against the incentives in key competitor jurisdictions.

The Institute's response to the latest consultation is informed by a comprehensive survey of members and sample businesses. We hope that the rich insights we have gathered on the experience of businesses that availed of the R&D credit – and, indeed, those that decided not to – will help to inform a sound, evidence-based approach to the reform of Ireland's R&D regime at this critical time for our economy.

You can read our recommendations in "Policy and Representations Monitor" in this issue. Suffice it to say, our strong view is that a competitive, simplified and streamlined R&D regime will be a vital tool in our armoury as we seek to protect, strengthen and diversify our economic base in the current volatile trading conditions; and we believe that reform of the regime should be part of Budget 2026.

Pre-Finance Bill Submission and Pre-Budget Submission

Enhancement of the R&D tax credit, as well as improvements to the participation exemption for foreign distributions, were high on the comprehensive list of legislative recommendations that we submitted to the Minister for Finance in late May for his consideration as the Finance Bill is being drafted. We also made the case, as we have done in other recent submissions, for a more business-friendly approach among policy-makers in the legislative design of SME tax measures.

The Pre-Finance Bill Submission will shape our submission on Budget 2026, which is currently being prepared. Our overarching message to the Minister is that unless the Government takes decisive action to enhance our competitiveness, Ireland is at serious risk of losing its reputation as an attractive location for high-value investment in the current fractious and contested global trading environment.

Harvard CID and Irish Tax Institute Global Tax Policy Conference 2025

Over the last year the Professional Services team has been organising our fifth Global Tax Policy Conference with Harvard Center for International Development. The programme for the conference, which takes place on Thursday, 23, and the morning of Friday, 24 October 2025, has been finalised, and the speaker line-up is very impressive.

Timing is everything, and as tax joins tariffs in the US retaliatory arsenal, it will be fascinating to hear the reflections of leaders in tax from around the world on the current state of the international trading system and on critical issues in global tax policy. Our expert speakers come from influential institutions including the OECD and the European Commission, and one is formerly of the Internal Revenue Service.

The theme of the conference is "Taxation in a Global Digital Economy: Productivity, People, Planet". It will include insightful sessions on tax complexity and compliance, enforcement and dispute resolution, and taxing "work" in the digital age.

The Minister for Finance, Paschal Donohoe TD, will open the conference, and we expect up to 250 delegates from across the corporate sector, tax practices, revenue authorities, academia, non-governmental organisations and Finance Ministries.

If you have an interest in international tax matters, you will want to be in the Radisson Blu Royal Hotel on Golden Lane in Dublin on 23 and 24 October, so book your place now.

Conclusion

This is my last outing on the President's Pages. My term in office continues until September – the year has flown by! I would like to take this early opportunity thank all those who supported me as President. It has been an honour to serve and to work on behalf of our members.

I will be passing on the baton to our Deputy President, Shane Wallace, and I want to thank Shane, specifically, as well as our Vice-President, Brian Brennan, and our Immediate Past President, Tom Reynolds, for their help and advice throughout my term of office.

I would also like to thank the Council members, our Chief Executive, Martin Lambe, and his team in the Institute for their assistance and support throughout the year.

Finally, I want to thank you, the members. I have been greatly heartened and encouraged by the engagement of those I met during my term. Whether it was at our Annual Conference or Annual Dinner or through the numerous emails and phone calls in between, the desire of our members to push for a successful economy and fair society was abundantly clear – I know that will continue.

Chief Executive's Pages

Martin Lambe
Irish Tax Institute Chief Executive

Introduction

Firstly, I would like to thank those members who have renewed their membership and submitted their CPD declarations. The due date for paying the annual subscription was 31 May and I would ask members who have not yet paid their subscription to do so in their membership dashboard.

I want to thank members for their invaluable participation in our R&D survey and the survey on the SARP and FED. Your practical insights and examples have greatly contributed to the formulation of our Tax Policy and Representations responses.

Tax Policy and Representations

We made numerous representations on behalf of our members to relevant stakeholders, on issues such as the Residential Zoned Land Tax (RZLT) deadline. We wrote to Revenue about your concerns that some landowners may struggle to meet their RZLT obligations by the original deadline. Our recommendation was to adopt a pragmatic approach to cases where the deadline could not be met, despite the best efforts of tax agents and landowners. We welcomed the extension of the deadline, that was announced on 22 May.

R&D Tax Credit and Innovation Response

The Institute responded to the Department of Finance's public consultation on the research and development (R&D) tax credit and options to support innovation. We outlined 18 key recommendations formulated from the four broad themes of your feedback:

- the importance of having a competitive R&D tax credit rate;
- the need to simplify the claims process, particularly for SMEs, given the level of documentation required and the cost involved;
- persistent uncertainty over whether certain R&D activities qualify for the credit and the anxiety among companies over potential Revenue challenges; and
- the need to increase existing caps on outsourced R&D activities to access particular expertise and equipment.

Pre-Finance Bill Submission

We submitted an extensive Pre-Finance Bill 2025 Submission before the National Economic Dialogue, covering many topics and concerns of our members. Six key areas covered are:

1. Protecting Ireland's position as an attractive place in which to do business;
2. Supporting growth and innovation in SMEs;
3. Providing adequate safeguards for taxpayers;
4. Extension of key tax measures with a sunset clause of 31 December 2024;
5. Amendments to provisions governing the taxation of pensions; and
6. Tax technical measures required to mitigate unintended consequences.

We are currently working on the Pre-Budget 2026 Submission, to be submitted to the Department of Finance by the end of June.

Tariffs and Tax – Where Do We Stand?

The global tax and trade landscape remains unstable. As we come up to the end of the EU–US trade negotiations, Ireland and businesses in the State need to consider the impact of what may come. In Episode 20 of Tax Talk our host, Donal O'Donovan, discusses what elements of your business you should be looking at with:

- Karen Frawley, Tax Partner with Deloitte and a former President of the Irish Tax Institute; and
- Lucinda Creighton, former Minister of State for European Affairs and CEO of Vulcan Consulting.

Your Continuing Professional Development

Our spring and summer programme covered a range of topics. We offered a complimentary webinar demonstrating how AI could assist with day-to-day administrative and practice management tasks. You also had the opportunity to hear from experts in the areas of valuations, pay and file, and managing wealth.

Managing Wealth in 2025 – Thriving Through Change. L–R: Dr Paul Moran, Moran Financial Services; Emer Kirk, Chair and FPSB Ireland; Kevin McConnell, Gem Strategic; and Úna Ryan, Grant Thornton.

Annual Conference 2025

The Annual Conference returned to Galway on 4 and 5 April 2025, with the theme "Finding Clarity". Over the 1.5-day conference expert speakers helped delegates to navigate complex aspects of the tax system that have undergone significant changes.

Spirits were high as delegates connected and reconnected while absorbing first-class technical presentations on a range of topics, from wealth considerations to pensions to the impact of sustainability on CTAs. For lunch on Friday some delegates opted to reset with a chair yoga session led by Yoga Mara.

Thank you to all of our expert speakers, the delegates and my own team in the Institute for making this event so successful.

Harvard CID and Irish Tax Institute's Global Tax Policy Conference

The Global Tax Policy Conference, taking place on 23 and 24 October 2025 in Dublin, will feature an unparalleled global speaker line-up. I am looking forward to this unique event and to meeting you and our fellow tax professionals from across the globe. Secure your seat and learn more at taxinstitute.ie.

Publications

Our much-anticipated annual consolidated legislation titles were published in April. Thank you to the editors of these large publications, including David Fennell of EY, Maria Reade of EY, Aileen Keogan of Keogan Law & Tax and Emmet Scully of Byrne Wallace Shields LLP. A new edition of *The Taxation of Gifts and Inheritances: Finance Act 2024* was also published as an ebook, expertly written by Julia Considine and Joanne Whelan of Deloitte Ireland LLP.

Norman Bale *Irish Tax Review* Article of the Year Award

At the Annual Conference gala dinner the Institute President, Aoife Lavan, and *Irish Tax Review* Editor, Amanda-Jayne Comyn, presented the *Irish Tax Review* Article of the Year award. The winning article, authored by Robert Dever, Gerry Beausang and Brídín

Presentation of the Norman Bale Award. L–R: Aoife Lavan, Institute President; Amanda-Jayne Comyn, Irish Tax Review Editor; and Robert Dever, Pinsent Masons.

Redmond from Pinsent Masons, explains what an earn-out is, the structuring issues to be considered, and sellers' rights and obligations during the earn-out period.

Congratulations to the three authors on the well-deserved acknowledgement.

Education

Our autumn students sat their exams in April and May this year and have started to receive their results. Congratulations to our Tax Technician, Diploma in Tax, and CTA Part 1 and 2 students, who received their results in the last few weeks. We wish our CTA Part 3 students the best of luck with their results in early July.

Our summer courses are coming to an end in July, and we wish all of the students the best of luck with their study and exams in August.

Policy and Representations Monitor

Lorraine Sheegar
Tax Manager – Tax Policy and Representations, Irish Tax Institute

News Alert

Institute representations before Budget 2026/Finance Bill 2025

The Institute sent its Pre-Finance Bill 2025 Submission to the Minister for Finance on 30 May, setting out a number of legislative changes for consideration in the drafting of Finance Bill 2025.

The Pre-Finance Bill 2025 Submission includes recommendations for legislative changes across the following seven broad areas.

Enhance Ireland's competitiveness

- Enhancing the research and development (R&D) tax credit. In May the Institute submitted a detailed response (outlined in more detail below) to the Department of Finance's public consultation, which included 18 key recommendations on the R&D tax credit and options to support innovation.
- Improving the legislation underpinning the participation exemption for foreign distributions, in particular the five-year look-back rule, so that it can achieve its intended objective of encouraging companies to establish and expand their operations in Ireland.
- Overhauling the legislative provisions governing the deductibility of interest to recognise that debt, and the payment of interest thereon, is a normal commercial reality and legitimate cost of doing business.
- Introducing a foreign branch exemption to ensure Ireland remains an attractive location for foreign direct investment.

Support the growth and innovation of SMEs

- Making enterprise tax measures more accessible to SMEs by recognising in the legislative design of enterprise supports such as the Employment Investment Incentive (EII), the Key Employee Engagement Programme (KEEP) and revised entrepreneur relief that risk is an integral part of any enterprise and that those who take it must have a fair chance of being rewarded.
- Extending the KEEP beyond its current expiry date of 31 December 2025. Also, imposing a proportionate sanction where share options are undervalued and changing the definition of a "qualifying holding company" to ensure that the KEEP can achieve its policy aim of helping SMEs to attract and retain key employees.
- Removing the obstacles that exist to the use of share-based remuneration by SMEs and start-ups, including addressing the upfront tax cost faced by employees on the receipt of a share award or on the exercise of a share option.

Provide adequate safeguards for taxpayers

- Retaining the option for private hearings at the Tax Appeals Commission, which provides a fundamental safeguard for taxpayers wishing to appeal an assessment.
- Providing certainty regarding the four-year time limit, which is an important safeguard for taxpayers as it delivers finality and closure in respect of their tax affairs.
- Imposing proportionate sanctions for administrative errors. The penalties that apply for errors by taxpayers in complying

with the requirements of the Enhanced Reporting Requirements (ERR) and the late filing of iXBRL financial statements are disproportionate and should be reconsidered.

Extend tax reliefs due to sunset on 31 December 2025

- Extending the digital games tax credit, the Special Assignee Relief Programme (SARP) and the Foreign Earnings Deduction (FED), which are due to sunset on 31 December 2025.

Amendments to the taxation of pensions

- Reviewing the Finance Act 2024 changes that increased the level of the standard fund threshold (SFT) on a phased basis, as individuals with benefit crystallisation events occurring before the SFT increases take effect are denied much of the value of these increases.
- Removing the age-related limits and the earnings limit for pension contributions on a phased basis.
- Eliminating the anomalies in the tax treatment of different retirement arrangements, as far as possible. At a minimum the limit on employer contributions to a personal retirement savings account that qualify for the benefit-in-kind exemption should be increased to 125% of the employee's remuneration where the employee is 50 years of age or older.

Tax technical issues arising from the implementation of Pillar Two

- Providing clarification on the application of the Global Anti-Base Erosion (GloBE) rules after the transposition of the EU Minimum Tax Directive to implement the Pillar Two Rules in Irish law in relation to: compensation payments for a qualified domestic top-up tax (QDTT) filing group or an undertaxed profits rule (UTPR) filing group; loss utilisation for non-Irish group members; treatment of joint ventures; application of s111B TCA 1997; and allocation of UTPR.

Tax technical measures required to mitigate certain unintended consequences

- We identified several tax technical measures arising from recent legislative changes that require legislative amendment to mitigate certain unintended consequences.

Finally, we outlined, in an Appendix to the submission, a number of amendments to the capital gains tax and capital acquisitions tax legislation that we believe should be considered in the context of any deliberations on the future modernisation of Ireland's capital taxes regimes.

Institute responds to consultation on R&D tax credit and options to support innovation

On 19 May the Institute responded to the Department of Finance's public consultation on the research and development (R&D) tax credit and options to support innovation. The consultation focused predominantly on the current R&D tax credit and, although this was not the main focus of the review, sought feedback to help inform the Department's consideration of options to incentivise innovation in a targeted manner and in line with Government objectives.

To help us formulate our responses to the consultation questions the Institute carried out a survey of members and sample businesses in April 2025. In our response we made the following 18 key recommendations.

Institute recommendations on the R&D tax credit

1. Continually benchmark the R&D tax credit against key competitor jurisdictions to ensure Ireland can continue to attract additional R&D investment.
2. Increase the R&D tax credit rate to preserve and attract more R&D investment by large multinationals in Ireland and ensure that Ireland can continue to compete

internationally for global R&D investment, given that the 5% increase only maintains the overall net value of the credit (25%) for companies subject to Pillar Two.

3. Ensure that Revenue compliance interventions in respect of R&D tax credit claims are proportionate, apply commercial awareness and are conducted in a timely and efficient manner.
4. Simplify the Form CT1 (corporation tax return) to make it easier for businesses to comply with their tax obligations and have certainty regarding their R&D tax credit claims.
5. Publish guidance on common errors identified on R&D tax credit claims and create information videos on how to complete the relevant R&D panels correctly.
6. Use the existing in-house technical expertise in the two enterprise State agencies (IDA Ireland and Enterprise Ireland) to verify the science test in R&D tax credit claims.
7. Increase the attractiveness of the R&D tax credit, in particular for SMEs, by:
   a. Condensing the current three-year R&D tax credit refund to one year.
   b. Introducing a pre-approval process for first-time R&D tax credit claims by small/micro companies.
   c. Providing SME-friendly guidance, with step-by-step instructions on the claims process and practical studies, together with tips on how to avoid common errors.
   d. Consulting with stakeholders before updates to Revenue's guidance to help to provide more tax certainty for claimants.
8. Increase the limits for outsourcing to a third party or university or institute of higher education. Consider removing the restriction completely for R&D outsourced to universities/institutes of higher education to encourage greater STEM skill sets, while qualifying R&D expenditure outsourced to third parties could be capped by reference to the company's qualifying internal R&D spend.
9. Legislate for the existing concession on the use of agency/temporary staff.
10. Permit outsourcing of R&D to a related party in circumstances where Ireland is the owner of and has played an active role in managing and developing internally generated intellectual property arising from R&D activities. A cap on the amount of related spend that qualifies could be set by reference to the Irish company's own internal spend on R&D.
11. Modernise the definition of relevant expenditure to allow expenses that are critical to R&D processes to qualify, such as training and maintenance relating to R&D equipment.
12. Simplify Revenue guidance relating to overhead costs.
13. Introduce legislation to clarify that rent is a qualifying cost for the purposes of the R&D tax credit, given that rent is a substantial cost for most SMEs.
14. Reduce the 35% threshold for R&D activities carried on by a company in a qualifying building or structure under s766D TCA 1997, given that there is no *de minimus* for plant and machinery for the purposes of the R&D tax credit.
15. Remove the stipulation that a building must qualify for industrial buildings allowance to meet the conditions for the credit under s766D TCA 1997 to reflect the changing nature of how and where R&D activities are carried out in a modern knowledge economy.
16. Reduce uncertainty by developing industry-specific guidance with detailed practical instances of what R&D activities qualify and do not qualify.

Institute recommendations on options to support innovation

17. Consider introducing new targeted measures to incentivise innovation in specific priority areas of digitisation and decarbonisation.
18. To ensure that claims are made for true innovation, the following administrative supports and requirements could be introduced:
   a. a Revenue pre-approval process for first-time claims by small/micro companies,
   b. sector-specific SME-friendly guidance and
   c. ensuring that the level of documentation required to support a claim is stratified according to business size.

The Institute's submission is available on our website, www.taxinstitute.ie.

Institute submission to Revenue's Statement of Strategy 2025–2028

The Institute submitted its views to the Revenue Chairman on 27 March 2025 on the future strategic direction of Revenue as it develops its Statement of Strategy for 2025 to 2028. Against a backdrop of geopolitical uncertainty and its potential impact on the Irish business environment, we stressed a focus on areas that are within Ireland's control.

This entails prioritising support for tax compliance, a focus on ease of administration in complying with tax obligations and leveraging Revenue's investment in technology to benefit all stakeholders in the tax system. We sought a focus on three key areas over the term of the new Revenue strategy, summarised below.

Service delivery to taxpayers and tax practitioners

We noted Revenue's plan to roll out an AI-driven estimated response time for queries submitted via MyEnquiries over 2025 and highlighted the need to review the timeframe for escalation of queries to the Exceptional Contacts in light of this development, while emphasising the importance of optimising AI analysis to identify and address backlogs quickly and identify training needs and options to streamline current processes.

We raised members' concerns with the long waiting times when calling certain Revenue phone lines during peak periods and recommended extending the phone line opening hours during peak periods to address the increased demand. To build confidence in the new "hold my place in the queue" phone line feature, we asked Revenue to include statistics on this service in Revenue's planned Quarterly Service Delivery reports.

As Revenue explores the use of AI to develop first drafts of Tax and Duty Manuals (TDMs) we highlighted that it is timely to publish a quality assurance framework for TDMs, that use of AI should not diminish the technical quality of TDMs, and that sufficient technical analysis, practical examples and input from engagement at TALC are important to maintain the value of TDMs.

We sought a renewed focus on response times for the Revenue Technical Service (RTS). As many RTS queries are referred to Revenue Legislation Services (RLS), we proposed that an arrangement akin to a service-level agreement agreed between RLS and RTS could help RTS to provide more clarity to RTS users on the expected response times to their queries.
It was noted that Revenue's delivery of the commitment of the TALC Sub-committee on Administrative Simplification of Business Reliefs to identify a number of areas where Revenue's guidance could be improved and made more accessible for non-tax professionals, together with the enhancements suggested to the layout of TDMs on the various SME reliefs, would be very welcome.

A stakeholder-centric approach to transforming tax reporting through technology

Although harnessing the power of technology to integrate tax reporting into business processes is a key objective for Revenue, we stressed that it is crucial to consider the potential for increased compliance costs, especially for businesses that are less capable of absorbing additional costs and are at varied stages of digital adoption. We outlined important elements when progressing any new significant digital obligations for business, including:

- Early and broad engagement with stakeholders before designing any new requirements to help ensure that business processes and integration challenges are fully understood and allow for the design-in of measures to reduce administrative costs.
- Adequate lead-in time for testing new systems before their implementation and the provision of comprehensive guidance in advance.
- Phasing in new requirements to lessen the burden on the smallest businesses and facilitate their access to lower software costs as more products become available.
- Tailored information supports for businesses (based on their size and complexity),

together with dedicated assistance for tax practitioners helping clients to adapt to the new requirements.

A continuing focus on the fair treatment of taxpayers

Revenue has extensive information and advanced analytical tools to find discrepancies in tax returns. In addition, tax legislation contains a raft of sizeable penalties for non-compliance with a tax obligation. We emphasised that it is vital for Revenue to continue to distinguish between taxpayers who are making their very best efforts to comply with complex and detailed tax obligations and taxpayers who choose not to comply. Exercising judgement and considering cases on their merits is critical to ensuring a proportionate and fair approach to penalties and that penalties are not imposed where they are inappropriate. We highlighted that selection of the appropriate intervention level in the Compliance Intervention Framework remains important in differentiating Revenue's approach to errors in a return (where a Level 1 intervention is appropriate) compared to cases where significant non-compliance is indicated from the information available to Revenue (and a Level 2 or Level 3 intervention may be appropriate). We noted the Institute's continued willingness to work with Revenue at TALC on measures to reduce the incidence of errors in returns – for example, through information resources and developments for ROS.

The Institute's submission is available on our website, www.taxinstitute.ie.

Institute responds to Department of Enterprise Statement of Strategy 2025–2028

The Institute responded to the public consultation of the Department of Enterprise, Tourism and Employment (DETE) on the development of its new Statement of Strategy for 2025–2028 on 24 April 2025. In our letter to the DETE we urge that Ireland works to influence the EU's response to US tariffs to ensure that it inflicts the least possible damage on the European economy. We highlight that tax is a key consideration for prospective investors in any economy and it is also one of the few variables that the Government can control in a small, open economy such as that in Ireland.

We make a number of recommendations, including protecting Ireland's position as an attractive place in which to do business by enhancing the R&D tax credit, simplifying the corporation tax code and reducing the cost of employment. We also include recommendations to support growth in the SME sector by ensuring that existing tax reliefs for SMEs achieve their policy objective and simplifying the operation of share-based remuneration.

As the EU's plan to boost competitiveness recognises the need to reduce reporting and other administrative burdens through simplification, we recommend that the Government adopt a similar plan to business-proof all legal, tax and administrative requirements. In this context we highlight the significant administrative burden that the real-time nature of the Enhanced Reporting Requirements (ERR) places on businesses. Finally, we urge that the fixed penalty that applies where an employer fails to report a non-taxable small benefit in real time under ERR be replaced with a more appropriate sanction.

The Institute's submission is available on our website, www.taxinstitute.ie.

Policy News

Changes to local property tax announced

The Minister for Finance, Paschal Donohoe TD, published the General Scheme of Finance (Local Property Tax) (Amendment) Bill 2025 ("LPT Bill 2025") after receiving approval from the Government at a Cabinet meeting on 1 April. The Bill will provide for a new method of calculating LPT liabilities before the new valuation period, set to commence in 2026, with reference to the self-assessed market values as of 1 November 2025.

The Bill proposes to set the duration of the upcoming valuation period at five years, commencing in 2026 and ending in 2030. Future valuation periods will also be for a five-year period. This amendment aims to provide property owners with certainty on their base LPT charges, while ensuring that properties continue to be revalued on a frequent
basis. The next revaluation date is set at 1 November 2030.

The changes are expected to generate approximately an 8% additional yield from LPT annually. This additional yield will accrue to local authorities for their discretionary use.

The new approach approved by Government is as follows:

- All valuation bands will be widened by 20%. Band 1 will be expanded from €1 to €240,000, and Band 2 will contain values in the range of €240,000 to €315,000. All subsequent bands will increase in increments of €105,000.
- The fixed charges for Bands 1 and 2 will increase from €90 to €95 for Band 1 and from €225 to €235 for Band 2.
- The basic rate of LPT will decrease from 0.1029% to 0.0906%, which will apply to properties valued at up to €1.26m. This will result in a small increase in base LPT charges, as midpoints increase owing to band widening.
- For properties in Bands 3 to 19, charges will be calculated by applying the base rate of 0.0906% to the band's midpoint value.
- Properties in Bands 12 to 19 (between €1.26m and €2.1m) will be charged at 0.0906% on the first €1.26m, with a subsequent 0.25% on the balance of the midpoint value in excess of €1.26m.
- Properties in Band 20 (over €2.1m) will be charged on actual property values, as before, under the following formula:
  - 0.0906% on the first €1.26m plus
  - 0.25% on the value between €1.26m and €2.1m plus
  - 0.3% on the value over €2.1m.

Other amendments to LPT are outlined below.

Deferral thresholds

In light of significant increases in the cost of living since November 2021, the income thresholds for a full or partial deferral of LPT payments will increase by 30% to 40%. The income threshold for a full deferral for a single person will increase from €18,000 to €25,000. For a couple it will increase from €30,000 to €40,000. The threshold for a partial deferral for a single person will increase from €30,000 to €40,000. For a couple, it will increase from €42,000 to €55,000.

Local adjustment factor

For 2026 onwards, local authorities will have the option to vary LPT upward by a maximum of 25%. The maximum rate at which they may opt to decrease LPT will remain 15%. This change will give local authorities greater flexibility in respect of the LPT collected for their areas.

Exemption for properties damaged by defective concrete blocks

The LPT exemption for properties damaged by defective concrete blocks will be expanded so that properties in Clare, Limerick and Sligo that are affected by defective concrete blocks will become eligible for this time-limited LPT exemption.

Mandatory use of Eircodes

The Bill provides that, subject to a data protection impact assessment, Eircodes will become a mandatory field in LPT returns. This would assist in eliminating errors, such as issuing written correspondence to the wrong property as a result of an identical or similar address.

Auto-enrolment start date rescheduled to 1 January 2026

The start date for the Auto-Enrolment Retirement Savings System (called My Future Fund) has been rescheduled to 1 January 2026. The Minister for Social Protection, Dara Calleary TD, confirmed the factors that influenced his decision to move the start date from 30 September 2025, including that a 1 January start date will align the new system with the standard tax year and provide additional time for payroll providers, especially smaller providers, to ready their systems for the launch. Payroll providers will also be able to incorporate any software updates within their normal annual work schedule, including incorporating any changes that may arise from Budget 2026. The move to a 1 January start date will also provide additional lead-in time for employers, particularly small and micro businesses, to ensure that they can be compliant with the legislation from the outset.

Work is continuing on the development, integration and testing of the underlying systems that will be used to administer My Future Fund. The Department of Social Protection will continue its engagement with the Payroll Software Developers Association to ensure that developers are fully aware of the technical specifications required to accommodate My Future Fund on their platforms.

Commencement Order signed for film tax credit "scéal uplift"

Section 48 Finance Act 2024 amended s481 TCA 1997, which provides relief in the form of a corporation tax credit (known as the film tax credit) for the qualifying costs of certain audio-visual productions, to enhance the relief in order to address specific challenges faced by smaller feature film projects, referred to as the "scéal uplift". The Finance Act amendment was subject to a Ministerial Commencement Order as EU State Aid approval was required. The Minister for Finance signed SI 158 of 2025 on 1 May after European Commission approval was received. The Commencement Order provides that s48 Finance Act 2024 came into operation as and from 2 May 2025.

The film tax credit is granted at a rate of 32% of the lowest of: eligible expenditure; 80% of the total cost of production of the film; and €125m. The scéal uplift provides an additional 8% uplift for feature film productions that meet certain qualifying criteria related to employment in key creative roles. For films that qualify on completion for the enhanced rate, the credit will be calculated at the rate of 40% on qualifying expenditure of less than €20m. As the incentive forms part of the film tax credit, it is subject to the same sunset clause of 31 December 2028.

Further six-month extension of 9% VAT rate for electricity and gas

A further temporary extension of the 9% VAT rate for gas and electricity supplies, to 31 October 2025, was introduced by way of a Financial Resolution on 2 April. The second reduced rate of 9% for gas and electricity supplies had been due to end on 30 April 2025. The estimated cost of the extension is €85m.

EU VAT SME scheme

The Minister for Finance signed SI 69 of 2025, European Union (Value-Added Tax) Regulations 2025, on 6 March, transposing Council Directive (EU) 2020/285 on the special VAT scheme for small enterprises into Irish law. From 1 January 2025 the EU VAT SME scheme allows small enterprises to sell goods and services without charging VAT to their customers (VAT exemption) and alleviates their VAT compliance obligations. The scheme provides for a domestic scheme in the Member State of establishment (MSEST) and a cross-border scheme.

Domestic SME scheme

To apply the domestic SME scheme the small enterprise must have an annual turnover not exceeding the national annual threshold set by the MSEST. This threshold cannot be higher than €85,000. This scheme is optional. Irish businesses currently operating the SME scheme in Ireland for their domestic transactions do not have to register for VAT but can elect to do so.

Ireland operated an exemption from registering for VAT based on thresholds set out in s2 of the Value-Added Tax Consolidation Act 2010 (VATCA 2010), which were amended by Finance Act 2024, increasing the VAT registration threshold in Ireland to €42,500 for services and €85,000 for goods from 1 January 2025. Section 6(c) VATCA 2010 provided that registration for VAT was obligatory when turnover exceeded the threshold in any continuous 12-month period.

A change to the conditions set out in s6(c) VATCA 2010 after the transposition of Council Directive (EU) 2020/285 means that an Irish business wishing to register for, or remain in, the domestic SME scheme must review the annual turnover for the current calendar year and prior calendar year (as opposed to any continuous 12-month period) to ensure that the annual turnover does not exceed the annual threshold in either year. If the annual turnover of the small enterprise exceeds the annual threshold, the small enterprise will be excluded from the domestic SME scheme.

Cross-border SME scheme

To apply the cross-border SME scheme a small enterprise must fulfil the following requirements:

- The annual turnover of the small enterprise in the 27 EU Member States (Union turnover) in the current and previous calendar year must not exceed €100,000 (or the equivalent in national currency).
- The annual turnover of the small enterprise in each Member State where it wants to make use of the VAT exemption must not exceed the national annual threshold (or sectoral threshold) in the current and previous calendar years (or in the two previous calendar years if so set).
- The small enterprise needs to file one prior notification in its MSEST to request access to the cross-border SME scheme. The MSEST acts as the contact point with the other Member States.

EU changes to VAT place-of-supply rules for livestreaming and virtual admission to events

Statutory Instrument 725 of 2024, European Union (Value-Added Tax) Regulations 2024, transposed Council Directive (EU) 2022/542 into Irish law, which changes the VAT place-of-supply rules for livestreaming and virtual admission to events. The change to the VAT place-of-supply rules is effective from 1 January 2025. Events where the attendance is virtual were previously subject to VAT where the event took place.

From 1 January 2025, the changes include:

- **For business-to-business (B2B) supplies:** VAT arises where the customer is established (or has a fixed establishment receiving the services). The customer may be required to self-account for reverse-charge VAT in their EU country of establishment if the supplier is not established in the jurisdiction where the VAT is due.
- **For business-to-consumer (B2C) supplies:** VAT arises where the non-taxable person is established, has their permanent address or usually resides. The supplier will be responsible for collecting and remitting VAT in the EU country where the non-taxable person is located.

EU list of non-cooperative jurisdictions updated

The Economic and Financial Affairs Council (ECOFIN) approved conclusions on the revision of the EU list of non-cooperative jurisdictions for tax purposes at a meeting on 18 February. No new jurisdictions were added to Annex I, which currently comprises 11 third-country jurisdictions: American Samoa, Anguilla, Fiji, Guam, Palau, Panama, the Russian Federation, Samoa, Trinidad and Tobago, the US Virgin Islands and Vanuatu. Annex I is revised to reflect efforts already undertaken by some of these jurisdictions to address outstanding areas of concern and improve their tax governance frameworks.

The Council also approved the state-of-play document (Annex II), which reflects the ongoing EU cooperation with its international partners and the commitments of these countries to reform their legislation to adhere to agreed tax good-governance standards.

Eight jurisdictions feature in Annex II based on commitments to improve their tax governance frameworks: Antigua and Barbuda, Belize, the British Virgin Islands, Brunei Darussalam, Eswatini, Seychelles, Türkiye and Viet Nam. The EU will closely monitor these commitments to ensure that they are implemented within the available timeframe.

DAC9 enters into force

At a meeting of the Economic and Financial Affairs Council (ECOFIN) on 11 March the Council reached a political agreement on amending Directive 2011/16/EU on administrative cooperation in the field of taxation (DAC9). The legislation aims to enhance cooperation and information exchange on minimum effective corporate taxation to better fulfil the filing obligations that multinational enterprise groups and large-scale domestic groups have under Council Directive (EU) 2022/2523 of 14 December 2022 (the EU Minimum Tax Directive) which transposed Pillar Two of the OECD/G20 Inclusive Framework on *BEPS Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalisation of the Economy* into EU law.

Section IV of Annex VII of DAC9 creates a standard form, in line with the GloBE Information Return (GIR) developed by the Inclusive Framework, making it the top-up tax information return (TTIR) envisaged in Article 44 of the EU Minimum Tax Directive.

DAC9 also supplements Directive 2011/16/EU with provisions laying down a framework to facilitate the exchange of the TTIR between the tax authorities of Member States.

On 14 April the Council adopted a further amendment of DAC9 to streamline filing obligations and reduce compliance burdens for companies under the EU Minimum Tax Directive. On 6 May Directive EU 2025/872 of 14 April 2025, or DAC9, was published in the *Official Journal of the European Union*.

Member States must implement DAC9 by 31 December 2025. Countries opting to delay the implementation of the EU Minimum Tax Directive are also required to transpose DAC9 by 31 December 2025. Multinational enterprises are expected to file their first TTIR by 30 June 2026, as required under the EU Minimum Tax Directive. The relevant tax authorities must exchange this information with one another by 31 December 2026 at the latest.

VAT in the Digital Age package formally adopted at ECOFIN

At a meeting of the Economic and Financial Affairs Council (ECOFIN) on 11 March the Council formally adopted the VAT in the Digital Age (ViDA) package. The package covers a Directive, a Regulation and an Implementing Regulation and brings changes to three aspects of the VAT system. It will:

- digitalise reporting obligations for companies that sell goods and services to businesses in another EU Member State by 2030 by introducing digital reporting requirements (DRR) and e-invoicing for cross-border transactions;
- update the VAT treatment of the platform economy by requiring online platforms to pay VAT on short-term accommodation rentals and passenger transport services in most cases where individual service providers do not charge VAT; and
- improve and expand online VAT one-stop shops so that businesses do not have to go through costly registrations for VAT in every Member State in which they do business.

There are varying effective dates for the different elements of the ViDA package, but the most significant implementation dates are expected to be **1 July 2028** in respect of the VAT treatment of the platform economy and single VAT registration and **1 July 2030** in respect of DRR and e-invoicing.

The Directive, Regulation and Implementing Regulation were published in the *Official Journal of the European Union* on 25 March and entered into force on 14 April 2025. The Regulations are directly applicable, but the Directive will have to be transposed into national law. Immediately on the entry into force of the ViDA package, Member States will have the ability to introduce mandatory domestic e-invoicing without a formal derogation from the EU and improvements will be made to the Import One-Stop Shop (IOSS).

UK Spring Statement 2025

On 26 March the UK Chancellor of the Exchequer, Rt Hon. Rachel Reeves MP, presented the Spring Statement. A package of measures announced in the Spring Statement are intended to close the tax gap further and raise more than £1bn in additional gross tax revenue per year by 2029–30.

These measures include:

- Investing in HMRC's debt management capacity to reduce current levels of tax debt, including "an innovative test and learn pilot" to collect more aged debts, and moving towards more automated debt recovery.
- Investing in recruiting 500 more HMRC compliance staff, in addition to the 5,000 new compliance staff whose recruitment was announced during the Budget last autumn.
- Increasing late-payment penalties for VAT and income tax self-assessment taxpayers as they join Making Tax Digital from April 2025 onwards, to encourage taxpayers to pay on time. The new rates will be 3% of the tax outstanding where tax is overdue by 15 days, plus 3% where tax is overdue by 30 days, plus 10% per annum where tax is overdue by 31 days or more.
- Taking stronger action against the most egregious behaviours "which lead to lost revenue and impact others, such as tax fraud which hurts legitimate businesses and finances other crimes".
- HMRC is overhauling its approach to offshore tax non-compliance by the wealthy, recruiting experts in private sector wealth management and deploying artificial intelligence (AI) and advanced analytics "to help identify and challenge those who try to hide their wealth".
- Accelerating change at HMRC, including through introducing voice biometrics, using AI in customer services and compliance, and running a customs digitalisation pilot sharing trusted trader credentials with US Customs and Border Protection.
- The UK Government will bring forward further measures in the spring to simplify the tax and customs systems. In the summer HMRC will publish a transformation roadmap. These measures are intended to "collectively reduce administrative burdens so businesses and individual taxpayers spend less time on tax and customs administration".

Alongside the Spring Statement, the UK Government published a number of consultations, including on:

- a revised system of advance clearances in the research and development tax relief system.
- a new process to give major projects greater advance tax certainty;
- how HMRC can make better use of third-party data to increase automation and close the tax gap;
- options to enhance HMRC's powers and sanctions to take swifter and stronger action against tax advisers who facilitate non-compliance in their client's tax affairs;
- a package of measures to "close in on" promoters of tax avoidance; and
- options to simplify and strengthen HMRC's behavioural penalties for inaccuracies and failures to notify.

The UK Government has confirmed that businesses will be able to obtain certainty on the transfer pricing treatment of cost contribution arrangements through the UK's advance pricing agreement programme.

Meeting of UN Committee of Experts on International Cooperation in Tax Matters

The United Nations (UN) Committee of Experts on International Cooperation in Tax Matters held its 30th session in New York from 24 to 27 March 2025. The Committee comprises 25 members, nominated by governments, appointed by the UN Secretary-General for a four-year term to serve in their personal capacities as experts. The members are drawn from the fields of tax policy and tax administration and reflect the diversity of the UN membership, in terms of geographical regions and tax systems.

The focus of the Committee meeting was on progressing the implementation of the 2021–2025 period work plan. Policy and emerging issues on the agenda included: updates related to the UN Model Tax Convention; transfer pricing guidelines; environmental tax guidance; extractive industries taxation; tax issues related to the digitalised and globalised economy; wealth and solidarity taxes; taxation of crypto-assets; and the relation of tax to trade and investment.

The Committee also discussed the practical implementation of tax treaty negotiation; avoidance and resolution of tax disputes; indirect tax and health tax guidance; digitalisation of tax administration; and increasing tax transparency.

At the meeting a new Article 12A of the Model Tax Convention and associated commentary were presented to the Committee for approval. The new Article 12A on fees for services would combine the existing Articles 12A and 14 into a new provision. The text of the new Article 12A is contained in Annex A of the Co-Coordinators' Report on the work of the subcommittee on taxation issues related to the digitalised and globalised economy.

At the 28th session the Committee agreed that the World Trade Organization General Agreement on Trade in Services (GATS) clause currently found in the commentary on Article 25 (Mutual Agreement Procedure) of the Model Convention should be given greater visibility by including it directly in the text of the Model Article. The text of the draft GATS clause, which is contained in the Annex to the Co-Coordinators' Report on the work of the subcommittee on the relationship of tax, trade and investment agreements, was presented to the Committee at the meeting for consideration for final approval.

US Presidential Action on digital services taxes and foreign trade barriers

On 21 February US President, Donald Trump, issued a Presidential Action titled Defending American Companies and Innovators from Overseas Extortion and Unfair Fines and Penalties. The order aims to protect American businesses, particularly in the technology sector, from "anti-competitive policies and practices of foreign governments".

The order asserts: "Beginning in 2019, several trading partners enacted digital services taxes (DSTs) that could cost American companies billions of dollars and that foreign government officials openly admit are designed to plunder American companies". According to the order, tariffs and other responsive actions will be imposed by the Trump Administration where a foreign government, through its tax or regulatory structure, imposes a fine, penalty, tax or other burden that is discriminatory, disproportionate or designed to transfer significant funds or intellectual property from American companies to the foreign government. Further details on the several actions for key agencies included in the order are outlined below.

Assessing whether to renew investigations of DSTs

The US Trade Representative (USTR) has been tasked with determining, in accordance with applicable law:

- whether to renew investigations of the DSTs of France, Austria, Italy, Spain, Turkey and the UK;
- whether to investigate the DST of any other country that may discriminate against US companies or burden or restrict US commerce;
- whether to pursue a panel under the US–Mexico–Canada Agreement on the DST imposed by Canada and whether to investigate Canada's DST.

Identifying foreign trade and regulatory practices that harm US firms

The Secretary of the Treasury, the Secretary of Commerce and the USTR have been jointly tasked with identifying trade and other regulatory practices by other countries that discriminate against, disproportionately affect or otherwise undermine the global competitiveness or intended operation of US companies in the digital economy and to recommend appropriate actions to the US President to counter such practices.

Reviewing international tax practices that could undermine US competitiveness

The Secretary of the Treasury, in consultation with the Secretary of Commerce and the USTR, shall determine whether any foreign country subjects US citizens or companies, including, without limitation, in the digital economy, to discriminatory or extraterritorial taxes, or has any tax measure in place that otherwise undermines the global competitiveness of US companies and is inconsistent with any tax treaty of the US, or is otherwise actionable under USA law.

Seeking to suspend customs duties

The USTR has been tasked with identifying tools the US can use to secure a permanent moratorium on customs duties on electronic transmissions among trading partners.

Examining whether foreign policies restrict freedom of speech and political engagement

The Secretary of the Treasury, the Secretary of Commerce and the USTR have also been tasked with investigating whether any act, policy or practice of any country in the EU or the UK has the effect of requiring or incentivising the use or development of US companies' products or services in ways that undermine freedom of speech and political engagement or otherwise moderate content, and to recommend appropriate actions to counter such practices.

Series of US tariffs announced since spring

Since early spring the US President, Donald Trump, has announced a series of tariffs that have led to an escalation of geopolitical tensions. We summarise below these announcements and the responses from the EU and Ireland.

12 March: Steel and aluminium tariffs

On 12 March the US imposed tariffs of up to 25% on imports of steel, aluminium, and certain products containing steel and aluminium from the EU and other trading partners. In response the European Commission launched a series of countermeasures.

First, the Commission allowed the suspension of existing 2018 and 2020 countermeasures against the US to lapse on 1 April. Second, in response to new US tariffs affecting more than €18bn of EU exports, the Commission put forward a package of new countermeasures on US exports, which were due to come into force in mid-April.

EU Member States voted in favour of the Commission's proposal to introduce trade countermeasures against the US. The countermeasures were to enter into force once the Commission's internal procedures were concluded and the implementation act was published, with duties collected as of 15 April. However, on 8 April President Trump announced a 90-day pause (until 9 July 2025) on the application of the individual tariffs and, instead, imposed an additional ad valorem rate of duty of 10% on imports (outlined in more detail below). The President of the European Commission, Ursula von der Leyen, confirmed that, having taken note of the announcement by President Trump on 8 April and to give negotiations a chance, EU countermeasures would be put on hold for 90 days.

26 March: US tariffs on imports of automobiles and automobile parts

On 26 March President Trump issued a Presidential Action titled Adjusting Imports of Automobiles and Automobile Parts into the United States, imposing a 25% tariff on imports of automobiles and certain automobile parts.

The 25% tariff will be applied to imported passenger vehicles (sedans, sport utility vehicles (SUVs), crossover utility vehicles, minivans and cargo vans) and light trucks, collectively known as automobiles, as well as certain automobile parts (engines and engine parts, transmissions and powertrain parts, and electrical components), collectively known as automobile parts, with processes to expand tariffs on additional parts if necessary. The 25% tariff applies to automobiles from 3 April 2025 and to automobile parts no later than 3 May 2025.

2 April: US "reciprocal tariffs" on trading partners

On 2 April President Trump issued a Presidential Action titled Regulating Imports with a Reciprocal Tariff to Rectify Trade Practices that Contribute to Large and Persistent Annual United States Goods Trade Deficits, imposing "reciprocal tariffs" to address tariff and non-tariff barriers imposed by US trading partners.

This announcement coincided with the publication of the 2025 National Trade Estimate Report on Foreign Trade Barriers by the Office of the United States Trade Representative (USTR) submitted to President Trump and US Congress on 31 March. This annual report details foreign trade barriers faced by US exporters and the USTR's efforts to reduce those barriers.

The Presidential Action notes that non-tariff barriers include the domestic economic policies and practices of US trading partners, including currency practices and value-added taxes, and their associated market distortions, that suppress domestic consumption and boost exports to the US.

Invoking the President's authority under the International Emergency Economic Powers Act of 1977 to address the national emergency, the Presidential Action provided for additional ad valorem duty on all imports from all trading partners starting at 10% and, shortly thereafter, an increase in the additional ad valorem duty for trading partners enumerated in Annex I to the Presidential Action.

The 10% tariff on all countries took effect on 5 April 2025 at 12:01 a.m. Eastern Daylight Time (EDT). The individualised reciprocal higher tariffs on the countries with which the US has the largest trade deficits were due to take effect on 9 April 2025 at 12:01 a.m. EDT. A reciprocal higher tariff of 20% was due to be imposed on all imports from the EU.

Annex II to the Presidential Action lists goods that will not be subject to the reciprocal tariff under the Executive Order, including pharmaceuticals and semi-conductors.

In a statement on 2 April Commission President von der Leyen noted her deep regret at the choice by the US to impose tariffs and said "The global economy will massively suffer. Uncertainty will spiral and trigger the rise of further protectionism." President von der Leyen confirmed that the EU has always been ready to negotiate with the US, to remove any remaining barriers to transatlantic trade, but at the same time the EU is prepared to respond. President von der Leyen highlighted that there is an alternative path and that it is not too late to address concerns through negotiations. She said "We will work towards reducing barriers, not raising them".

On 3 April the Taoiseach, Micheál Martin TD, released a statement noting his deep regret at the US decision to impose 20% tariffs on imports from the EU and stating that Ireland would reflect with EU partners on how best to proceed. Commenting on how Ireland is a small, open economy that has built its prosperity on a policy of free and fair trade, the Taoiseach stated that there is no doubt that the imposition of tariffs by the US will have an adverse impact. The Tánaiste, Minister for Foreign Affairs and Trade and Minister for Defence, Simon Harris TD, also noted his deep regret at the US decision to impose 20% tariffs on imports from the EU.

8 April: US announcement of a pause on tariffs for all countries except China

On 8 April President Trump issued an Executive Order titled Amendment to Reciprocal Tariffs and Updated Duties as Applied to Low-Value Imports from the People's Republic of China. The order notes, that in contrast to the People's Republic of China (China), more than 75 foreign trading partners, including countries enumerated in Annex I to President Trump's Executive Order of 2 April, "have approached the United States to address the lack of trade reciprocity in our economic relationships and our resulting national and economic security concerns".

The order temporarily suspends, for a period of 90 days until 9 July 2025, except with respect to China, the application of the individual ad valorem duties imposed on the foreign trading partners listed in Annex I to President Trump's Executive Order of 2 April and, instead, imposes an additional ad valorem rate of duty of 10% on imports from those countries.

In response to the tariffs announced by China on all US imports to China, the order imposes increased tariffs on goods imported to the US originating from China. China subsequently announced an increase in the import tariffs on US goods.

In a statement on 10 April Commission President von der Leyen welcomed President Trump's announcement to suspend temporarily the implementation of specific country-by-country tariffs. The Commission President noted that it as an important step towards stabilising the global economy.

23 May: Potential 50% tariff on EU imports from 1 June

In a social media post on 23 May President Trump indicated that he is recommending a 50% tariff on EU imports from 1 June, citing that the European Union "has been very difficult to deal with".

The Taoiseach and the Tánaiste issued statements on 23 May in response to the US President's announcement. In his statement the Taoiseach noted that the suggestion by the US President that he is recommending a 50% tariff on EU imports from 1 June is "enormously disappointing". He reiterated that he had welcomed the pause in tariffs until early July to allow for continued negotiations between the EU and the US and, ideally, an agreed outcome. In his statement the Tánaiste reaffirmed that Ireland's consistent position and that of the EU is that "we need a substantive, calm, measured and comprehensive dialogue with the United States".

After a phone call with Commission President von der Leyen on 25 May, President Trump agreed to revert to the original 9 July deadline for decisions on trade and tariffs with the EU.

3 June: Increased tariff on imports of aluminium and steel

On 3 June President Trump issued a Presidential Action Proclamation titled Adjusting Imports of Aluminum and Steel into the United States, raising the tariff on steel and aluminium imports from 25% to 50%. The higher tariff became effective from 4 June 2025.

US announces actions to reduce regulatory barriers to domestic pharmaceutical manufacturing

On 5 May President Trump signed an Executive Order titled Regulatory Relief to Promote Domestic Production of Critical Medicines, which aims "to facilitate the restoration of a robust domestic manufacturing base for prescription drugs, including key ingredients and materials necessary to manufacture prescription drugs".

A related White House Factsheet outlines that the Executive Order will build on actions from President Trump's first term to re-shore production of essential medicines and decrease reliance on foreign producers. The Factsheet notes that the Executive Order aims to promote American-made prescription drugs by:

- Directing the US Food and Drug Administration (FDA) to reduce the amount of time that it takes to approve domestic pharmaceutical manufacturing plants.
- Directing the FDA to increase fees for and inspections of foreign manufacturing plants.
- Directing the FDA to improve enforcement of active pharmaceutical ingredient source reporting by foreign drug producers and consider publicly displaying a list of facilities that do not comply.
- Directing the Environmental Protection Agency to accelerate the construction of facilities designed to manufacture prescription drugs, active pharmaceutical ingredients and other necessary raw materials.
- Ensuring that federal agencies issuing permits for a domestic pharmaceutical manufacturing facility designate a single point of contact to coordinate permit applications, with inter-agency support from the White House Office of Management and Budget, to ensure an efficient and coordinated process.
- Speeding up timelines for building domestic pharmaceutical manufacturing sites in the US by reducing regulatory barriers to construction

US–UK trade deal announced

On 8 May President Trump and the UK Prime Minister, Keir Starmer, announced a "breakthrough deal" on trade. The trade deal covers a number of elements, including:

- Car import tariffs will reduce from 27.5% to 10% for the first 100,000 vehicles exported to the US by UK car manufacturers each year. Any additional vehicles each year will be subject to a 25% rate.
- The US tariffs on steel and aluminium will reduce to zero, with alternative arrangements to be negotiated.
- Reciprocal market access on beef will be available, with UK farmers given a quota of 13,000 metric tonnes, while protections on food standards for UK imports are to be maintained.

According to a White House Factsheet, the 10% reciprocal tariff is "in effect". Work will continue on the remaining sectors, such as pharmaceuticals, and remaining reciprocal tariffs. The US has agreed that the UK will get preferential treatment with regard to any further tariffs imposed as part of the Trump Administration's section 232 investigations.

The digital services tax remains unchanged as part of the trade deal. Instead, the US and the UK have agreed "to work on a digital trade deal that will strip back paperwork for British firms trying to export to the US".

Commission launches consultation on list of US imports subject to possible EU countermeasures

The European Commission launched a public consultation on a list of US imports that mY become subject to EU countermeasures if EU–US negotiations do not result in a mutually beneficial outcome and the removal of the US tariffs.

The list of imports on which the Commission was consulting concerns imports from the US worth €95bn, covering a broad range of industrial and agricultural products. The Commission was also consulting on possible restrictions on certain EU exports of steel scrap and chemical products to the US worth €4.4bn. The consultation was designed to address both the US universal tariffs and the tariffs on cars and car parts.

Since the US imposed its tariffs, the EU has prioritised finding a mutually beneficial and balanced solution through negotiations, including within the framework of the 90-day partial suspension of tariffs announced by the US.

When launching the consultation the Commission noted that the EU continues to prepare potential countermeasures to defend its consumers and industry, in parallel with the negotiations and in case these fail to deliver a satisfactory outcome. The public consultation is a necessary step in this process, and it does not automatically result in the adoption of countermeasures.

In parallel, the Commission confirmed that the EU would launch a World Trade Organization (WTO) dispute against the US on its universal "reciprocal" tariffs and tariffs on cars and car parts, by formally lodging a request for consultations. It is the unequivocal view of the EU that these tariffs blatantly violate fundamental WTO rules. The EU's objective is "to reaffirm that internationally agreed rules matter, and these cannot be unilaterally disregarded by any WTO member, including the US".

Finally, the Commission noted that it would continue to monitor carefully the potential diversion of global exports to the EU market that might be caused by the US tariffs imposed on third countries. In addition, the Commission would continue to pursue negotiations with other trading partners to find new export outlets and diversify sources of supply. It would also continue work to reduce barriers and strengthen the EU's Single Market.

Anyone who is affected by the United States' measures and by the possible EU rebalancing measures was invited to respond to the Commission's survey by 10 June.

US House Ways and Means Committee marks up Budget Reconciliation Bill

On 14 May the US House Ways and Means Committee marked up the tax portion of the House Budget Reconciliation Bill, titled The One, Big, Beautiful Bill.

Unfair foreign taxes

Section 112029 of the Bill, titled Enforcement of remedies against unfair foreign taxes, seeks to introduce a new Internal Revenue Code (IRC) section 899 to target individuals and companies in jurisdictions that impose an "unfair foreign tax". The term unfair foreign tax includes an undertaxed profits rule, digital services tax, diverted profits tax and, to the extent provided by the Secretary of the Treasury, "an extraterritorial tax, discriminatory tax, or any other tax enacted with a public or stated purpose indicating the tax will be economically borne, directly or indirectly, disproportionately by United States persons".

The section-by-section analysis of the Bill notes that the provision seeks to respond to unfair taxes by increasing the rate of tax generally applicable to certain taxpayers connected to the foreign jurisdiction. Affected taxpayers generally include the foreign government, resident individuals, resident corporations, resident foreign private foundations and entities owned by such persons.

The increases apply to certain income, withholding and excise taxes imposed on non-residents. The rate of tax imposed increases from the rates otherwise applicable under current law in 5% increments for each year the unfair tax is imposed, until either the unfair tax is removed or the tax reaches a maximum amount equal to the relevant statutory rate plus 20%.

The provision applies a delayed effective date to allow time for negotiations and provides discretion for the Secretary of the Treasury to expand or narrow the definition of unfair taxes. The provision requires the Secretary of the Treasury to provide a list of unfair taxes to aid withholding agents, who are permitted to rely on the published list in determining appropriate withholding rates and are granted relief from penalties and interest with respect to errors until 1 January 2027, if they demonstrate that best efforts were made at compliance.

According to the section-by-section analysis, the provision also applies to certain US entities that are owned by a tax resident of a foreign jurisdiction that imposes an unfair tax. These US entities are subject to certain modifications to the Base Erosion and Anti-Abuse Tax (BEAT) that expands the scope of entities subject to the minimum tax, increases the applicable rate, reduces the benefits of certain credits and expands the taxable base to include certain payments that are currently excluded.

Other measures included in the Bill

The Bill seeks to make permanent some of the expiring provisions of the Tax Cuts and Jobs Act of 2017 (TCJA), including:

- the expiring individual provisions for lower rates, the higher standard deduction and the higher Alternative Minimum Tax exemption amount; and
- the lower rates for the international provisions: global intangible low-taxed income (GILTI), foreign-derived intangible income (FDII) and BEAT.

The Bill also seeks to restore several expired business tax benefits from the TCJA, including:

- restoring the deductibility of US research and development costs under IRC section 174 for the years 2025 to 2029;
- restoring the 100% bonus depreciation for the years 2025 to 2029; and
- restoring the interest deductibility limit to 30% of EBITDA.

Recent Revenue eBriefs

Lorraine Sheegar
Tax Manager – Tax Policy and Representations, Irish Tax Institute

Revenue eBriefs Issued from 1 February to 30 April 2025

No. 031 Part 22A-01-01 – Guidance on the Residential Zoned Land Tax – Part 22A TCA 1997

Revenue has updated the manual "Guidance on the Residential Zoned Land Tax" to reflect amendments in recent Finance Acts, including to the following sections:

- Section 2: What land does RZLT apply to?;
- Section 4: Administration;
- Section 6: Exemptions, deferrals and abatements; and
- Section 10: Other issues.

Examples have also been updated throughout the manual, and several new examples have been added.

No. 032 VAT and Employer Income Tax/ PRSI/USC/LPT – Direct Debit Guidelines

The manual "VAT and Employer Income Tax/ PRSI/USC/LPT Direct Debit Guidelines" has been updated to reflect that fixed direct debit for employer income tax/PRSI/USC/LPT is no longer available for periods from 2025 onwards. Employers can opt to set up a variable direct debit instead. This change is part of Revenue's direct debit modernisation project.

No. 033 Provisions Relating to the Residence of Individuals

The "Provisions Relating to Residence of Individuals" manual has been updated as follows:

- Guidance on the meaning of ordinary residence and its implications for the charge to tax has been consolidated into a new paragraph 2.
- Guidance on split-year residence has been removed from the manual as detailed guidance is now provided in a new "Split Year Residence" manual.
- A new paragraph 5 has been included to provide more detailed guidance on the charge to tax of income from a public office or employment.
- Paragraph 6 (PAYE exclusion orders) has been removed as detailed guidance on this topic is available in the "PAYE Exclusion Orders" manual.
- A new paragraph 7 has been included to provide guidance on double taxation agreements.
- Appendix 1 has been amended to include a summary table outlining the tax implications of an individual's residence, ordinary residence and domicile status.
- The examples in Appendix 2 have been refreshed, and the references in the examples to relevant manuals have been updated.
- A new Appendix 3 has been included in the manual containing historical guidance on the residence "force majeure" concession applying to Covid-19 circumstances in 2020.

A new manual on "Split Year Residence" has been published. Section 822 TCA 1997 was amended by Finance Act 2024 to allow individuals to self-assess their eligibility for split-year residence (SYR) and claim relief in their income tax returns for the relevant year. Therefore satisfying Revenue of an individual's residence intentions during their year of arrival in or departure from the State is not required, except where an individual seeks to avail of SYR during that year – for example, in PAYE exclusion order cases.

The manual provides guidance on claiming relief under the "Finance Act 2024 scheme (out-of-year claims)" and the "Finance Act 1994 scheme (in-year claims)". Illustrative examples for both schemes are provided.

No. 034 Company Charge to Income Tax on Loans to Participators

Revenue's manual "Company Charge to Income Tax on Loans to Participators" has been updated to include a new introduction, additional information on the operation of the provisions and more examples.

No. 035 Guide to Excise Licences – Gambling Act 2024

The "Guide to Excise Licences" manual has been updated to reflect the establishment of the Gambling Regulatory Authority of Ireland (GRAI). The Gambling Regulation Act 2024 established the GRAI and introduced a new licensing framework for gambling in Ireland.

The GRAI will license all types of betting and gaming, including taking over the licensing of bookmakers, bookmaking offices, remote bookmakers, remote betting intermediaries and gaming operators, currently dealt with by Revenue. The Gambling Regulation Act has also reduced the term of a licence from two years to one year.

There will be a transitional period where Revenue will continue to issue licences, with timelines dependent on updates from the GRAI. Revenue has been advised that it will license remote bookmakers and remote betting operators for 1 July 2025 and bookmakers for 1 December 2025 with a one-year licence. Section 75 of Finance Act 2024 provides for the pro-rating of licence duties to reflect the change in licence terms, which is subject to commencement by the Minister for Finance.

The eBrief notes that guidance will be updated as information is provided to Revenue. Queries on the role of the Regulator and the new licensing framework should be directed to GRAI@justice.ie.

No. 036 Manual on EU Sanctions in Response to the Situation in Ukraine

Revenue's "Manual on EU Sanctions in Response to Situation in Ukraine" has been updated at paragraph 2 to include updated legislative references.

No. 037 Mandatory Licences for Employees in Private Security

Revenue's "Mandatory Licences for Employees in Private Security" manual has been updated to provide guidance on how to claim a tax deduction for the cost of a mandatory licence via myAccount.

No. 038 Small Benefit Exemption

Revenue has updated the "Small Benefit Exemption (SBE)" manual to reflect Finance Act 2024 amendments to s112B TCA 1997, as follows:

- Paragraph 2 has been updated to reflect that, with effect from 1 January 2025, an employer may provide up to five relevant incentives to an employee in a year of assessment. This is subject to a cumulative annual limit of €1,500.
- A new paragraph 2.1 outlines the limits pertaining to the number and value of incentives for each year since the introduction of the exemption.
- The examples provided in paragraph 5 have been refreshed and some new ones added (i.e. Examples 7 and 8).

No. 039 Movement of Excisable Products

The "Movement of Excisable Products" manual has been updated to include:

- the Control of Excisable Products Regulations 2024 (SI 36 of 2024);
- changes to the Excise Movement and Control System (EMCS) with the introduction of EMCS 4.1; and
- minor corrections and revisions throughout the text.

No. 040 Guidelines on PAYE Assessments

Revenue has updated the manual "Guidelines on PAYE Assessments" at paragraph 6.2 to reflect the Finance Act 2024 amendment to the four-year statutory time limit on the making or amending of PAYE assessments by a Revenue officer.

No. 041 Annual Average Exchange Rates

Revenue's "Annual Average Exchange Rates" manual has been updated to include the average market mid-closing rate versus the Euro for the 2024 calendar year.

No. 042 Employer Provided Vehicles

The manual "Chapter 2 – Employer Provided Vehicles" has been updated as follows:

- Paragraph 4.1.3 reflects the Finance Act 2024 extension of the temporary reduction to the original market value (OMV) to apply for the 2025 year of assessment.
- Paragraph 4.1.4 reflects the Finance Act 2024 extension of the reduction of 4,000 kilometres in the highest mileage band, from 52,001 kilometres to 48,001 kilometres, to apply for the 2025 year of assessment.
- A new paragraph 10, "Charge to Benefit in Kind on Electric Charging Facilities", has been added to reflect the Finance Act 2024 extension of the benefit-in-kind exemption that applies to the electric charging of vehicles on an employer's business premises to apply also, subject to certain conditions, to the installation of a battery electric vehicle home charger by an employer at a director's or an employee's private residence.
- The examples in the manual have been refreshed, with two new ones added (Example 9 in paragraph 5.2, "Limited Use of a Van", and Example 12 in paragraph 7, "Chauffeur Driven Cars"). The graphic in paragraph 6.2, which summarises the applicable tax treatment for electric vehicles made available for an employee's private use in the years 2018 to 2022 inclusive, has been changed to a table format.

No. 043 Capital Acquisitions Tax Collector General's Guidelines

Revenue's capital acquisitions tax (CAT) manual "Collector General's Division Guidelines" has been amended as follows:

- The title has been amended.
- A new table has been included in section 1.4, "CAT Thresholds".
- References to a voluntary judgment mortgage have been removed.
- Section 3 includes information on CAT agricultural relief and notes that the flat-rate addition for farmers has increased from 4.8% to 5.1% from 1 January 2025.
- Further information has been added to Appendix 1, "How to pay your Capital Acquisitions Tax (CAT) online", about paying by credit or debit card. Reference to single debit authority has been amended to single debit instruction
- The address for Danske Bank has been updated.

No. 044 Share Reporting Obligations 2024

Revenue issued an eBrief to remind employers of the upcoming filing deadline for share scheme reporting for 2024, 31 March 2025, and to highlight a new version (25.1) of the share-related returns. The new version is available on Revenue's share reporting obligations webpage and includes the following changes:

- All returns now allow reporting for the return period 2024 and previous years.
- The number of line entries in the "Discounted-Free-Matching-ESPP" tab of the Form ESA has been increased from 5,000 to 20,000.

- Accessibility details have been updated in the Notes tab of the Form RSS1 and Form ESS1.
- The penalties section of the Notes tab of the Form ESS1 has been amended to reflect the correct amount of the penalty for failing to make a return, for the making a false return or for helping to make a false return

No. 045 Global Minimum Level of Taxation for Multinational Enterprise Groups and Large-Scale Domestic Groups in the Union

Revenue has updated its manual "Global Minimum Level of Taxation for Multinational Enterprise Groups and Large-Scale Domestic Groups in the Union", which provides guidance on the operation of the Pillar Two rules. The updates to the manual reflect certain amendments made to Part 4A TCA 1997 by Finance Act 2024.

The changes to the manual include:

- Updates to section 8.5 with respect to the application of a number of rules relating to deferred tax, including an order-of-utilisation rule when determining the total deferred tax adjustment amount for a fiscal year in relation to a loss deferred tax asset.
- Updates to section 8.7 to provide for the allocation of certain covered taxes to a constituent entity that is a hybrid entity or a reverse hybrid entity and to allow for an election to exclude the allocation of certain deferred tax expenses and benefits to a jurisdiction.
- Updates to section 9.8 with respect to the transitional country-by-country reporting safe harbour, including anti-avoidance provisions relating to "hybrid arbitrage arrangements".
- A new section 9.10, which provides guidance on the rules to be used by eligible groups for non-material constituent entities to be applied under the simplified calculations safe harbour.
- Updates to section 13.2 to reflect the amendments to s111AAB TCA 1997, which provide that stand-alone investment undertakings, as defined in s246 TCA 1997, shall not be chargeable to the domestic top-up tax.
- Updates to section 13.3 to reflect the amendments to s111AAC TCA 1997, which provide for the domestic top-up tax liability in respect of a securitisation entity to be imposed on another constituent entity of the multinational enterprise group or, where the top-up tax liability cannot be otherwise collected, on the securitisation entity itself.
- Updates to section 13.4 in relation to the calculation of domestic top-up tax to clarify the operation of this provision.

A number of other amendments have been reflected throughout the manual to clarify several technical adjustments made by Finance Act 2024 to ensure that the Pillar Two legislation operates as intended. Appendix 1 (Correlation Table) has also been updated to reflect all required references.

No. 046 Procedures for Personal Insolvency Caseworking

Revenue's manual "Revenue Procedures for Personal Insolvency Caseworking" has been amended as follows:

- Information on the Collector General's Personal Insolvency Unit is updated.
- Information on CAT is now included in the manual (i.e. information on preferential debt in section 2).
- Section 6.13 lists updated minimum Revenue requirements for the caseworker to consider whether to agree to an arrangement.
- Section 9, "Collection of dividends due for a DSA or PIA", has been updated. The section reflects that an insolvency arrangement can be paid monthly, quarterly, biannually or annually, depending on the terms of the arrangement. Payments will be made to Revenue from the personal insolvency practitioner by electronic funds transfer.

No. 047 Guide to Exchange of Information

Revenue has updated the manual "Guide to Exchange of Information under Council Directive 2011/16/EU, Ireland's Double Taxation Agreements and Tax Information Exchange Agreements and the OECD/Council of Europe Convention on Mutual Administrative Assistance in Tax Matters" at Appendix 1, "Table of AEOI Exchange Relationships", to show new exchange relationships commenced in 2024 and to date in 2025.

No. 048 Guide to Excise Licences – Gambling Act 2024

As outlined in eBrief 035/2025, the Gambling Regulation Act 2024 provided for the establishment of the Gambling Regulatory Authority of Ireland (GRAI) and introduced a new licensing framework for gambling in Ireland. Revenue updated the "Guide to Excise Licences" manual to include a notice on this development and advised that further updates would follow as information is provided to Revenue. This manual has been further updated.

Once fully established, the GRAI will be the sole body responsible for the regulation and licensing of gambling in Ireland. In the interim Revenue will continue to issue licences under the Betting Act 1931 and the Gaming and Lotteries Act 1956.

The Gambling Regulation Act reduced the licence term for bookmakers and intermediaries from two years to one. Queries on the role of the Regulator or the new licensing framework should be directed to GRAI@justice.ie. Queries on existing licences can be forwarded to the National Excise Licensing Office.

No. 049 Updates to Temporary Admission Manual

Revenue's "Customs Temporary Admission Manual" has been updated at section 2.14.1 to reflect that temporary admission of horses imported for certain events (e.g. sporting events and breeding) can now be done without security. In addition, Appendix K, "Inventory to support an Oral Customs Declaration", includes new oral inventory, and security detail has been removed as it is no longer required. Some minor text changes have been made to the manual including replacing references to Automated Entry Processing with Automated Export System.

No. 050 VAT Treatment of Heat Pump Heating Systems

Revenue amended the following VAT manuals:

- The "VAT Treatment of Heat Pump Heating Systems" manual further clarifies what the second reduced rate of 9% applies to. From 1 January 2025 the supply and installation of a low-emission heat pump heating system is taxable at the second reduced rate. The supply and installation of a heat pump heating system can include key equipment such as heating controls, radiators, underfloor heating emitters and the associated pipework where required to facilitate the effective/efficient operation of a heat pump.
- The "VAT Treatment of Fixtures and Fittings" manual includes a consequential amendment arising from the application of the second reduced rate of 9% to the supply and installation of low-emission heat pump heating systems.

No. 051 VAT Treatment Relevant to Taxi Drivers

Revenue published a new "VAT Treatment Relevant to Taxi Drivers" manual providing guidance on how various VAT rules apply to taxi drivers.

No. 052 Return of Values – Investment Undertakings

Revenue has updated the "Return of Values – Investment Undertakings" manual to include the following additional excepted unit holders in section 2.3:

- Section 739D(6)(n) TCA 1997 – Pan European Pension Product (PEPP) and
- Section 739D(6)(kba) TCA 1997 – The Future Ireland Fund and the Infrastructure, Climate and Nature Fund.

In addition, the manual has been updated to provide that all returns should now be submitted by way of the Revenue File Transfer System to the Analytics and Information Branch of the Accountant General's and Strategic Planning Division.

No. 053 Guidelines for Agents and Customers Regarding the Agent E-linking Process

Revenue published a new manual, "Guidelines for Agents and Customers regarding the Agent E-linking Process", to provide guidance on the new digital process for the approval of agent links by taxpayers that have an active ROS digital certificate or are registered for myAccount. The new system will be available from 25 March.

No. 054 Guidance on Relief for Investment in Innovative Enterprises – Chapter 6A of Part 19 TCA 1997

Revenue published three new manuals providing guidance on the targeted capital gains tax (CGT) relief to encourage angel investment in innovative start-ups. This measure, introduced by s54 Finance Act 2024, added a new Chapter 6A to Part 19 of TCA 1997. The manuals are:

- "Relief for Investment in Innovative Enterprises",
- "Relief for Investment in Innovative Enterprises: Investor's Perspective" and
- "Relief for Investment in Innovative Enterprises: Qualifying Company (Certificates of Qualification)".

The relief for investment in innovative enterprises was subject to a Commencement Order and was commenced by Ministerial Order on 1 March 2025.

The relief allows a qualifying investor to avail of a reduced CGT rate of 16% (or 18% in the case of investments made via a qualifying partnership) on a gain arising on the sale of a qualifying investment in a qualifying company subject to certain conditions. The qualifying investment in eligible shares must be made before 31 December 2026. The shares must be held by the qualifying investor for at least three years before disposal.

A qualifying company is a company that holds certificates of qualification, which consist of:

- a certificate of going concern and
- a certificate of commercial innovation.

A company may make an application to Revenue for the certificates of qualification. Revenue will generally consult with Enterprise Ireland, which may, in turn, consult with a third-party consultant, as part of the certification process.

No. 055 Exportation of Dual Use Goods

The "Manual Relating to the Exportation of Dual-Use Goods" has been updated as follows:

- Paragraph 1 clarifies the roles and responsibilities of Revenue and the Department of Enterprise, Trade and Employment in relation to dual-use controls.
- Paragraph 2 includes the relevant legislation.
- Paragraph 3 includes updated guidance on application process for dual-use export authorisations and customs export requirements.
- A new Annex I lists the relevant dual-use authorisation codes to be declared in data element 12.03 of the customs export declaration.

No. 056 The Employers' Guide to PAYE from 1 January 2019

Revenue updated manual "The Employers' Guide to PAYE With Effect from January 2019" at section 2.7, "Employer ceases to have employees", to reflect that the reporting period for employers who cease to make payments to employees has been amended from 14 days to 30 days as per s988(b) TCA 1997. In addition, the link to the instructions for making a payroll submission to Revenue has been amended from Chapter 19.7 to Chapter 14.4.

No. 057 New Revenue Customer Charter

Revenue has launched a new Customer Charter setting out what customers can expect from Revenue and Revenue's expectations of customers in their dealings with Revenue. The Charter emphasises that Revenue's primary service delivery channel is digital. Revenue's digital self-service channels process millions of taxpayer transactions annually. The eBrief references Revenue's website for tax and customs information and MyEnquiries where direct contact with Revenue is needed.

The Charter recognises that some taxpayers may, due to their personal circumstances, have difficulty in using Revenue's digital services. Revenue's network of Access Officers is available to assist persons with a disability. Revenue also provides virtual and in-person appointments where necessary.

The eBrief notes that the Charter affirms Revenue's commitment to transparent accountability, including the publication of regular performance reports on service delivery.

No. 058 Tax Treatment of the Reimbursement of Expenses of Travel and Subsistence to Office Holders and Employees

Revenue has updated the manual "Tax Treatment of the Reimbursement of Expenses of Travel and Subsistence to Office Holders and Employees" to reflect the increase in the Civil Service subsistence rates effective from 29 January 2025. The revised rates are outlined in Circular 04/2025, issued by the Department of Public Expenditure, NPD Delivery and Reform.

Other changes to the manual include:

- Removal of the reference to reimbursement of costs relating to flights cancelled owing to Covid-19 from Chapter 2.1, "Reimbursement of Expenses of Travel and Subsistence Without Deduction of Tax". This guidance relates to the 2020 year of assessment, which is now outside the four-year timeframe as provided for in s865 TCA 1997.
- Removal of some of the historic Civil Service rates for travel and subsistence in an updated Appendix 2. The historic rates are available on archived versions of the manual, if required.
- Removal of Appendix 3, which dealt with class of allowances, as its application has been discontinued since 1 July 2015.
- Inclusion of a link to Circular 07/2017: Subsistence Allowances Abroad, issued by the Department of Public Expenditure, NPD Delivery and Reform, relating to temporary assignees from the State working abroad on foreign assignment in the table in Chapter 4.11.2, "Assignments of Six Months or Less".

No. 059 Overseas Employers, Overseas Employees and Employees Seconded from Overseas (Chapter 17 Pensions Manual)

Chapter 17 of the Pensions Manual, "Overseas Employers, Overseas Employees and Employees Seconded from Overseas", has been updated at paragraphs 17.8 and 17.10 to remove obsolete material.

No. 060 Deduction for Statutory Registration Fees Paid to the Health and Social Care Professionals Council (CORU)

Revenue has updated the manual "Deduction for Statutory Registration Fees Paid to the Health and Social Care Professionals Council (CORU)" at paragraph 1.1 to update the list of professions regulated by CORU. Paragraph 4 also includes an update to the list of professions that have the CORU annual statutory fee included in the relevant flat-rate expense allowance.

No. 061 Capital Acquisitions Tax Manual – CAT Part 02 – Statement of Affairs (Probate) Form SA.2

The capital acquisitions tax manual "Statement of Affairs (Probate) Form SA.2 – CAT Manual Part 2" has been updated to include information in Appendix 1 on a change to the process for applicants submitting requests for clearance under s48(10) of the Capital Acquisitions Tax Consolidation Act 2003 to distribute benefits to non-resident beneficiaries via MyEnquiries.

The manual clarifies that requests for clearance must be submitted individually for each beneficiary. This is to ensure the integrity of each beneficiary's personal information. A solicitor can use a TAIN (Transaction Advisory Identification Number) to submit each request for clearance separately to Revenue. Information on the use of a TAIN is included in the manual, together with information on the National TAIN Unit.

No. 062 Schedule E Expense Deductions for Employed Consultants and Non-consultant Hospital Doctors (NCHDs)

Revenue has updated manual the "Schedule E Expense Deductions for Employed Consultants and Non-consultant Hospital Doctors (NCHDs)" as follows:

- Paragraph 1 includes a link to the manual "General Rule as to Deduction of Expenses in Employment". This provides guidance on the principles for determining the tax deductibility of general expenses not specifically covered by the manual "Schedule E Expense Deductions for Employed Consultants and Non-consultant Hospital Doctors (NCHDs)" in respect of money expended in the performance of the duties of employment.
- Paragraph 2 includes a link to the manual "General Rule as to Deduction of Expenses in Employment", which provides guidance on flat-rate expense allowances, including how to claim such an allowance, in paragraph 7.
- Appendix 1, which lists publicly funded hospitals in Ireland, has been updated.

No. 063 Form P11D

The "Form P11D" manual has been updated at paragraph 2 to provide clarity on what is required to be included on the Form P11D.

No. 064 Requests for Clearance – Disposal of Land and Buildings (i.e. Specified Assets) by Non-resident Vendors

Revenue has updated the manual covering requests for clearance in relation to capital gains tax (CGT) arising on disposals by non-resident vendors. The amendments are as follows:

- The title of the manual has been updated to "Requests for Clearance – Disposal of Land and Buildings (i.e. Specified assets) by Non-resident Vendors" to better reflect the detail contained within.
- Section 2 has been updated with the insertion of clarifications on the disposal of assets listed in s29(3)(a) TCA 1997 by a non-resident vendor, the role of the representative and the clearance process.
- Section 4 has been updated to insert sections 4.1.1 and 4.1.2 relating to disposals of property with a secured charge. These sections set out the clearance process for disposals where sufficient or insufficient sales proceeds remain after redemption of the secured charge to discharge any CGT liability.
- Section 4.2 has been amended to provide clarity on the clearance process, Revenue's action on receipt of clearance submissions and the 35-working day timeline to review such submissions.
- Section 6 now includes a summary table providing a list of scenarios that may be encountered when dealing with disposals by non-resident vendors.

No. 065 Income Tax Processing for Temporary Assignees Manual

Revenue has updated the manual "Income Tax Processing for Temporary Assignees" at section 2.3.2 to include information and links to the eSARP Portal.

No. 066 Capital Acquisitions Tax (CAT) Part 15 – Insurance Policies

The capital acquisitions tax manual "Insurance Policies – CAT Manual Part 1" has been updated to remove references to earlier Statements of Practice, as the relevant material has been fully incorporated in the manual. A new example covering s73 of the Capital Acquisitions Tax Consolidation Act 2003 has been added to paragraph 15.6.6.

No. 067 Road Haulier Drivers (Employees) – Subsistence Rates

Paragraph 5 of the manual "Road Haulier Drivers (Employees) – Subsistence Rates" has been updated to reflect the increases in subsistence rates that apply from 29 January 2025. The latest subsistence rates are reflected in the manual "Tax Treatment of the Reimbursement of Expenses of Travel and Subsistence to Office Holders and Employees".

In addition, paragraph 6 of the manual has been updated to remove historical subsistence rates applicable to road haulier drivers for periods before 30 June 2019. These rates are available in archived versions of the manual.

No. 068 Application of Part 41A – Full Self-Assessment

The contents of the manual "Application of Part 41A – Full Self-Assessment" have been incorporated in the manual "A Guide to Self-Assessment".

No. 069 ROS – Return Preparation Facility (RPF)

The manual "ROS – Return Preparation Facility (RPF)" has been updated at paragraph 3 to note that the Form VAT3 has been added to the RPF. Appendix 1 has also been updated to confirm the correct file extension for the third-party return, Form 46G – Company.

The RPF can be accessed through a link on the ROS log-in screen. Forms prepared and saved using the RPF must be uploaded using ROS Online to sign and submit the return. The RPF form will time out if the screen is inactive for 30 minutes or longer, and unsaved work will be lost.

As newer versions of forms are made available in the RPF, the forms will not be available in the ROS Offline application. Over time the RPF will replace the ROS Offline application for the majority of forms; however, the ROS Offline application will still be used for some forms. Appendix 1 outlines the specified form types currently available in the RPF.

No. 070 Section 486B TCA 1997 Relief for Investment in Renewable Energy Generation

Revenue has archived the manual "Relief for Investment in Renewable Energy Generation" as the contents of the manual are no longer relevant. The scheme for relief for investment in renewable energy generation under s486B TCA 1997 ceased on 31 December 2014.

No. 071 Operational Guidelines for Registration of a Site for Residential Zoned Land Tax (RZLT) – Site Registration

Revenue updated two manuals providing guidelines on the operation of residential zoned land tax (RZLT).

The "RZLT Registration" manual has been updated to include:

- information relating to where multiple Parcel IDs have been issued for an area of land by the local authority and how to include a site registration;
- an update to the site registration field on the date RZLT may be charged or would be charged but for the commencement of non-residential development; and
- information for non-resident owners on how to obtain a Tax Registration Number.

The manual "RZLT Site Sale or Transfer Guidelines" has been updated to include:

- information on how to view a payment of RZLT and
- how to print confirmation of payment of RZLT relating to a site.

No. 072 PAYE Services: Online Unemployment Repayment

Screenshots and text have been updated in the manual "PAYE Services: Online Unemployment Repayments" to reflect changes made to the "PAYE Services" section in myAccount and the "Other Services" section in ROS. The reference to specific years has also been removed from the manual and replaced by either "current year" or "previous 4 years" – for example, "Manage your Tax 2025" is changed to "Manage your Tax for the current year".

No. 073 Operational Guidelines in Relation to the Submitting of a Return for Residential Zoned Land Tax (RZLT) for Customers and Their Agents

From Monday, 24 March, taxpayers can file a residential zoned land tax (RZLT) return through the RZLT Portal on ROS or myAccount. Revenue released a new "RZLT Return" manual outlining the process for submitting and amending an RZLT return.

No. 074 Expenditure on Approved Buildings and Gardens

Revenue updated the manual "Expenditure on Approved Buildings and Gardens", which relates to the relief available in s482 TCA 1997. The manual includes information on making an application, via MyEnquiries, for a determination by Revenue that reasonable access to the building or garden is afforded to the public.

No. 075 The Provision of Staff Awards

The manual "Chapter 10 – The Provision of Staff Awards" has been updated to include a new paragraph 6, which provides a summary of the tax treatment of staff awards.

No. 076 Update to the Manual Customs Treatment of Gifts and Low Value Consignments

Revenue has updated the customs manual covering the treatment of gifts and low-value consignments. The amendments are as follows:

- The title of the manual has been updated to "Manual Regarding the Customs Treatment of Gifts and Low Value Consignments".
- References to the €22 *de minimis* have been removed from section 3 as it no longer applies.
- The manual reflects that the threshold of €45 for gift relief is now calculated using the intrinsic value and not the customs value.
- Section 9, "Cases of Doubt or Difficulty", has been removed as the details are now included in section 8, "Refund of Customs Duty and Value-Added Tax (VAT)".

No. 077 Remote Working Relief

The "Remote Working Relief" manual has been updated to remove the reference to the 2020 year of assessment. A claim for the 2020 year of assessment is outside the four-year timeframe as provided for in s865 TCA 1997.

No. 078 Local Property Tax Direct Debit Guidelines

Revenue's manual "Local Property Tax Direct Debit Guidelines" has been updated at paragraph 3 (Overview) to provide more clarity on valuation dates by amending the wording in that paragraph. The reference to payment method by cheque under the sub-heading "Payment Options" has also been removed.

No. 079 Quick Start Guide to Residential Zoned Land Tax

Revenue has published a "Quick Start Guide to Residential Zoned Land Tax (RZLT)" to provide an overview of the key information that a land or property owner needs to assist them in fulfilling their RZLT obligations. The guide outlines the steps that land or property owners should take to determine what, if any, RZLT obligations they may have in 2025 and future years.

The guide also highlights further sources of RZLT information that are available on the Revenue website and local authority websites. The return and payment of RZLT for 2025 is due to be filed and paid on or before 23 May 2025, and return processing is now active. Owners of land within the scope of RZLT may register for RZLT, file a return and make an RZLT payment, as appropriate, on ROS or myAccount.

No. 080 VAT Repayment Offset

The manual "Value Added Tax (VAT) Repayment Offset" has been updated to reflect changes to the offset options available to taxpayers claiming VAT repayments on ROS, in light of the end of the debt warehouse scheme. Section 1.2, "Offsets to debt warehouse periods", has been removed from the manual. The tax periods fall into the general guidelines for VAT repayment offsets.

No. 081 Tax Treatment of CervicalCheck Payments

Revenue published a new manual titled "Tax Treatment of CervicalCheck Payments", setting out details of tax exemptions for certain payments made to women impacted by failures in the CervicalCheck national screening programme. These exemptions were announced by the Minister for Finance in Budget 2025 and include payments made under the CervicalCheck non-disclosure ex-gratia scheme and the CervicalCheck Tribunal Act 2019 and claims concluded by way of settlement and court order.

No. 082 Securitisation Regulation: Notification of Investment

Revenue has updated the manual "Securitisation Regulation: Notification of Investment" to reflect the EU list of non-cooperative jurisdictions for tax purposes, which was updated on 28 February 2025. The manual has been updated at Section 1.1 and Appendix 1 to reflect the changes from the October 2024 list.

No. 083 Taxation of Payments Made to Home Tutors by the Department of Education

Section 4 of the manual "Taxation of Payments Made to Home Tutors by the Department of Education" has been updated to remove references to any specific PRSI class and to confirm that the Department of Social Protection (DSP) has responsibility for determining the PRSI class applicable to the emoluments paid to home tutors governed by the Home Tuition Grant Scheme. Contact details for the Scope Section in the DSP are included in the manual.

No. 084 TDM Part 42-04-56 Member of State & State Sponsored Committees, Boards, Commissions & Other Bodies

Paragraph 6 of the manual "Tax Treatment of Remuneration of Members of State & State Sponsored Committees, Boards, Commissions & Other Bodies" has been updated to remove references to any specific PRSI class and to note that the Department of Social Protection (DSP) has responsibility for determining the PRSI class applicable to the emoluments paid to a member of a State body. Contact details for the Scope Section in the DSP are included in the manual.

No. 085 The General Anti Avoidance Rule and Protective Notifications

Revenue has published a new manual titled "The General Anti Avoidance Rule and Protective Notifications", which reflects the information contained in Revenue's "Guidance Notes on GAAR: The General Anti-Avoidance Rule and Protective Notifications".

No. 086 Alcohol Products Tax and Reliefs

Manuals related to alcohol products tax (APT) have been revised to account for the commencement, on 1 March 2025, of s78D of the Finance Act 2003, (as inserted by s69(1)(c) Finance Act 2024), which extends the APT relief for independent small producers of cider and perry to cover other fermented beverages. These include products such as mead and wines, other than grape wine, such as elderberry wine and strawberry wine, as well as higher-strength cider and perry. The relief reduces the standard rate of APT by 50%. The following manuals have been updated:

- "Alcohol Products Tax and Reliefs";
- "Administration & Control of Tax Warehouses Part 2 – Breweries, Microbreweries, Cider and Perry Manufacturers"; and
- "Administration & Control of Tax Warehouses Part 3 – Distilleries".

To facilitate the new scheme, Excise Reference Numbers and Automated Import System Codes have been revised and updated, as set out in:

- Appendices 2 and 5 of “Alcohol Products Tax and Reliefs”; and
- Appendix 5 of “Administration & Control of Tax Warehouses Part 2 – Breweries, Microbreweries, Cider and Perry Manufacturers”.

No. 087 Credit in Respect of Tax Deducted from Emoluments of Certain Directors and Employees

Revenue has updated the manual “Credit in Respect of Tax Deducted from Emoluments of Certain Directors and Employees” to reflect periodic updates throughout the manual. These include updates to examples to refer to the 2024 tax year and to reflect the payment due dates for which the warehousing of certain Schedule E liabilities was permitted. The manual also includes contact details for the Tax Appeals Commission in section 8, “Right of appeal”.

No. 088 Pay and File Extension Date – 2025

Revenue announced that Wednesday, 19 November 2025, is the 2025 ROS Pay & File income tax deadline for self-assessed taxpayers who both pay and file through ROS. The extended deadline will also apply to capital acquisitions tax returns and payments made through ROS for gifts or inheritances with valuation dates in the year ended 31 August 2025.

No. 089 VAT Postponed Accounting

Revenue has updated the manual “VAT – Postponed Accounting” to reflect an update to the VAT3 return to make the completion of the Postponed Accounting PA1 field a mandatory requirement.

No. 090 Excise Duty Rate Changes on Energy Products – 1 May 2025

Revenue has updated the manual “Excise Duty Rates – Energy Products and Electricity Taxes” to reflect carbon tax increases effective from 1 May 2025, which impact the rates of mineral oil tax, natural gas carbon tax and solid fuel carbon tax.

Direct Tax Cases: Decisions from the Irish Courts and Tax Appeals Commission Determinations

Mark Ludlow
Senior Associate – Tax, RDJ LLP

	Topic	Court
01	***Val Clarke v The Revenue Commissioners* [2025] IEHC 182**	High Court
02	**58TACD2025**	Tax Appeals Commission
03	***The Revenue Commissioners v Getty Images International ULC* [2025] IEHC 268**	High Court
04	***Sean Flaherty v The Revenue Commissioners* [2025] IECA 67**	Court of Appeal
05	***Gunther Falkenthal v The Revenue Commissioners* [2025] IEHC 122**	High Court

01 *Val Clarke v The Revenue Commissioners* [2025] IEHC 182

In 2007 the taxpayer, Mr Clarke, incorporated a company ("CRT") with a view to carrying on a quarrying business that he had previously operated as sole trader. CRT was registered for corporation tax, relevant contracts tax and VAT in 2007 and for PREM (employer PAYE and PRSI) in 2009. In 2013 Mr Clarke and CRT underwent a Revenue audit, which concluded with income tax assessments raised against Mr Clarke for the years 2007, 2008 and 2009 on the grounds that he had not formally transferred his business to CRT and so the income of the quarry business should be assessed in his name. At the initial appeal before the Tax Appeals Commission (TAC) the Commissioner held as a matter of fact that the quarry business had not been transferred to CRT and therefore upheld the income tax assessments. Mr Clarke appealed that determination to the High Court.

The question before Mr Justice Cregan in the High Court was whether the TAC was correct to find that the taxpayer had not transferred his quarrying business to CRT in 2007. The quarry lands themselves remained in Mr Clarke's possession; the question related solely to the operating activity.

The key points of dispute concerned:

- the TAC's finding that "There exists no documentary evidence of the transfer of the quarry business such as a deed or certificate of transfer of ownership"; and

- the TAC's finding that "The evidence does not establish that the appellant was acting in the capacity of undisclosed agent for the quarry business in relation to the company".

The taxpayer submitted that three separate documents evidenced the transfer of the business: (1) a notice of an EGM dated 28 February 2007; (2) the wording of an ordinary resolution passed by the EGM; and (3) the minutes of the EGM showing that a resolution had been passed.

The court held, in dismissing the taxpayer's appeal, that:

- The documents evidenced only that the company was **authorised** by its shareholders to acquire the goodwill of the business known as Clarke's Quarry but did not evidence any actual transfer of that business to the company. The court noted that there was no sale or purchase agreement to implement the transfer.
- Invoices were raised by Mr Clarke in his own name, and funds were lodged into his personal bank account (before funds were transferred onward to the company). Mr Clarke also charged VAT under his personal VAT number and remitted the VAT to Revenue himself.
- The fact that the company reflected the income in its accounts did not evidence a transfer of the business but merely evidenced that the company's directors might have **thought** that the company was carrying on the trade.
- No transfer of the land or licence to enter onto the land to carry out the quarrying activities had been granted to the company.
- The environmental licence needed to carry on the quarrying activities was in Mr Clarke's name, and his main customer (Galway County Council, which accounted for 80% of the business) refused to accept invoices from the company, accepting them only from Mr Clarke, as he held the environmental licence needed to quarry.
- There was no evidence that the company had paid the purported purchase price of €650,000 for the business, nor had any such sum been reflected as a debt in the company's accounts.
- There was no evidence that Mr Clarke had been appointed as an undisclosed agent of the company.

The case provides a stark example of the dangers of failing to document transactions appropriately.

02 58TACD2025

This determination of the Tax Appeals Commission (TAC) received considerable media attention after its release. It concerned an appeal against a CGT assessment that disallowed a taxpayer's claim to relief under s586 TCA 1997 (share-for-share relief).

The facts were that the taxpayer (an individual) held a minority shareholding in a company ("TradeCo"). In June he incorporated a new company ("HoldCo") to act as his personal holding company, and on 2 July he engaged in a share-for-share exchange with HoldCo whereby he transferred his TradeCo shares to HoldCo in exchange for HoldCo's issuing him new shares of HoldCo. On 19 July TradeCo was sold to a third-party buyer. It seems that HoldCo then used the proceeds of the sale of its interest in TradeCo to purchase land from the taxpayer, who, in turn, claimed s604A relief on that disposal of land. The net result was that the appellant paid no CGT on the disposal of his TradeCo shares to HoldCo (on the basis that s586 applied); it would also seem that HoldCo paid no CGT on the disposal of its (newly acquired) shares in TradeCo (on the basis that it obtained a step-up in base cost to their market value as at the date of the share-for-share transaction); and the taxpayer then disposed of his land to HoldCo without a CGT charge (because of s604A relief). Furthermore, it seems that the taxpayer did not execute a stock transfer form in favour of HoldCo (it seems that they initially rested in contract), and then the taxpayer transferred the shares directly to the third-party buyer, thereby availing of sub-sale provisions in respect of the transfer of the TradeCo shares such that HoldCo also did not pay stamp duty on the acquisition of those shares in the share-for-share exchange.

Revenue challenged the s586 relief claimed on the share-for-share transaction, forming the view that it had not been carried out for *bona fide* commercial reasons and formed part of an arrangement the main purpose of which was to avoid tax, and raised a CGT assessment.

The question before the TAC was whether the conditions of s586 relief had been satisfied and, specifically, whether the exclusion contained in s586(3)(b) for transactions that either are not carried out for *bona fide* commercial reasons or are carried out for a tax avoidance main purpose applied.

The TAC held, in dismissing the taxpayer's appeal, that:

- He had failed to satisfy the basic requirements of s586, in that HoldCo had neither obtained "control" of TradeCo nor made a **conditional offer** to all of the shareholders by which it would have obtained control (had they accepted that offer).
- The transaction was carried out for *bona fide* commercial reasons.
- The transaction was carried out for a tax avoidance main purpose.

The Commissioner held that the taxpayer failed to satisfy the basic conditions of the relief. Although HoldCo had made an offer to all of the shareholders of TradeCo, crucially, that offer was not stated as being "conditional" (as required by s586(2)(b)) on sufficient acceptances being received that would give it control of TradeCo. Citing *Revenue Commissioners v Doorley* [1933] IR 750, the Commissioner noted that the exemptions must be construed strictly and that it was not sufficient that the offer letters were headed "pursuant to section 586 of the TCA". The conditionality of the offer had to be expressly stated in the letter and could not be incorporated by reference. The Commissioner found that the offer letters "did not satisfy the requirements of section 586(2)(b) and therefore he concludes that the Appellant was not entitled to relief pursuant to sections 584 and 586". Although the Commissioner recognised that "this finding in itself is dispositive of the appeal", he proceeded to consider the *bona fide* commercial reasons and tax avoidance main purpose criteria.

On the *bona fide* commercial reasons test the Commissioner accepted the taxpayer's evidence as credible that the transfer had been carried out as part of his strategy to protect his home, a farm, from possible investment losses in the future.

As regards the second limb of the test, that the transaction must not have been carried out for a tax avoidance main purpose, the Commissioner acknowledged that if the share-for-share exchange had been carried out **before** the appellant had known of the sale (to the third-party buyer), then it would have followed that "the share for share exchange effected on 2 July could not have been done with the main purpose, or one of the main purposes, being the avoidance of liability to tax".

However, the Commissioner found that the appellant's evidence that he did not know of the sale until after 6 July "lacks credibility and is untrue" and concluded that the appellant knew of the impending sale at an earlier date and had agreed to it by no later than 20 June, citing the following factors:

- The evidence of the other shareholders of TradeCo that they had not informed the taxpayer of the potential sale "did not make sense" and lacked credibility.
- All three offer letters and their acceptance/rejection were undated.
- The taxpayer's evidence was that he had taken much time and deliberation before making his original investment in TradeCo, yet his evidence was also that he agreed to its sale, and to the giving of joint and several warranties and covenants in connection with that sale to the buyer, readily and "without any meaningful consideration or deliberation", which the Commissioner said "beggars belief".
- The solicitor for the vendors had given clear evidence that he was instructed on the sale by the vendors on 20 June.
- The vendors would have incurred wasted legal fees if the taxpayer had been informed of the sale only on 6 July (as was claimed) and had at that time refused to proceed with the sale – which did not seem credible: "Given his focus on money, it seems unlikely that he would willingly accept incurring fees on a proposed sale to no end".

Having found that the taxpayer knew of the impending sale before carrying out the share-for-share exchange, the Commissioner turned to the question of whether the transaction had been carried out for a tax avoidance purpose.

The Commissioner noted that *Snell v HMRC* [2006] EWHC 3350 (Ch) and *IRC v Brebner* [1967] 2 AC 18 emphasised that it was the subjective intention of the taxpayer that was decisive, before concluding that the taxpayer carried out the share-for-share transaction for a tax avoidance purpose because he "could have sold his shares in [TradeCo] directly to [the third-party buyer]. However, the urgency with which he transferred them to [HoldCo] before [HoldCo] in turn sold them to [the third-party buyer] indicates that this was a structure put in place for a purpose. The Commissioner is further satisfied that this purpose was the avoidance of tax."

In reaching this conclusion, the Commissioner was influenced by the following:

- No written advices from the taxpayer's accountants were furnished, which the Commissioner found "somewhat surprising, given the relatively large fee incurred by him (€30,750) for "company secretarial costs in relation to the set up of [HoldCo], the sale by [HoldCo] of the shares in [TradeCo] including review of the SPA and advices on the stamp duty aspects of the sub sale". The Commissioner noted that, in the absence of written advices, "oral evidence could have been heard from them regarding whether or not the Appellant sought to avoid tax on the sale of his [redacted] shares". He also noted that those same accountants had represented the appellant at the appeal hearing and their representatives were present at the hearing, and so, although he acknowledged that there was no requirement to do so, "one would have anticipated that his accountants could have provided such evidence".
- The existence of the other tax structuring operations was cited as "evidence to suggest the Appellant had sought to avoid tax on other transactions. He accepted that he availed of relief under section 604A of the TCA 1997 on the disposal of lands to [HoldCo]. More pertinently, the Appellant did not execute the share transfer form in respect of the transfer of his [TradeCo] shares to [HoldCo] until 19 July [redacted] when they were in turn sold to [the third-party buyer]. The Appellant was unable to explain why the share transfer form was not executed on 2 July, as part of the share for share transaction...The Commissioner finds the Respondent's suggestion, that the form was not executed on 2 July because the Appellant wished to avoid a stamp duty liability in circumstances where he knew about the subsequent sale, more convincing."

It is noted that the appellant has sought to appeal the TAC's determination to the High Court.

03 *The Revenue Commissioners v Getty Images International ULC* [2025] IEHC 268

In this High Court judgment Mr Justice Rory Mulcahy considered the appeal process from the Tax Appeals Commission (TAC) to the High Court (rather than the substantive underlying tax matter) and, specifically, the formulation of the questions in the case stated.

Sections 949AP to 949AR TCA 1997 set out the relevant procedure. Per s949AP(2) a party dissatisfied with a TAC determination may serve a notice on the TAC requesting it to state and sign a case (a "case stated") to the High Court. Section 949AP(2) provides that the Appeal Commissioner shall draft that case stated, but the Commissioner shall per s949AP(3) allow the parties to comment on a draft and per s949AP(4) have regard to any representations so made.

In this matter Revenue sought to appeal the TAC's determination and requested the TAC to prepare a case stated to the High Court. The TAC sought representations from the parties and, after receiving them, incorporated some of the taxpayer's suggested amendments to the wording of the questions while refusing to include some of Revenue's suggested amendments (in particular, concerning the insertion of some additional questions).

Revenue was aggrieved with the final form of the TAC's case stated (specifically, it complained that its grounds of appeal had effectively been drafted by its opponent) and sought an order from the High Court that:

- the case stated should be remitted back to the TAC for amendment or
- the High Court should exercise its inherent jurisdiction to amend the case stated itself.

The main questions before the court were:

- Is it for the appellant (from the TAC's determination) to formulate the grounds for the appeal?
- Did the TAC act incorrectly in accepting the respondent's suggested amendments?
- In what circumstances should a transcript of the TAC hearing be included with the case stated?

The court held, rejecting Revenue's core contentions, that although the identification of the grounds of appeal is a matter for the appellant (to the TAC's determination), the drafting of the case stated is a matter for the Commissioner. The legislation requires the TAC to afford both parties an opportunity to make representations on the draft case stated, but there was nothing to prevent the respondent from making representations on the points of law identified in the draft or to prevent the Commissioner adopting those suggestions.

The court noted that the inclusion of a transcript should be the exception rather than the norm but that it was appropriate, and indeed would seem necessary, to include a transcript where there was an allegation that there was no evidence to support a finding of fact made by the Commissioner. The court further stated that the full transcript should not be included, merely relevant extracts, and approving of the decision in *Glynn v Revenue Commissioners* [2021] IEHC 780, held that if the parties could not agree which were the relevant extracts, then the Commissioner (as at the arbiter of fact) would be best placed to select them.

The court determined, however, that it was appropriate to include a further question sought by Revenue, as it had been set out in its original s949AP(2) notice but had been omitted from the case stated.

04 *Sean Flaherty v The Revenue Commissioners* [2025] IECA 67

The Court of Appeal heard a taxpayer's appeal from the High Court. The matter concerned a taxpayer's claim to entrepreneur relief under s597AA TCA 1997 on the disposal of his business assets (a fishing boat and associated capacity tonnage). The issue concerned the date of the disposal for CGT purposes, as the relief applied only to disposals occurring on or after 1 January 2016 and the circumstances were that the taxpayer had entered into a memorandum of agreement in October 2015 that completed in early 2016.

The question before the Court of Appeal was whether the memorandum of agreement was a conditional contract within the meaning of s542(1)(b) TCA 1997 that became binding only when the transfer of the fishing rights, vessel registration, vessel surveys etc. was completed in 2016.

Ms Justice Máire Whelan, delivering the judgment of the court (with Faherty and Meenan JJ in agreement) and dismissing the taxpayer's appeal and upholding the decisions of the Tax Appeals Commission and High Court, held that:

- The memorandum of agreement lacked any express conditional wording, and therefore the burden of proof was on the appellant to show that, on the balance of probabilities, the contract was subject to such a condition precedent to formation, which he had failed to do.
- The conditions surrounding the transfer of the fishing rights were promissory in nature (relating to transfer of title and completion) and were typical of a promissory agreement and did not relate to the contract's formation.
- The court noted that "Promissory contracts are frequently subject to express pre-completion terms which require to be complied with before specific performance can be ordered. Pending performance within a reasonable time, there exists a binding contract between the parties from which neither is at liberty to withdraw at will."
- The court affirmed the principles established by prior case law (*O'Connor v Coady* [2004] IESC 54, *Jerome v Kelly* [2004] STC 887 and others) to the effect that conditions affecting completion do not change the date of disposal unless the contract's formation is itself conditional, i.e. a condition that is merely precedent to **completion** does not prevent a binding contract's coming into existence *ab initio*.
- The court rejected the appellant's arguments that the contract could **hypothetically** have been frustrated if those conditions precedent to completion had not been satisfied. The fact that the purchaser could have elected to treat the contract as having ceased (through frustration, breach, etc.) **if** the vendor had failed to satisfy those completion conditions did not alter the fact that a deemed disposal had already occurred on the execution of the memorandum of agreement on 21 October 2015 (and such acts of frustration would become relevant only if they actually occurred).

05 *Gunther Falkenthal v The Revenue Commissioners* [2025] IEHC 122

This case took a rather circuitous route through the courts. The matter started in 1997, when the taxpayer entered a partnership agreement in respect of the acquisition, distribution and licensing of films. In November 1998 Revenue issued a Notice of Opinion under s811 TCA that the taxpayer had engaged in a tax avoidance transaction. The taxpayer appealed that Notice of Opinion to the Tax Appeals Commission (TAC), which ruled against him. He then appealed to the Circuit Court, where the matter was heard *de novo* before Judge Matthews in 2004, who also ruled against the taxpayer. Mr Falkenthal then sought to appeal the matter by way of case stated to the High Court, and on the morning that the case was to be heard (in October 2012) the case was compromised, with Mr Falkenthal's agreeing to withdraw his appeal ("the settlement"). The settlement included an express agreement by Mr Falkenthal "to be bound by the decision of the Circuit Court".

Consequent on that settlement, Revenue wrote to Mr Falkenthal in April 2013 to demand payment of a sum of tax. Mr Falkenthal sought to appeal that demand, arguing it was invalid on the basis that Revenue was beyond the four-year time limit provided for in s955 and s956 TCA 1997. Revenue refused that appeal (per s933(1)(a) TCA 1997), and Mr Falkenthal appealed that refusal to the TAC (the appeal was taken under the appeals legislation that was in place before the changes brought in by the Finance (Tax Appeals) Act 2015).

The Appeal Commissioner rejected Mr Falkenthal's appeal against Revenue's refusal to allow his appeal against the April 2013 demand; however, he agreed to allow the taxpayer to appeal that decision by way of case stated to the High Court. The Appeal Commissioner then retired before the case could be stated, and so it was for the TAC to prepare the case stated under the 2015 Act's provisions.

The questions before Mr Justice Rory Mulcahy in the High Court in 2025 were:

- whether s811(7) or s955(2) has priority;
- whether s811(5A) applied to prevent the taxpayer's appeal; and
- whether s957(1)(c) precluded the appeal where there had been a settlement.

Regarding the first question, the taxpayer claimed that although he had exhausted his rights of appeal under s811(5)(d), the four-year time limit contained in s955(2) still applied and, per the Supreme Court's decision in *Revenue Commissioners v Droog* [2016] IESC 55, has "primacy over" and "trumps" s811. Revenue contended the reverse, that *Droog* supported its argument that s811(7) disapplied all other rights of appeal, including under s955.

Having reviewed the case law in *Hanrahan v Revenue Commissioners* [2024] IECA 113 and *Droog*, the court held, in answering this first question in favour of Revenue, that the terms of s811(7) were clear, they expressly disallowed any "right or further right of appeal under the Acts" and they did not need to expressly refer to Part 41.

Regarding the second question, s811(5A) was inserted by Finance Act 2012, and expressly disapplied the limits contained in Parts 41 and 41A of TCA 1997 where an opinion of Revenue (that a transaction is a tax avoidance transaction) becomes final and conclusive on or after 28 February 2012. The taxpayer acknowledged that the effect of s811(5A) was to exclude the time limits in s955 and s956; however, he argued that it could not apply retrospectively to his facts, as to do so would be unconstitutional. Revenue disputed this position and further raised a procedural point, opposing the taxpayer's right to challenge the constitutionality of the legislation by way of case stated from the TAC.

The court held, in also answering the second question in favour of Revenue, that the taxpayer, despite having been invited to do so: (1) had failed to put forward any alternative interpretation of s811(5A); (2) had not identified any ambiguity in the section; and (3) had not contended for any error in the judgments of the High Court and Court of Appeal in *Hanrahan* (which had considered retrospective effect of s811(5A) and upheld its constitutionality). The court therefore agreed with Revenue's substantive argument (and adopted the *Hanrahan* interpretation of the section as being constitutional) and further agreed with Revenue's procedural argument that the taxpayer was not permitted to challenge the constitutionality of the provision by way of the case stated procedure.

Regarding the third question, s957(1)(c) provides that no appeal may be made where an "amount" specified in an assessment had been agreed between the inspector and the taxpayer. Mr Falkenthal (1) argued that he could not be said to have agreed to an amount as the settlement did not specify an amount; (2) when that argument was rejected (on the basis that the settlement was an agreement to accept the Circuit Court's judgment that the Notice of Opinion was valid and that, in turn, had specified an amount) he contended that he could not be said to have "agreed" an "amount" with the inspector in circumstances where the amount in the 2013 demand was different from (being less than) the amount in the original 1998 Notice of Opinion (the High Court saw "no merit" in that argument); (3) notwithstanding the foregoing, he argued that s957(1)(c) should not apply as he was appealing the entitlement to raise an assessment rather than the amount *per se*. On this last point the High Court agreed with the taxpayer, holding that he was correct that s957(1)(c) did not prevent his appeal *simpliciter* and restricted only an appeal against the amount of the assessment (rather than the raising of the assessment *per se*); however, those other grounds of appeal had already been decided by the foregoing questions (i.e. s811(7) and s811(5A)) in favour of Revenue.

Accordingly, the High Court dismissed the taxpayer's appeal.

Direct Tax Cases: Decisions from the UK Courts

Stephen Ruane Partner and Leader, Tax Solutions Centre, PwC Ireland
Patrick Lawless Director, Tax Solutions Centre, PwC Ireland

	Topic	Court
01	**Corporation Tax – Receipts from Overseas Companies**	England and Wales Court of Appeal
02	**Capital Allowances – Wind Farm Expenditure**	England and Wales Court of Appeal
03	**Income Tax – Overdrawn Director's Loan**	First-tier Tribunal

01 Corporation Tax – Receipts from Overseas Companies

In *Beard v HMRC* [2025] EWCA Civ. 385 the Court of Appeal rejected the taxpayer's appeal, upholding the earlier Upper Tribunal (UT) and First-tier Tribunal (FTT) decisions that distributions received were dividends but were not of a capital nature and were therefore chargeable to income tax. The UT decision (*Beard v HMRC* [2024] UKUT 73 (TCC)) was discussed in "Direct Tax Cases: Decisions from the UK Courts", *Irish Tax Review*, 37/2 (2024).

The taxpayer, Alexander Beard, was a UK-resident shareholder in Glencore, a publicly listed company incorporated in Jersey and domiciled in Switzerland, and in that capacity received distributions in each of the tax years 2011–12 to 2015–16 ("the distributions"). In each case the distributions paid were derived from the share premium account of the company. That share premium arose as the result of a corporate restructuring in which certificates in a Swiss subsidiary of Glencore were exchanged for Glencore shares. The distributions included one made by way of an in specie distribution paid in the 2015–16 tax year. The Swiss tax authorities did not apply any withholding tax to the distributions. The taxpayer claimed that the distributions paid were capital receipts, not dividends, and in the alternative, if they were dividends, they were capital dividends. HMRC assessed the taxpayer to income tax on the distributions.

The Court of Appeal examined the definitions of "dividends" and "dividends of a capital nature" as established by case law. The court referenced, in particular, the decision in *HMRC v First Nationwide* [2012] EWCA Civ. 278. Consistent with this body of case law, the court, in determining the matter, placed emphasis on the foreign company law and the specific company law mechanisms that governed the payments. In this case the distributions were paid pursuant to Part 17 of the Companies (Jersey) Law 1991 (CJL 1991). It was common ground that this is the mechanism in the CJL 1991 enabling the payment of dividends out of trading profits. Although the distributions were made from share premium, Jersey law stipulated that there was no longer any meaningful distinction between a distribution from share premium and a distribution out of trading profits. A separate mechanism existed for reductions of capital, which the company did not use. In these circumstances the court held that the FTT and UT had been correct to regard the distributions as income, rather than capital, in nature.

02 Capital Allowances – Wind Farm Expenditure

In *Orsted West of Duddon Sands and others v HMRC* [2025] EWCA Civ. 279 the Court of Appeal overturned the decision of the Upper Tribunal (UT) and determined that pre-construction expenditure on surveys and studies in offshore windfarms qualified for capital allowances. The First-Tier Tribunal (FTT) had held that the expenditure on the studies was capital and that some, but not all, of the expenditure qualified for capital allowances. However, although the UT held that the expenditure was capital, it concluded that none of it qualified for allowances. The UT decision (*Gunfleet Sands and others v HMRC* [2023] UKUT 260 (TCC)) was discussed in "Direct Tax Cases: Decisions from the UK Courts", *Irish Tax Review*, 36/4 (2023).

The Court of Appeal applied a wider interpretation to the phrase "on the provision of" plant than the lower tribunals. It adopted a different approach and applied a three-part test (see below) for determining when expenditure might qualify for capital allowances:

"(a) the taxpayer can demonstrate that, looking at matters objectively and with the benefit of hindsight, expenditure informed the design of plant or machinery or how it was to be installed,

(b) the expenditure related to plant or machinery which was in fact acquired or constructed, and

(c) the expenditure did not arise from characteristics or circumstances particular to the specific taxpayer".

Using this framework, the court analysed each of the studies under consideration individually, holding that all but one of them was on the provision of plant and so qualified for capital allowances. By applying the wider definition of the phrase "on the provision of", the court allowed the taxpayer's appeal.

03 Income Tax – Overdrawn Director's Loan

In *Gary Quillan v HMRC* [2025] UKFTT 421 (TC) the First-tier Tribunal (FTT) held that no income tax charge arose on an overdrawn director's loan after liquidation of the company that made the loan, as neither a formal release nor a clear and final write-off had taken place for the purposes of the UK equivalent of s439 TCA 1997.

The taxpayer was the sole director of a company that went into a voluntary winding-up. The taxpayer paid £57,000 to the liquidator of the company. The outstanding balance of the loan account stood at £382,456 when the company was dissolved. HMRC assessed the taxpayer to income tax on this amount. The taxpayer appealed the assessment.

It was common ground between the parties that releasing a debt would involve a more formal process than writing it off. However, HMRC submitted that the director's loan balance was, in fact, written off under the ordinary meaning of the term because the liquidator accepted, as evidenced in the liquidation report, that no further funds were expected into the liquidation.

The FTT, in considering the ordinary meaning of the term “written off”, rejected the suggestion that the actions of the liquidator in writing the liquidation report and in dissolving the company amounted to an acceptance that the money has been lost or that a debt will not be paid.

The FTT referenced correspondence where the liquidator explicitly stated that there was no formal write-off of the director’s loan balance. The FTT highlighted the prospect of a reinstatement of the company in order that the taxpayer should be pursued for the amounts outstanding at some future point. The tribunal noted that it was within the power of the liquidator to either release or write off the loan, yet neither action was pursued – the overdrawn amount remained open to be pursued on behalf of the company should that become appropriate at some point in the future. The FTT held that to suggest otherwise was to ignore the intentions of the liquidator’s actions and the plain meaning of his language when he said that the director’s loan balance had not, in fact, been written off.

Having concluded that the loan balance had been neither released nor written off, the FTT allowed the taxpayer’s appeal against HMRC’s assessment.


International Tax Update

Louise Kelly
Tax Partner, Deloitte Ireland LLP
Dylan Reilly
Tax Manager, Deloitte Ireland LLP

01 BEPS: Pillar One and Pillar Two Recent Developments

OECD publishes consolidated report on Amount B without altering content

On 24 January 2025 the Organisation for Economic Co-operation and Development (OECD) issued a consolidated version of its guidance on Pillar One – Amount B. This compilation brings together three earlier publications: Part I (issued on 19 February 2024), which outlines the core Amount B guidance; Part II (released on 17 June 2024), which defines the terms "covered jurisdiction" and "qualifying jurisdiction"; and Part III (published on 26 September 2024), which presents the Model Competent Authority Agreement for implementing Amount B.

Amount B is intended to simplify the application of the arm's-length principle to routine marketing and distribution functions carried out within a country, with a particular emphasis on supporting jurisdictions with limited administrative capacity. The newly released document does not introduce any changes to the substance of the original materials. Its purpose is purely to consolidate existing guidance for easier reference.

Updated version of Pillar Two Consolidated Commentary released

On 9 May 2025 the OECD/G20 Inclusive Framework on BEPS published an updated version of its Consolidated Commentary to the Pillar Two global minimum tax model rules, along with an updated set of examples illustrating the application of the model rules to certain fact patterns. The previous version of the Consolidated Commentary was published in April 2024.

The updated version of the Consolidated Commentary incorporates the various pieces of administrative guidance that were approved and published by the OECD Inclusive Framework before 31 March 2025.

In addition, the Illustrative Examples document, originally published on 14 March 2022 and updated on 25 April 2024, has been further updated on 9 May 2025 to include the illustrative examples developed for the sets of subsequently published Agreed Administrative Guidance. The examples do not form an integral part of the Commentary and are intended to be used for illustrative purposes only.

OECD updates central record of Pillar Two legislation with transitional qualified status

On 31 March 2025 the OECD/G20 Inclusive Framework on BEPS released an updated version of its central record detailing the status of jurisdictions' domestic implementation of the Pillar Two global minimum tax rules. Originally published on 15 January 2025, this record identifies jurisdictions whose local legislation has received "qualified" status under the transitional framework.

The document outlines which countries have enacted domestic minimum top-up tax rules that qualify as qualified domestic minimum top-up taxes (QDMTTs) and which have adopted a compliant income inclusion rule (IIR). It also evaluates whether a jurisdiction's QDMTT meets the necessary standards to benefit from the QDMTT safe harbour provisions.

The latest update adds Guernsey and Spain to the list of qualifying jurisdictions. Guernsey's legislation came into effect on 1 January 2025, and Spain's implementation has been in place since 31 December 2023.

This central record forms part of the OECD's broader administrative guidance on the Global Anti-Base Erosion (GloBE) Model Rules under Pillar Two (the updated Consolidated Commentary referenced above includes this as a new Annex B).

The lists of qualified rules produced by the Inclusive Framework have been prepared in accordance with an initial simplified transitional qualification mechanism, based on self-certification by an implementing jurisdiction. Implementing jurisdictions have provided the Inclusive Framework with information on the main features of their (draft or enacted) legislation for consideration by other Inclusive Framework jurisdictions. If a jurisdiction is not included in the central record, it does not necessarily mean that its legislation is not qualified but, rather, that as of 31 March 2025 the process for qualification had not yet been initiated or completed for that legislation.

02 OECD Tax Developments

OECD updates investment tax incentives database for emerging and developing economies

On 19 March 2025 the OECD published a new policy paper presenting the latest update to its Investment Tax Incentives Database (ITID). The 2024 edition examines corporate income tax incentives – such as tax rate reductions, exemptions, allowances and credits – focusing on how these measures are structured, targeted and aligned with sustainable development goals.

The updated database reflects the status of tax incentives as of 1 July 2024 and now encompasses 70 jurisdictions, an increase from the 52 economies included in the 2022 version. The majority of these are emerging and developing countries.

A notable section of the paper ("Box 4") explores the implications of the global minimum tax framework introduced through the OECD/G20 Inclusive Framework's Pillar Two (GloBE) Model Rules. These rules are intended to ensure that large multinational enterprise (MNE) groups are subject to a minimum effective tax rate of 15%. The paper notes that the effect of the GloBE Rules will vary depending on the structure of national tax systems, the types of incentives in place and the nature of MNE operations in each country.

It also suggests that, in light of these global developments, governments – particularly in jurisdictions offering generous tax holidays – may need to re-evaluate their incentive regimes to ensure compatibility with the new international tax environment.

OECD report highlights widespread use of R&D tax incentives to foster innovation

A recent statistical update from the OECD has underscored the significant role that tax incentives continue to play in promoting innovation across member countries and other major economies. In 2024 34 out of the 38 OECD countries provided tax-based support for research and development (R&D), with Estonia newly introducing such incentives. Only Costa Rica, Israel, Latvia and Luxembourg did not offer expenditure-based R&D tax relief.

As of 2023 a majority of OECD nations – 23 out of 38 – relied more heavily on tax incentives than on direct government funding to support business R&D. On average, tax incentives accounted for nearly 55% of total public support for R&D in the private sector. This reliance was even more pronounced in China, where tax-based support comprised approximately 85% of total business R&D funding.

In terms of R&D tax relief as a share of GDP, the United Kingdom ranked third, at 0.30%, following Portugal (0.39%) and Iceland (0.38%) and ahead of France (0.28%) and China (0.24%). However, when both tax incentives and direct funding are considered, Iceland, Portugal, and France emerged as the top providers of overall R&D support to businesses.

03 US Tax Developments

In April congressional Republicans approved a Budget resolution that opens the door to passage of a major tax and spending bill using the expedited procedural route of Budget reconciliation. Subsequently, House Ways and Means Committee Republicans rolled out a comprehensive tax relief package in two parts, the first portion released on 9 May and the second on 12 May. The proposal aims to extend key provisions of the 2017 Tax Cuts and Jobs Act (TCJA), deliver targeted relief for working families and small businesses, and support the administration's broader economic and national security objectives. The Bill contains many provisions, some of which we highlight below.

Deduction of domestic research and experimental expenditures

Section 174(a) currently requires specified research and experimental expenditures paid or incurred in taxable years beginning after 31 December 2021 to be capitalised and amortised over a 5-year period for domestic research or a 15-year period for foreign research, beginning with the midpoint of the taxable year in which such expenditures are paid or incurred. The Bill would suspend the mandatory capitalisation requirement under s174(a) of the Internal Revenue Code (IRC) for domestic research or experimental expenditures paid or incurred in taxable years beginning after 31 December 2024 and before 1 January 2030.

Extension of deduction for GILTI and FDII

The Bill would permanently extend the current percentage deductions related to a taxpayer's GILTI (global intangible low-taxed income) inclusion and FDII (foreign-derived intangible income) of 50% and 37.5%, respectively.

Extension of BEAT amount

The Bill would permanently extend the existing 10% BEAT (base erosion and anti-abuse tax) rate (other than as provided for under proposed s899 IRC – see below).

Section 899 enforcement of remedies against unfair foreign taxes

The Bill would add proposed s899 IRC, which would increase tax rates on certain foreign persons in jurisdictions that are determined to impose an unfair foreign tax. The Bill would impact investors from foreign countries that have enacted such taxes. It would also be expected to increase both the number of corporations subject to BEAT and the amount due under BEAT for certain taxpayers. For the purposes of proposed s899, an unfair foreign tax generally includes an undertaxed profits rule, a digital services tax and certain other foreign taxes.

Interest limitation

Section 163(j) IRC limits the amount of a taxpayer's deduction of business interest expenses paid or incurred for the tax year. The 30% limitation was due to change to earnings before interest and tax (EBIT) rather than earnings before interest, tax, depreciation and amortisation (EBITDA) under the TCJA. The Bill proposed to keep the limitation based on EBITDA until 31 December 2029.

04 EU Tax Developments

Outcomes of 11 March 2025 ECOFIN meeting

Tax simplification and streamlining

During its meeting the Economic and Financial Affairs Council, under the list of A-items, adopted conclusions focused on reducing complexity and enhancing clarity in EU tax legislation. It called for a comprehensive review of the current legislative framework, including a clear definition of its scope and duration. As an initial step, this review could involve revisiting the Directive on Administrative Cooperation in Tax Matters – particularly, the provisions relating to reportable cross-border arrangements – as well as the Anti-Tax Avoidance Directive.

The initiative should extend to a broader evaluation of EU tax rules, including those governing indirect taxes. The Council also urged the European Commission to engage with relevant stakeholders and deliver a practical, ambitious and operational action plan, complete with a timeline and roadmap, by autumn 2025.

VAT in the Digital Age package

The Council officially adopted the ViDA package, which was agreed in November 2024. This legislative package introduces updates to the EU's VAT framework to better align with the digital economy.

Amendment of the Directive on Administrative Cooperation

A political agreement was reached by the Council to amend the Directive on Administrative Cooperation in Tax Matters (DAC9). The revised Directive strengthens mechanisms for information exchange and cooperation concerning the implementation of the EU's minimum effective corporate taxation rules under the Pillar Two Directive. These changes aim to prevent base erosion and profit shifting by ensuring that multinational and large domestic companies pay a minimum level of tax.

Recovery and resilience plans: Ireland and Belgium

The Council endorsed the European Commission's favourable evaluation of the amended recovery and resilience plans put forward by Ireland and Belgium. Ireland submitted revised measures on 31 January 2025, aiming to reduce administrative complexity while maintaining the effectiveness of its initiatives. The total estimated cost of the plan is €1.16bn. The Commission concluded that these targeted adjustments do not undermine the plan's relevance, efficiency, effectiveness or coherence.

FISC Subcommittee reviews draft report on tax simplification and EU competitiveness

The European Parliament's Subcommittee on Tax Matters (FISC) recently examined a draft report titled *The Role of Simple Tax Rules and Tax Fragmentation in European Competitiveness*, introduced by Rapporteur Michalis Hadjipantela. The document explores how increasingly complex tax regimes across the EU are hindering business competitiveness, particularly in the context of cross-border investments and the effective operation of the Single Market.

Mr Hadjipantela underlined the need for greater clarity, consistency and simplicity in tax systems to promote economic growth, attract investment and improve compliance. The report specifically identifies the burdensome administrative processes currently faced by businesses – especially SMEs – as a key challenge. It advocates streamlined procedures and lower compliance costs to support businesses that drive innovation and expansion.

The report also promotes digital transformation in tax administration, recommending tools such as artificial intelligence to enhance transparency and efficiency. A key section is devoted to the OECD's Pillar Two framework, which aims to tackle tax base erosion. The report calls for the EU to maintain alignment with global standards, especially in light of developments in US tax policy.

Moreover, the document urges actions to reduce tax fragmentation across EU Member States, aiming to make cross-border economic activity more seamless and to mitigate issues such as double taxation. Although many MEPs expressed general support, there were differing perspectives on the appropriate degree of tax harmonisation. The debate also addressed the need to strike a balance between simplifying rules and tackling tax avoidance and aggressive tax planning.

MEPs suggested several amendments to reinforce the report, with particular focus on digital taxation and anti-evasion measures. A Committee vote is scheduled for July, followed by a plenary session in September 2025. The discussion underscored the ongoing challenge of simplifying tax rules while respecting national sovereignty and the importance of EU-wide cooperation to ensure both fairness and competitiveness in taxation.

EU officially adopts DAC9

On 14 April the Council of the European Union formally approved the DAC9 Directive, which aims to enhance administrative cooperation by expanding the scope of information exchange to include data related to minimum effective corporate taxation. The Directive introduces a streamlined process allowing large multinational groups to submit a Top-Up Tax Information Return (TTIR) centrally using a standardised EU-wide format. It also broadens the automatic exchange of information between Member States to include TTIRs. Member States must implement the Directive by 31 December 2025, regardless of whether they choose to defer implementing the Pillar Two Directive.

05 UK Tax Developments

UK launches consultations on transfer pricing, permanent establishments and diverted profits tax

On 28 April 2025 HM Revenue & Customs (HMRC) released a public consultation seeking views on proposed changes to the UK's rules governing transfer pricing, permanent establishments and the diverted profits tax.

The aim of these potential reforms is to enhance legal certainty for taxpayers, improve consistency with international tax treaties and safeguard the UK's tax base.

In addition, HMRC has issued a separate consultation addressing further proposed changes to the UK's transfer pricing framework.

These include adjustments to the scope of affected companies and the introduction of a new reporting obligation known as the International Controlled Transactions Schedule.

HMRC is holding consultation events on 22 May, 3 June and 18 June 2025.

Institute for Global Change outlines roadmap for business tax reform

The Tony Blair Institute for Global Change has published a policy paper proposing a comprehensive three-pillar roadmap to support economic growth in the UK through business tax reform. The first pillar focuses on growth-enhancing measures, including introducing full capital expensing for businesses and replacing the existing business rates system with a commercial landowner tax. The second pillar suggests removing certain tax reliefs, such as the patent box regime, which the institute argues have shown limited effectiveness in driving economic growth. Savings from these changes would be redirected to support the growth-focused measures in the first pillar. The third pillar emphasises modernising the UK's tax administration through a digital-first strategy. This includes accelerating the roll-out of the Making Tax Digital programme, creating a digital identification system for businesses and implementing a nationwide e-invoicing framework.

06 Update on Australian Public Country-by-Country Reporting Guidance

The Australian Taxation Office (ATO) recently updated its "Advice under Development – International Issues" webpage, which includes a new timeline for the anticipated guidance on Australia's public country-by-country reporting (pCbCR) regime. Specifically, the ATO indicated that details regarding pCbCR filing procedures are now expected to be released by mid-2025, a shift from the previously communicated timeline of early 2025.

As background, Australia's pCbCR rules were enacted to enhance corporate tax transparency by requiring certain multinationals to disclose publicly key tax and financial information on a jurisdictional basis. The forthcoming guidance is expected to provide clarity on filing obligations and exemptions, which will be critical for in-scope entities preparing for the first reporting cycle.

07 Norway to Implement New Reporting Rules for Digital Platforms

The Norwegian Parliament has approved amendments to the Tax Administration Act, introducing new reporting requirements for digital platforms in line with the OECD's Digital Platform Information (DPI) standard. These changes will apply to platforms facilitating real estate rentals, vehicle rentals and service transactions. Key features of the new rules are:

- Broader reporting scope: Digital platforms will be required to report details on both Norwegian and international users who use their services to rent out property or vehicles or to provide services.
- Cross-border information sharing: Data on foreign taxpayers will be shared with their tax authorities, while Norway will gain access to data about Norwegian users of foreign digital platforms.
- Exemptions: Transactions involving the sale of goods are not currently covered but may be addressed in future updates.
- Implementation timeline: The legislation will take effect from 1 January 2026, with the first reporting obligations falling due in 2027.
- Data retention: Platforms will be required to maintain supporting documentation for a minimum of five years.

VAT Cases & VAT News

Gabrielle Dillon
Director – VAT, PwC Ireland

VAT Cases

01 Right to Deduct VAT – Principles of Effectiveness and Fiscal Neutrality: CJEU Judgment C640/23

On 13 March 2025 the Court of Justice of the European Union (CJEU) delivered its judgment in ***Direcția Generală Regională a Finanțelor Publice Galați – Administrația Județeană a Finanțelor Publice Vrancea, Direcția Generală de Administrare a Marilor Contribuabili v Greentech SA*** C640/23. The court was asked to interpret Articles 2, 19, 168 and 203 of the VAT Directive, together with the principles of the neutrality of VAT, legal certainty and the protection of legitimate expectations, in the context of additional VAT liabilities imposed on Greentech SA by the Romanian tax authority. The additional VAT liabilities arose when the tax authority reclassified the sale of equipment by Greenfiber to Greentech. The transaction had originally been treated as a supply of goods subject to VAT (VAT charge by Greenfiber with input credit for Greentech) but was later reclassified as a transaction subject to transfer-of-business relief and outside the scope of VAT. After an audit of Greenfiber it was determined that the original VAT charge was correct, but owing to the passage of time it was not possible under the legislation to correct the invoice and for Greentech to obtain a refund of the VAT paid to Greenfiber.

The question posed to the court was whether Articles 168 and 203 of the VAT Directive, together with the principles of the neutrality of VAT and effectiveness, are to be interpreted as precluding a national legislative provision or a national administrative practice that does not allow a taxable person to deduct input VAT on a transaction that has been reclassified by the tax authorities as a transaction not subject to VAT, even though it appears impossible or excessively difficult for that taxable person to obtain, from the seller, reimbursement of the VAT thus unduly paid.

Where a taxable person has paid VAT that was incorrectly invoiced to it, it is the invoice issuer that is required to correct the invoice. In the absence of any provision in the VAT Directive, the Member States are required to set out the conditions for VAT adjustments where the invoice issuer acted in good faith (thereby ensuring the neutrality of VAT).

The court noted that where reimbursement of VAT has become impossible or excessively difficult, the principles of the neutrality of VAT and effectiveness require the Member States to enable the recipient to recover the VAT that has been unduly invoiced and paid by seeking repayment from the tax authority. However, the court stated that such a claim for reimbursement is to be differentiated from an input VAT deduction claim, as in the latter case the right of deduction can be exercised only in respect of VAT actually due, i.e. there must be a transaction subject to VAT. But the court noted that in this case the VAT paid by Greentech to Greenfiber was not "due" within the meaning of the case law of the court.

The court held that national legislation or national administrative practice can disallow input VAT deduction on a transaction that was later reclassified as not being subject to VAT even if it is excessively difficult to get reimbursement from the invoice issuer. However, there should be a process to enable a reimbursement claim to be submitted to the tax authority. This case highlights the importance of ensuring that, in the first instance, a charge to VAT is correctly levied and that, in the second, any rectification required is carried out on a timely basis to avoid falling foul of statutory time limits.

02 Removal of Taxable Person from VAT Identification Register – Principle of Proportionality: CJEU Judgment C164/24

The CJEU published its judgment on 3 April 2025 in the case of ***'Cityland' EOOD v Direktor na Direktsia 'Obzhalvane i danachno-osiguritelna praktika' – Veliko Tarnovo*** C164/24, which concerned the removal of Cityland EOOD from the VAT register by the Bulgarian tax authority and required an interpretation of Articles 213 and 273 of the VAT Directive. Cityland operated in the construction sector, and after an audit in 2022 the tax authority found that it persistently failed to comply with its VAT obligations by not paying VAT declared by it from 2013 to 2018. Cityland argued that the VAT amounts that were declared but not paid related to invoices that were issued to a customer that had not paid the VAT charged and were the subject of legal proceedings.

The question referred was whether Article 213(1) and Article 273 of the VAT Directive and the principles of legal certainty and proportionality permit a tax authority to remove a taxable person from the VAT register because of failure to comply with VAT obligations without that tax authority's analysing the nature of the infringements committed and the conduct of the taxable person.

The court has previously held that Member States have discretion when they adopt measures to ensure the identification of taxable persons for VAT purposes but that this discretion cannot be unrestricted. It noted that even though it is possible for a Member State to refuse to assign an individual number to a taxable person, there must be legitimate grounds for doing this.

The VAT Directive does not contain any provisions that generally authorise Member States to provide domestic rules for removal from the VAT register.

The court considered the provisions that apply to the OSS/IOSS schemes, where removal is provided for persistent failure to comply with the rules of the schemes, but this relates only to the identification number provided for the scheme, not the VAT identification number.

The court reiterated that Member States are required to take all legislative and administrative measures appropriate for the purposes of ensuring collection of all VAT due in their country and for preventing fraud.

The court noted that Member States may provide for the removal of a taxable person from the VAT register where this is an appropriate course of action and they can choose appropriate penalties, but that power must be exercised taking into account the following:

- It must be in accordance with EU law and its general principles.
- It must be in accordance with the principles of proportionality and fiscal neutrality (i.e. take into account the nature and the degree of seriousness of the infringement that such a penalty seeks to sanction and of the means of establishing the amount of that penalty).
- It must ensure compliance with the requirements for good administration.
- It must comply with the principle of effectiveness (i.e. effective and dissuasive penalties are required to counter infringements of harmonised VAT rules and to protect the financial interests of the EU).

The court stated that, in this case, if the nature of the infringements committed has not been analysed, then removal from the register cannot be considered to be a penalty that complies with the principles and requirements and would be viewed as a severe penalty, as it could lead to temporary or permanent prohibition of the taxable person's business activity.

A penalty that involves removing a taxable person from the VAT register but does not prohibit the taxable person's engaging in VATable activity could lead to the position of the taxable person and the taxable person's customers "being constantly and repeatedly called into question". The court therefore held that such a penalty (removal from the VAT identification register) cannot be regarded as consistent with the principle of legal certainty.

03 Economic Activity – Sale of Agricultural Land for Residential Development – Preparation for Sale by Agent Acting as Professional Trader: CJEU Judgment C-213/24

On 3 April 2025 the CJEU delivered its judgment in ***E. T. v Dyrektor Izby Administracji Skarbowej we Wrocławiu*** C213/24, which centred on the liability to VAT of ET (an individual) in respect of the sale of several plots of land. ET and her husband, WT, became the owners of several plots of agricultural land under an agreement made by WT's parents transferring a farm to a successor free of charge in 1989. The plots entered into the statutory joint ownership of the spouses ET and WT under specific legislation in Poland (Law Establishing the Family and Guardianship Code). They decided to sell the plots and engaged BAZ ("the contractor") to be responsible for planning the sub-division of the property into smaller plots; carrying out the necessary steps to amend the entries in the land register and the land and mortgage register; changing the designation of the plots in the local land use plan from agricultural land to building land; connecting the property to public utility networks; advertising the plots to potential buyers; and preparing the necessary documents for the conclusion of notarial deeds of sale with the plots' buyers. The contractor was given authority to act on their behalf with the various Polish competent authorities, and it would be paid for the services supplied based on the difference between the sale prices stipulated in the contract and the actual sale prices. The plots were subsequently sold between 2017 and 2021.

The tax authority argued that the sales constituted an economic activity subject to

VAT on the basis that the plots of land were converted into building land before their sale and that an additional plot was bought to create internal roads and access roads to the various lots created. ET and WT argued that the sales only came within the management of personal assets and were not within the scope of VAT.

One of the questions referred was whether a person who transfers land that was initially part of their personal assets by entrusting the preparation of the sale to a professional trader, and that trader, as agent, carries out a series of transactions for the purposes of that sale, is to be regarded as a taxable person carrying out an economic activity independently within the meaning of Article 9(1).

The court noted that the concept of "taxable person" is given a broad definition focused on independence in the exercise of an "economic activity", which is broadly defined as comprising all activities of producers, traders and persons supplying services and, in particular, the exploitation of tangible or intangible property for the purpose of obtaining income therefrom on a continuing basis. Where an economic activity exists, the status of taxable person is established.

With regard to the sale of building land, the court has stated that a factor for consideration is the fact that the party concerned has taken active steps to market property by mobilising resources similar to those deployed by producers, traders or persons supplying services, such as the carrying out of preparatory work to make development possible, and the deployment of proven marketing measures. In this regard it noted that the fact that the property in question was initially acquired to meet the personal needs of the buyer does not mean that the property cannot be subsequently used for the purposes of carrying out an "economic activity" within the meaning of Article 9(1).

It also noted that active steps to market the property were carried out, mainly by a professional trader who had been authorised to do so, rather than by the owner. Therefore, does the fact that the contractor is acting as agent reduce the risk that ET and WT would be considered to be acting independently? The court pointed out that, to assess whether an economic activity is being carried out in an independent manner, you need to examine if the person concerned performs the activities in his or her own name, on his or her own behalf and under his or her own responsibility and if he or she bears the economic risk associated with the carrying out of those activities. In this case the contractor was required to carry out only the activities as per the mandate contract (as listed above), and notwithstanding the fact that the method of remuneration reduced some of the economic risk borne by ET and WT, the final economic risk rested with ET and WT in the event that the sales did not proceed.

In respect of the question posed, the court held that a person who transferred land that was initially part of his or her personal assets and entrusts the preparation of the sale to an agent who took active steps to market the property by using resources similar to those deployed by producers, traders or persons supplying services may be regarded as a taxable person subject to VAT carrying out an economic activity independently.

A further question referred was whether Article 9(1) is to be interpreted as meaning that, in the context of a sales transaction classified as an economic activity, each of the co-owning spouses, taken separately, must be regarded as a taxable person carrying out an economic activity independently or the statutory joint ownership formed by those co-owning spouses must be so regarded.

The court considered whether specific domestic legislation (Law Establishing the Family and Guardianship Code) would be helpful in assessing whether the economic activity was carried out independently, notwithstanding that the status of taxable person is to be interpreted in a uniform manner in all of the Member States and assessed exclusively on the basis of the criteria set out in Article 9(1).

It noted that the two spouses appeared to have acted jointly during the sales and did not appear to third parties as each acting independently, which constitutes a relevant factor for identifying the taxable person, and noted that the two spouses also jointly concluded the contract of mandate with the contractor and jointly applied to the local authorities to establish a right of way to access the plots at issue. The court stated that it will be for the referring court to ascertain whether the economic activity was carried out by each spouse separately or jointly.

04 Transfer Pricing – Acquisition of Intra-group Management Services: CJEU AG Opinion C-726/23

Advocate-General (AG) de la Tour delivered his opinion on 3 April 2025 in the case of ***SC Arcomet Towercranes SRL v Direcția Generală Regională a Finanțelor Publice București, Administrația Fiscală pentru Contribuabili Mijlocii București*** C726/23, which concerned the VAT implications of transfer pricing (TP) adjustments.

SC Arcomet Towercranes SRL (“Arcomet Romania”) is part of the Arcomet group, an independent global group in the crane rental sector. Arcomet Romania buys or rents cranes, which it then sells or rents to its customers. Arcomet Service NV Belgium (“Arcomet Belgium”) seeks suppliers for its subsidiaries (including Arcomet Romania) and negotiates contractual terms with them. The sale and rental contracts are concluded between Arcomet Romania and its suppliers and customers.

Under the group TP rules the subsidiaries should record an operating profit margin of between –0.71% and 2.74%. Arcomet Belgium and Arcomet Romania entered into a contract whereby Arcomet Romania was guaranteed an operating profit margin in that range, and an annual equalisation invoice was to be issued by Arcomet Belgium in the case of a surplus profit above 2.74% or by Arcomet Romania in the case of a surplus loss below –0.71%.

Arcomet Romania recorded a profit higher than the envisaged range and received from Arcomet Belgium three invoices exclusive of VAT. Arcomet Belgium declared these as supplies of services. Arcomet Romania declared the first two invoices as intra-Community purchases of services and applied the reverse-charge mechanism, and the third invoice was treated as relating to a transaction falling outside the scope of VAT.

Arcomet Romania was refused the right to deduct as it did not substantiate the invoiced supply of services or the fact that they were necessary for the purposes of taxable transactions, i.e. it did not provide supporting documents.

The first question referred was whether there was a supply of services for consideration where amounts were invoiced by a parent company to a subsidiary using the transactional net margin TP method in accordance with Article 2(1)(c) of the VAT Directive.

The AG reiterated the point that a supply of services carried out for consideration is subject to VAT only if there is a legal relationship between the provider of the service and the recipient pursuant to which there is reciprocal performance, the remuneration received by the provider of the service constituting the actual consideration for an identifiable service supplied to the recipient (i.e. there a direct link between the service supplied and the consideration received). In this case there was a legal relationship between the parties as there was a contract between Arcomet Belgium and Arcomet Romania that provided for a supply and remuneration, but the court would need to determine whether there was an identifiable service supplied to Arcomet Romania and a direct link between that service and the consideration received. In the case of the supply, it was clear that Arcomet Belgium negotiates the terms of contracts to be concluded by Arcomet Romania and carries out other tasks for it. The nature of the remuneration arrangements, however, the AG noted, is more difficult to assess, as the profit margin above the agreed range is to be paid to Arcomet Belgium.

The AG opined that the court should give an answer to the effect that the assessment of whether the transfer price is subject to the system of VAT must be made on a case-by-case basis and that, in this case, the transaction must be subject to VAT.

The second question posed was whether Articles 168 and 178 and the principle of proportionality preclude the tax administration from requiring a taxable person requesting deduction of VAT to produce documents other than the invoice to justify the use of the services purchased for the purposes of its taxed transactions. The AG noted that it appeared that crane fleet management and contract negotiation services provided by Arcomet Belgium to Arcomet Romania may, in principle, be included in the costs charged by Arcomet Romania to its customers, but this will need to be assessed by the referring court. He also referred to the principle of VAT neutrality, which requires the deduction or refund of input VAT to be allowed if the substantive requirements are satisfied, even if the some of the formal requirements have not been complied with. However, the position could be different if the non-compliance with formal requirements effectively prevents the production of conclusive evidence that the substantive requirements have been satisfied. It is for the taxable person claiming the deduction to provide objective evidence to support the claim that the substantive conditions have been met. This may be documentation other than an invoice.

In relation to this question the AG opined that the court gave the clarification that, to prove that the transaction is deductible, the tax administration may request the taxpayer to produce documents other than the invoice, in compliance with the principle of proportionality.

This is one of a number of recent referrals to the CJEU in relation to the VAT implications of TP adjustments, and it is hoped that these will bring some clarity to intra-group charges and TP adjustments from a VAT perspective, as unclear or non-uniform application across the Member States can lead to potential costs/liabilities.

05 Entitlement to Input VAT Recovery – Share Transaction Costs and Restructuring Costs: Court of Appeal [2025] IECA 75

"VAT Cases & VAT News" previously reported on a determination of the Tax Appeals Commission (TAC), 81TACD2022, after which a case was stated to the High Court, which agreed with the findings of the TAC. This was then appealed to the Court of Appeal, which has reversed the findings of the TAC and the High Court. This case, *Covidien Ltd v the Revenue Commissioners* [2025] IECA 75, dealt with a holding company's entitlement to input VAT recovery in respect of ongoing activities and a number of transactions. The case arose in respect of assessments raised by Revenue relating to input VAT reclaimed in full by Covidien Ltd in the amount of €45m. Covidien Ltd was the Irish-incorporated and Irish-tax-resident holding company of a corporate group of companies. It was registered with the US Securities and Exchange Commission, and its ordinary shares were listed on the New York Stock Exchange. It held 100% of the share capital of a number of group companies. Its two main activities were holding shares directly and indirectly in all of the companies in the group and providing management services to a number of its indirect subsidiaries. It received services from a group company to enable it to provide the management services. It was involved in a reconstruction and de-merger and was subsequently acquired by another company by means of a cancellation scheme of arrangement. After a Revenue audit it was determined that, in respect of ongoing costs, partial input VAT recovery was allowable, but no input VAT was recoverable in respect of the restructuring transactions.

The main issues raised were whether Covidien Ltd was engaged in an economic activity and, if so, whether this represented the whole or part of its overall activities, having regard to the full extent of activities in which it was engaged; whether it was obliged to self-account for VAT on supplies of services received from suppliers established outside the State and, if so, to what extent was it obliged to so account by reference to the nature of the supplies received (taxable or exempt); what is the test to be met by it in claiming an entitlement to deduct VAT on costs incurred and what deduction criteria will apply to the apportionment of VAT; and whether and to what extent it is entitled to deduct input VAT in respect of ongoing costs and in respect of the restructuring transactions.

The TAC had determined that Covidien Ltd was wholly engaged in economic activity at all material times, actively managing its subsidiaries and providing management services to its subsidiaries, which was for the purposes of exploiting its holdings in those companies to obtain income therefrom on a continuing basis, and therefore it was entitled to a full input VAT deduction. The Court of Appeal, however, determined that the TAC had erred in law and found that the involvement in an economic activity was insufficient on its own to determine VAT deductibility. The Court of Appeal found that the TAC failed to apply the "used for" test in analysing precisely how the input services were used for output services (i.e. there should be a detailed analysis carried out to assess whether the inputs incurred were used for the purposes of the output services).

The Court of Appeal held that:

> "Given that Covidien argued that the input costs not directly consumed by the FSRs [four service recipients] constitute overhead costs i.e. the second basis of deductibility, and because the TAC did not consider the question of whether deductibility was permissible on this basis, I have decided to remit the entire matter back to a TAC to allow Covidien to seek to persuade the TAC, if it so wishes, that input VAT on the services provided by Tyco is recoverable on the basis that the payment for those services constituted overhead costs that were components of the output services provided by Covidien to the FSRs and additionally, insofar as Project Jameson and Medtronic are concerned, that the exploitation of its shareholdings in downstream companies for the purpose of earning income therefrom. In accordance with general principles of VAT deduction, no input VAT can be set off against non-economic activities, i.e. the supply of services by Covidien where no consideration was charged."

This case deals with key principles relating to input VAT recovery and shows that a taxpayer must be able to demonstrate that, broadly, the input VAT is incurred on supplies used for its economic activities. To date, CJEU judgments have applied this broadly and taken into consideration the general overheads of the business.

VAT News

Ireland

A financial resolution was passed on 2 April 2025 providing for an extension of the temporary reduction in VAT on gas and electricity that was due to expire on 30 April and revert to the original 13.5% VAT rate from 1 May. The financial resolution extends the temporary reduction until the end of October 2025.

Revenue eBrief No. 315/24, published on 13 December 2024, provided an overview of the EU VAT SME scheme. Generally, where an Irish-established trader makes supplies in another Member State, there is no *de minimus* threshold. It must immediately register and account for VAT in the Member State where the supply takes place. From 1 January 2025 the SME scheme allows small traders the option to avail of the registration thresholds in other Member States. If eligible, these businesses will not have to register for VAT when supplying goods and services there. SI 69 of 2025, the European Union (Value-Added Tax) Regulations 2025, has since transposed into Irish law Council Directive (EU) 2020/285 on the special VAT scheme for small enterprises. The scheme provides for a domestic SME scheme (where the small enterprise must have an annual turnover not exceeding the national annual threshold set by the Member State of establishment, and the scheme is optional) and a cross-border SME scheme (where certain requirements relating to annual turnover have to be met).

EU

In February 2025 the Economic and Financial Affairs Council (ECOFIN) formally adopted a new legislative package to replace the current paper VAT-exemption certificate (which is used when goods are exempt from VAT) with an electronic VAT-exemption certificate. As part of the package there is a proposal for a Council Directive to amend the VAT Directive as regards the electronic VAT-exemption certificate and a proposal for a Council Implementing Regulation to amend Implementing Regulation (EU) No. 282/2011 as regards the electronic VAT-exemption certificate. The new electronic certificate will come into force on 1 July 2031, and there will be a further transition period of one year in which Member States can use both electronic and paper certificates.

At the ECOFIN meeting on 11 March 2025 the VAT in the Digital Age (ViDA) package was formally adopted. The well-reported package of measures deals with digital reporting requirements (real-time reporting), e-invoicing, rules relating to the platform economy for short-term accommodation and passenger transport, and a single EU VAT registration. On 25 March the *Official Journal of the European Union* published the relevant Directive, Regulation and Implementing Regulation, and they entered into force on 14 April 2025.

Accounting Developments of Interest

Aidan Clifford
Advisory Services Manager, ACCA Ireland

Auditing Related Parties

The Irish Auditing and Accounting Supervisory Authority has released a publication that focuses on auditing related parties. The publication runs through the risk assessment process, the response to those risks, specific procedures, written representations and the formation of an opinion in respect of related-party matters.

Glanbia Plc

The Irish Auditing and Accounting Supervisory Authority has published a decision about the accounting treatment applied by Glanbia plc in its 30 December 2023 annual financial statements. This decision focused on the identification of cash-generating units (CGUs) by the issuer, which impacts the level at which a company performs impairment tests. Goodwill and other intangible assets represented approximately 41% of Glanbia's total assets at 30 December 2023. The decision discusses the relative importance in identifying a CGU of brand versus portfolio sales structures, using costs or cash inflows, the internal reporting structures and the sharing of infrastructure. At issue was whether there were six CGUs or just one, and the agreed outcome of the analysis was that in future Glanbia would disclose that "each of the six businesses/brands constitute separate CGUs" and "should an impairment indicator be identified in the future for any of these six CGUs, these CGUs will be tested for impairment".

New Ethical Standards for Auditors in Ireland

The revised ethical standard is effective for audits of financial statements for periods beginning on or after 15 December 2026. Early adoption is permitted. The new version reflects updated legal, regulatory and professional references to stay current with EU and Irish law developments since 2020, and the changes are mainly applicable to listed company and public-interest entity (PIE) audits. The new standard introduces additional clarity around prohibited and permissible non-audit services, particularly for PIEs. There have also been changes in independence rules, disclosure to those charged with governance, and fee and litigation guidance. In respect of the PAASE (Provisions Available for the Audit of Smaller Entities) there has been no real change.

IAASA Publishes Review of Audit Quality in Larger Firms

The Irish Auditing and Accounting Supervisory Authority (IAASA) has published its 2024 quality assurance review reports in respect of seven firms that perform statutory audits of public-interest entities (PIEs) in Ireland. The reports summarise the IAASA's inspection of each firm's internal system of quality management. The reports include any findings and recommendations made by the IAASA to the firms regarding these systems.

The reports show that almost one in five of audit files reviewed across the sector required improvement. The matters identified include review of financial statement disclosure, communications with those charged with governance, risks of management override of controls and the internal engagement quality reviews (the last is a mandatory requirement for PIE audits). A recurring point was the sequence of the timing of certain procedures, with, for example, the audit engagement letter signed before the engagement acceptance procedure was completed – something that automated audit working papers have made easy to confirm.

There were also a number of findings relating to systems of quality management, with a consistent area of failing being the recording of financial interests to guard against conflicts. Also identified were a failure to perform annual reviews of the various quality processes and specific matters required to be addressed by the International Standards on Quality Management (ISQM (Ireland)) not being addressed.

One additional Irish audit firm has registered as a PIE auditor recently, so there may be more competition in the PIE audit sector. However, being a PIE auditor is not a cheap exercise; it requires direct registration with the IAASA and putting in place robust and extensive audit quality management processes. It also involves very regular audit monitoring visits from the IAASA, although there will be compensatory fewer and shorter monitoring visits from the firm's professional body. It is hard to see the full suite of PIE audit requirements costing a smaller firm less than €100,000 annually.

Kenmare Resources Plc

The Irish Auditing and Accounting Supervisory Authority has published the results of its assessment of the accounting treatment applied by Kenmare Resources plc in its 31 December 2023 annual financial statements. This decision focused on the company's value-in-use projections and how they reflected the impact of climate change. One interesting aspect of the assessment was that Kenmare had made a net-zero carbon commitment and the financial impact of the transition plan was still being assessed when the 2023 financial statements were published.

Guidance on the Going Concern Basis of Accounting and Related Reporting

The Financial Reporting Council in the UK has issued a non-mandatory guide for directors of all companies to assist them with the application of legal and regulatory requirements to:

- assess and make disclosures related to the going concern basis of accounting and any material uncertainties in their financial statements and
- disclose principal risks and uncertainties, which may include risks that might impact solvency and liquidity, in their strategic report.

The guide is just as applicable in Ireland as in the UK.

Financial Reporting: What's Ahead for 2025

The European Financial Reporting Advisory Group has published a summary report on its recent event, "Financial Reporting: What's Ahead for 2025". The report looks at IFRS 18: Presentation and Disclosure in Financial Statements, the statement of cash-flows project and the intangibles project.

UK Company Size Limits Have Increased

For financial years beginning on or after 6 April 2025, the UK company size limits have increased. The legislation can be found here. The new limits are below (old ones are in parentheses).

Size	Balance sheet	Turnover	Employees
Micro	£500K (£316K)	£1m (£632K)	10 (10)
Small	£7.5m (£5.1m)	£15m (£10.2m)	50 (50)
Medium	£27m (£18m)	£54m (£36m)	250 (250)

Large companies are entities that do not meet the criteria to be classed as a medium-sized or smaller company. The Financial Reporting Council has issued updated guidance for FRS 102 and FRS 105 and other additional guidance documents at this link.

The Omnibus Package

The EU released its Omnibus Package, proposing changes to sustainability reporting, notably to the Corporate Sustainability Reporting Directive (CSRD), Corporate Sustainability Due Diligence Directive (CSDDD), Taxonomy and Carbon Border Adjustment Mechanism. It should be noted that these are only proposals, and there has already been pushback against the proposed changes by some EU Governments, so the proposals may never make it through the legislative process. There are two legal changes proposed:

- A "stop the clock" Directive to defer the CSRD by two years for wave 2 and 3 companies (large companies etc.), in scope for the first time this year; but no change is proposed for wave 1 companies (very large quoted companies), already in scope since 2024. This aspect of the proposal has been approved and enacted.

- Changes for implementation in 2 years' time, which have yet to be negotiated or agreed by the 27 EU countries, including

    - fewer companies in scope – only 1000+ large companies,
    - fewer disclosures required of companies and
    - reduced due diligence on supply chain.

The proposals may lead to, for example, some disclosures under European Sustainability Reporting Standards becoming optional instead of mandatory, and some assessments would be done every five years, instead of every year. However, notably, there are no proposals to change the "double materiality" assessment and disclosure requirements. There are, of course, no changes proposed for the International Sustainability Standards Board (S1 and S2), and many Irish companies are already reporting under these standards to a head office outside the EU.

Under the proposals the VSME (the voluntary SME sustainability reporting standard) will enjoy a substantially enhanced status. Large companies will be barred from asking for sustainability information from their suppliers in excess of that required to comply with the VSME. Compliance with the VSME would be very achievable and cost-effective for SMEs, many of which already provide sustainability information to their customers.

Accountancy Europe has a suite of short and simple explanations of the proposed changes:

- Omnibus explained: key changes to CSDDD,
- Omnibus explained: key changes to sustainability reporting standards and
- Omnibus explained: key changes to CSRD.

Some commentators are saying that the Omnibus Package is not watering down the EU "green deal", that it is just a different and more cost-effective greenness. However, it has introduced uncertainty to EU law, reduced EU credibility and potentially tarnished the EU's green credentials.

Omnibus Proposal Will Be a Big Relief for SMPs

Irish and other EU small and medium-sized practices (SMPs) that have a large client may breathe a sigh of relief because they have gotten a two-year reprieve on the deadline for upskilling in European Sustainability Reporting Standards and obtaining a SASP (Sustainability Assurance Service Provider) licence. The two-year extension has been universally welcomed.

Auditors who hold an audit licence up 31 December 2025 are entitled to a "grandfathering" route for getting their SASP licence. Grandfathering is a relatively easy route, and an auditor is allowed to exercise their right to grandfather at any time, including after 2025. An auditor can wait and take the grandfather route in 2026 or 2027, when they need the SASP licence; they do not have to apply for the licence before the end of 2025. Members who obtain their audit licence for the first time after 2025 will have a more protracted route to an SASP licence, including eight months of sustainability assurance supervised training

Is It OK if S Offsets E in ESG?

Buying carbon credits to get a company to "net zero" has been described as having a fast-food burger with a side salad and hoping that the good in the salad will offset the bad in the burger. Net zero is a great soundbite and easy to understand, but should purchasing carbon credits even be an option in sustainability?

There is a business mantra that "what is measured is managed". Is relation to ESG (environmental, social and governance) this means that, because greenhouse gases (GHG) and waste/effluent etc. can be measured, they are managed. Because the S part of ESG is so much harder to measure and potentially more difficult to explain, it is often demoted to a short narrative report with fewer key performance indicators (KPIs) and targets.

Some entities – and I would suggest that professional trade associations could be in this cohort – could do immense amounts of good in delivering social objectives but will struggle to get to zero GHG emissions. Many have a very challenging target for GHG reductions, but it is simply not possible to get to zero. Should society allow the delivery of substantial social good to be offset against the absolute minimum GHG emissions that the organisation can achieve? It has to be acceptable to run a webinar on how to make a business sustainable and somehow offset the associated GHG emissions from the IT infrastructure to run the webinar against the social gain from delegates' now having the knowledge that they need to make their businesses sustainable.

One difficulty here is that there are no easy soundbites for social targets. "Net zero" for GHGs is easy to understand. Something such as "number of employees supported through career development training programmes" is rather a mouthful and very open to manipulation and mismeasurement. A further impediment to setting social objectives is that it can be admitting to poor current practices. A commitment to sourcing materials only from companies/countries that are not suspected of using indentured labour is, by inference, admitting to not auditing your supply chain now.

It would be difficult but not impossible for a professional trade association to measure its success in delivering on the social part of ESG. For example, it could set a KPI for the number of members upskilled in sustainability, and that could be measured using a proxy such as the number taking sustainability training. The body could encourage uptake of the training by promoting it, but even the most efficient method of promotion will emit GHGs.

The standard setters need to come up with a solution that does not just involve more disclosure. Sustainability reports are already too long. But we have to find a way to allow businesses that deliver on the social part of ESG to tell their story. Offset of the fast-food burger against the side salad should still not be allowed, but perhaps the offset would be allowed if it was a big delivery on the S part of ESG against an absolute minimum E – or, if you like, a modest protein portion with a main course salad.

New Consumer Protection Code

The Central Bank of Ireland has issued a new consumer protection code. The revised code will take effect on 24 March 2026, so companies have a year to implement the changes.

UK Company Data

The Financial Reporting Council in the UK has made available a viewer to give free access to company filings and iXBRL data from UK companies.

Irish Mergers and Acquisitions

The Competition and Consumer Protection Commission (CCPC) has published its Annual Mergers and Acquisitions Report 2024. A total of 77 determinations were issued by the CCPC during the year. The professional services sector (including legal, accountancy, consultancy, engineering and veterinary) was the most prominent sector. The companies regarding which determinations were made include household names such as the Dublin Airport Authority, Kilsaran, Coca-Cola and Lloyds Pharmacy.

Central Bank 2025 Regulatory and Supervisory Outlook Report

The Central Bank of Ireland has published its 2025 Regulatory & Supervisory Outlook report. The report notes that the current geopolitical situation is characterised by ongoing tensions, regional conflicts and global power shifts but that the global financial system has remained resilient. The report identifies the Bank's supervisory priorities as being driven by the macroeconomic and geopolitical environment, how regulated entities are responding to the changing world, and longer-term structural changes.

Agent and Adviser e-Linking

Revenue launched a new agent and adviser e-linking application, which went live at the end of March. This new process will enhance digital security by protecting both practitioners and their clients from identity theft. The agent e-linking application will establish a digital approval system for Revenue customers who are registered for and active on Revenue's online systems. When an agent submits an agent link request, the customer/taxpayer will be notified by email that they have received Revenue correspondence. The customer must log in to ROS or myAccount to approve or reject the agent link request.

ESRI Publishes Quarterly Economic Commentary

The Economic and Social Research Institute's commentary notes that unemployment is at 3.9% and real income growth is set to exceed 3.5%. The forecast was conducted on the assumption of no trade tariffs being imposed between the US and the EU but includes adjustment for the general uncertainty caused by a changing US economic policy, which is likely to subdue global activity and lower investment and consumption. An alternative forecast, based on 25% bilateral tariff regime, would show modified domestic demand growth of 2.8% in 2025 and 2.1% in 2026. The report also discusses housing and includes some policy considerations regarding rent control measures and how, although rent pressure zones have been shown to dampen rent increases, they also effect mobility and new construction supply and maintenance. A second consideration is in respect of the "funding gap", which is the difference between the amount of credit required to fund the construction of the required number of housing units and the amount of credit in the financial system at a point in time. The report identifies that financing of an additional 20,000 housing units, which is the identified annual shortage, would require approximately €5bn in funding.

Charity SORP News

A public consultation on a proposed update to the Charity Statement of Recommended Practice (SORP) is open. The Charity SORP is likely to become compulsory in Ireland for charities with annual income of more than €250,000, once the legislation is commenced.

Capital Structures in Audit Firms

Regulators have at times expressed concern at some of the ownership arrangements for audit firms, particularly private equity and similar types of arrangements. The Financial Reporting Council in the UK has issued a letter setting out its approach to such structures and, specifically, the requirement in law for audit firms to be controlled by auditors and to be independent. Both audit regulators in Ireland have issued similar guidance, including a recommendation that such arrangements are submitted in advance for pre-approval.

Sanctions Helpdesk

It can be difficult for small and medium-sized practices to be absolutely sure that they have complied with all anti-money-laundering sanctions. The Russian sanctions, in particular, are very broad, and some of the language used in the Regulations is difficult to interpret. To assist, the EU has set up the EU Sanctions Helpdesk. The helpdesk offers personalised help to companies performing sanctions due diligence checks.

Green Bonds

Many investors are demanding that their pensions and other investments are invested in sustainable investment funds, so-called green funds. Recent Irish legislation implementing the EU requirements, the European Union (European Green Bonds Standards and Disclosures) Regulations 2025 , will help to ensure that investors are not misled by claims of greenness by funds and that such funds make disclosures that are comparable across different funds.

UK Companies House Authorised Agent

For accountants filing with Companies House in the UK, the new authorised corporate service provider requirements are explained at this link. At the time of writing, the registration requirements were being postponed to the autumn.

NECC Annual Report

The UK National Economic Crime Centre has issued its Annual Report 2023–2024. The report includes case studies of money laundering in the UK that are of relevance to Ireland.

Government Legislation Programme

The Government has issued its Spring Legislative Programme 2025. Included is the Co-operative Societies Bill, which will place the co-operative model on a more favourable and clearer legal basis. There are also proposals in the Finance (Tax Appeals and Fiscal Responsibility) Bill to, among other matters, revise the law concerning the making of appeals in matters of taxation. The Registration of Short-Term Tourist Letting Bill will make it a requirement for short-term and holiday lets to register with Fáilte Ireland, something that will disappoint Airbnb fans but be welcomed by those seeking long-term accommodation. Sponsored by the Department of Enterprise, the Industrial Development (Miscellaneous Provisions) Bill will allow IDA Ireland to establish jointly owned companies to develop industrial and commercial property and infrastructure, and the Regulation of Artificial Intelligence Bill will lay down harmonised rules on artificial intelligence. The Department of Housing, Local Government and Heritage is sponsoring a Building Standards Regulatory Authority Bill, something that owners of defective buildings may feel is overdue.

AI for SMEs

Accountancy Europe has prepared a factsheet for SMEs on the EU AI Act.

Second-Level Accounting Syllabus

The draft specification for the Leaving Certificate accounting syllabus has been issued for public consultation. Digital technology in accounting and ethics and sustainability in accounting are cross-cutting themes, with three fundamentals examined: the preparation and analysis of the financial statements of a sole trader, the preparation and analysis of the financial statements of a company, and informed decision making. New matters added to the syllabus include an introduction to the taxation system and ROS, wages and wage deductions, and Companies Registration Office filing. Also included for the first time is the use of digital accounting packages, with a practical element. Decision making and management accounting have been given enhanced importance, with a reference that looks as if it requires the use of a digital tool such as Excel to analyse data. There will be a two-part assessment – a written exam (60%) and an applied assessment (40%) – the latter using a “prescribed software package”.

Legal Monitor

James Quirke
Partner, McCann FitzGerald LLP

Selected Acts Signed into Law from 1 February to 30 April 2025

No Acts of note were signed into law during this period.

Selected Bills Initiated from 1 February to 30 April 2025

No. 7 of 2025: Social Welfare (Bereaved Partner's Pension) Bill 2025

In January 2024 the Supreme Court overturned the decision of the Department of Social Protection not to pay the widower's contributory pension to Mr Johnny O'Meara after the death of his long-term partner, Ms Michelle Batey. Following on from that Supreme Court decision, a Bill has been introduced in Dáil Éireann that aims to amend and extend the Social Welfare Acts to include a provision that death benefit shall be payable to a surviving qualified cohabitant. Through these proposed amendments and extensions, the Taxes Consolidation Act 1997 ("the Act") will be amended to include the "bereaved partner's (contributory) pension" in the list of benefits to which s126 of the Act ("Tax treatment of certain benefits payable under Social Welfare Acts") applies.

No. 10 of 2025: Employment (Contractual Retirement Ages) Bill 2025

The Bill aims to provide that an employee may notify his or her employer that he or she does not consent to retirement at the contractual retirement age where the contractual retirement age is less than the pensionable age (currently, 66 years of age). Where an employer receives such a notification, it cannot enforce the contractual retirement age unless it is "objectively and reasonably justified by a legitimate aim" and the means of achieving that aim are "appropriate and necessary". The Bill also protects employees from being penalised as a result of making the notification to their employer.

Selected Statutory Instruments from 1 February to 30 April 2025

No. 39 of 2025: Finance Act 2024 (Section 69(1)) (Commencement) Order 2025

This Order commences s69(1) of the Finance Act 2024, which inserts s78D in the Finance Act 2003. Section 78D introduces a relief for qualifying small producers of cider and perry (exceeding 2.8% volume) and other fermented beverages. The relief is at a rate of 50% of the standard alcohol products tax rate for other fermented beverages, up to a maximum of 8,000 hectolitres in a calendar year. Producers of other fermented beverages must satisfy certain conditions to qualify for the relief, including a 10,000 hectolitre limit on the total quantity of such beverages produced in the previous calendar year.

Nos 57 and 58 of 2025: Gambling Regulation Act 2024 (Commencement) Order 2025 and Gambling Regulation Act 2024 (Establishment Day) Order 2025

SI 57 of 2025 appoints 5 March 2025 as the day on which (subject to certain stated exceptions) Part 1 ("Preliminary and General"), Chapter 1 ("Establishment, functions and governance of Authority") and Chapter 2 ("Funding of Authority and fees") of Part 2 ("Gambling Regulatory Authority of Ireland"), Part 3 ("Provisions Applicable to Authority, Appeals Panel and Adjudication Officers") and Chapter 3 ("Provisions related to offences: general") of Part 4 ("Prohibitions and Offences

(General)") of the Gambling Regulation Act 2024 come into operation.

SI 58 of 2025 appoints 5 March 2025 as the establishment day for the purposes of the Gambling Regulation Act 2024. On the establishment day the Gambling Regulatory Authority of Ireland is established to perform the functions that are conferred on it by the Gambling Regulation Act 2024.

No. 63 of 2025: Social Welfare (Miscellaneous Provisions) Act 2024 (Section 15) (Commencement) Order 2025

This Statutory Instrument states that 31 March 2025 is the day on which s15 of the Social Welfare (Miscellaneous Provisions) Act 2024 will come into operation. Section 15 amends s126 of the Taxes Consolidation Act 1997 by including jobseeker's pay-related benefit in the list of benefits that are deemed to be profits or gains arising or accruing from an employment and, accordingly, are chargeable to tax under Schedule E. The jobseeker's pay-related benefit scheme directly links the amount of benefit that an unemployed person may receive to their previous earnings.

No. 69 of 2025: European Union (Value-Added Tax) Regulations 2025

These Regulations transpose into Irish VAT law Council Directive (EU) 2020/285. The special scheme for small enterprises ("the SME scheme") is established in these Regulations, intended to ease the burden of VAT compliance on SMEs through a VAT exemption on the supply of goods and services. The aim of this exemption is to reduce the level of compliance work required from each individual SME. Under the SME scheme small enterprises may avail of SME schemes in EU Member States other than where they are established (subject to certain conditions, such as an annual turnover threshold and notification to Revenue).

In addition to the introduction of the SME scheme, these Regulations introduce a new basis for assessment of the eligibility of a business to avail of VAT registration thresholds. Previously, a business was required to register for VAT if the business turnover exceeded the relevant thresholds for goods and services in any continuous period of 12 months. As a result of these new Regulations VAT registration will be required if the turnover of the business exceeds the threshold in the current calendar year or in the previous calendar year.

No. 74 of 2025: Social Welfare (Consolidated Claims, Payments and Control) (Amendment) (No. 1) (Income Disregard) Regulations 2025

These Regulations extend the period within which income received from the lawful rental of living accommodation within the home to another person or persons, as provided for in the Social Welfare (Consolidated Claims, Payments and Control) Regulations 2007 (as amended), will be disregarded for the purpose of the 2007 Regulations. The end date of the period within which this income will be disregarded has been extended from 17 March 2025 to 17 March 2027.

No. 91 of 2025: Nursing Homes Support Scheme Act 2009 (Relevant Payments) Regulations 2025

These Regulations contain a Schedule that prescribes *ex gratia* payments for the purposes of paragraph (f) of the definition of "relevant payment" in paragraph 1 of Part 3 of Schedule 1 of the Nursing Homes Support Scheme Act 2009. A "relevant payment", as defined in the 2009 Act, is disregarded for the purposes of carrying out a financial assessment of means of a person. The Regulations are deemed to have come into operation on 9 August 2024.

The *ex gratia* payments included in the Regulations are a payment or payments made to the person under the Residential Institutions Redress Acts 2002 to 2011 and a payment or payments made to the person under the terms of the Stardust *ex gratia* Redress Scheme 2024.

No. 123 of 2025: Finance Act 2024 (Section 75(1)) (Commencement) Order

Section 75(1) of the Finance Act 2024 amends the amounts payable in betting duties and licence duties. This Statutory Instrument states that the new amounts of duties payable will come into operation on 1 June 2025.

Tax Appeals Commission Determinations

Catherine Dunne BL

Published from 1 February to 30 April 2025

Income Tax

14TACD2025

Appeal regarding notice of assessment and request for penalty to be refunded

s959Y TCA 1997

Case stated requested: Unknown

15TACD2025

Appeal regarding application of the four-year statutory limitation period

s865 TCA 1997

Case stated requested: Unknown

18TACD2025

Appeal regarding application of the four-year statutory limitation period

s865 TCA 1997

Case stated requested: Unknown

19TACD2025

Appeal regarding application of the four-year statutory limitation period

s865 TCA 1997

Case stated requested: Unknown

20TACD2025

Appeal regarding assessment to PRSI

s6, s20, s21 Social Welfare (Consolidation) Act; s960C TCA 1997

Case stated requested: Unknown

21TACD2025

Appeal regarding assessment to income tax

s960 TCA 1997, s1016 TCA 1997, s1017 TCA 1997

Case stated requested: Unknown

23TACD2025

Appeal regarding application of the age exemption

s188 TCA 1997

Case stated requested: Unknown

24TACD2025

Appeal regarding application of the four-year statutory limitation period

s865 TCA 1997

Case stated requested: Unknown

31TACD2025

Appeal regarding application of the four-year statutory limitation period

s865 TCA 1997

Case stated requested: Unknown

32TACD2025

Appeal regarding application of the four-year statutory limitation period

s865 TCA 1997

Case stated requested: Unknown

36TACD2025

Appeal regarding application of the four-year statutory limitation period

s865 TCA 1997

Case stated requested: Unknown

38TACD2025

Appeal regarding application of the four-year statutory limitation period

s865 TCA 1997

Case stated requested: Unknown

43TACD2025

Appeal regarding application of the four-year statutory limitation period

s865 TCA 1997

Case stated requested: Unknown

45TACD2025

Appeal regarding application of the dependent relative credit

s466 TCA 1997

Case stated requested: Unknown

46TACD2025

Appeal regarding refusal of loss relief in respect of an investment made in a music distribution partnership after *Droog* ruling

Case stated requested: Unknown

49TACD2025

Appeal regarding application of the four-year statutory limitation period

s865 TCA 1997

Case stated requested: Unknown

50TACD2025

Appeal regarding treatment of tax liability after separation

s1017 TCA 1997, s1018 TCA 1997

Case stated requested: Unknown

51TACD2025

Appeal regarding distributions from an approved retirement fund

s15 TCA 1997, s784A TCA 1997

Case stated requested: Unknown

52TACD2025

Appeal regarding treatment of tax liability after separation

s1017 TCA 1997, s1018 TCA 1997

Case stated requested: Unknown

53TACD2025

Appeal regarding application of the four-year statutory limitation period

s865 TCA 1997

Case stated requested: Unknown

59TACD2025

Appeal regarding outstanding PREM by the company of which the appellants were proprietary directors

s997A TCA 1997

Case stated requested: Unknown

63TACD2025

Appeal regarding application of the four-year statutory limitation period

s865 TCA 1997

Case stated requested: Unknown

64TACD2025

Appeal regarding taxation of maternity benefit and parent’s benefit

s112 TCA 1997

Case stated requested: Unknown

65TACD2025

Appeal regarding contested notices of amended assessment to income tax

s949AM TCA 1997

Case stated requested: Unknown

67TACD2025, 68TACD2025, 69TACD2025, 70TACD2025, 71TACD2025, 72TACD2025, 73TACD2025

Appeals concerning assessments to income tax by those who participated in Liberty Syndicates

s959U TCA 1997, s949AN TCA 1997

Case stated requested: Unknown

Capital Gains Tax

30TACD2025

Appeal regarding treatment of plant and machinery in calculating CGT

s545 TCA 1997, s561 TCA 1997

Case stated requested: Unknown

58TACD2025

Appeal regarding application of CGT relief to share-for-share exchange and subsequent sale of shares for bona fide commercial reasons

s584 TCA 1997, s586 TCA 1997

Case stated requested: Unknown

VAT

37TACD2025

Appeal regarding VAT reclaim on the floors of a home under the provisions of the VAT Refund Order (for certain aids and appliances for use by people with disabilities)

Case stated requested: Unknown

48TACD2025

Appeal regarding refusal of application to register for VAT

s5 VATCA 2010, s9 VATCA 2010, s65 VATCA 2010

Case stated requested: Unknown

56TACD2025

Appeal regarding refund of VAT and application of four-year rule

s99 VATCA 2010

Case stated requested: Unknown

60TACD2025

Appeal regarding repayment of input VAT and legitimate expectation

Council Directive 2006/112/EC

Case stated requested: Unknown

Customs and Excise

41TACD2025

Appeal regarding non-compliance by the appellants with the Mineral Oil Tax Regulations 2001 and the Mineral Oil Tax Regulations 2012 and that the appellant had not shown that the marked mineral oil was used or held for use in accordance with s99(10) Finance Act 2001

Mineral Oil Tax Regulations 2001; Mineral Oil Tax Regulations 2012; s95 Finance Act 1999 (No. 2); s99(10) Finance Act 2001; Council Directive 2003/96/EC; Council Directive 2008/118/EC; s886 TCA 1997

Case stated requested: Unknown

VAT, Customs and Excise

40TACD2025

Appeal regarding assessment to VAT relating to the denial of the appellant's claim for VAT input credits arising from purchases of unmarked diesel and an assessment to excise duty in the form of mineral oil tax relating to the sale of marked mineral oil

Part 8 VATCA 2010, s66 VATCA 2010, s84 VATCA 2010, s886 TCA 1997

Case stated requested: Unknown

PREM – Income Tax, PRSI, USC

33TACD2025

Treatment of expenses incurred by delivery drivers (after *Karshan* decision)

s114 TCA 1997, s117 TCA 1997

Case stated requested: Unknown

VAT and PREM – Income Tax, PRSI, USC

44TACD2025

Appeal regarding tax treatment of travel and subsistence expenses of directors

s112 TCA 1997, s114 TCA 1997, s177 TCA 1997, s886 TCA 1997; s84 VATCA 2010

Case stated requested: Unknown

Relevant Contracts Tax

27TACD2025

Appeal regarding application of the 0% rate of RCT

s530E TCA 1997, s530G TCA 1997

Case stated requested: Unknown

28TACD2025

Appeal regarding application of the 0% rate of RCT

s530E TCA 1997, s530G TCA 1997

Case stated requested: Unknown

57TACD2025

Appeal regarding application of 35% rate of RCT

s530E TCA 1997, s530G TCA 1997

Case stated requested: Unknown

Artists' Exemption

17TACD2025

Appeal regarding the application of the artists' exemption

s195 TCA 1997

Case stated requested: Unknown

26TACD2025

Appeal regarding the application of the artists' exemption

s195 TCA 1997

Case stated requested: Unknown

29TACD2025

Appeal regarding the application of the artists' exemption

s195 TCA 1997

Case stated requested: Unknown

61TACD2025

Appeal regarding the application of the artists' exemption

s195 TCA 1997

Case stated requested: Unknown

Vehicle Registration Tax

47TACD2025

Appeal regarding VRT charge based on CO^2 emissions calculation

s132 Finance Act 1992

Case stated requested: Unknown

62TACD2025

Appeal regarding the open-market selling price in respect of the calculation of VRT

s133 Finance Act 1992 (as amended)

Case stated requested: Unknown

Local Property Tax

22TACD2025

Appeal regarding liability to LPT on a residence housing an incapacitated individual and application of the four-year statutory limitation period

s10B Local Property Tax Act 2012; s865 TCA 1997

Case stated requested: Unknown

25TACD2025

Appeal regarding application of the four-year statutory limitation period

s865 TCA 1997

Case stated requested: Unknown

Help to Buy Scheme

34TACD2025

Appeal regarding calculation of income tax relief (during the Covid-19 pandemic) for the Help to Buy Scheme

s477C TCA 1997

Case stated requested: Unknown

PAYE

35TACD2025

Appeal regarding underpayment of income tax on foot of the receipt Covid-19 pandemic unemployment payments that were not taxed at source

s126 TCA 1997

Case stated requested: Unknown

55TACD2025

Appeal regarding taxation of maternity benefit paid in arrears

s112 TCA 1997, s126 TCA 1997

Case stated requested: Unknown

66TACD2025

One of a number of appeals concerning assessment to income tax by those who participated in Liberty Syndicates

Case stated requested: Unknown

PAYE and USC

16TACD2025

Appeal regarding claims for income tax relief on payments made for a child and not spousal maintenance

s1025 TCA 1997

Case stated requested: Unknown

Corporation Tax

39TACD2025

Appeal regarding surcharges imposed by Revenue for late filing of financial accounts in iXBRL format on ROS

s884 TCA 1997, s917EA TCA 1997, s959K TCA 1997

Case stated requested: Unknown

42TACD2025

Appeal regarding a surcharge imposed by Revenue for late filing of financial accounts in iXBRL format on ROS

s884 TCA 1997, s917EA TCA 1997

Case stated requested: Unknown

54TACD2025

Appeal regarding disallowed application for R&D tax credit owing to late submission

s766 TCA 1997

Case stated requested: Unknown

Tax Technology Update

Katie Aragane
Associate Director, Tax Transformation & Technology, KPMG Ireland

Introduction

After the previous e-invoicing article in the winter 2024 issue of *Irish Tax Review*, this "Tax Technology Update" revisits the ViDA (VAT in the Digital Age) package as it relates to e-invoicing and digital reporting. It also explores the anticipated impacts on Ireland and outlines some of the mandates in place across other EU countries. Finally, the article examines the key components of a successful e-invoicing journey, from engaging the right stakeholders to selecting the optimal e-invoicing solution.

Update on ViDA

On 11 March 2025, after a re-consultation by the European Parliament, the ViDA proposal was officially adopted. To recap, this package will require each Member State to mandate the issuance of e-invoices and digital reporting of certain data to tax authorities for business-to-business (B2B) and business-to-government (B2G) cross-border supplies in the EU within ten days. In addition, it is intended that the customer in relation to the supplies will be required to digitally report data from the e-invoice received within five days. However, an amendment has been made to the original proposal that this requirement may be waived by Member States should certain conditions be met.

The EU has set a deadline of July 2030 for the implementation of the above measures, but most Member States are expected to adopt domestic e-invoicing and digital reporting mandates well before this date, as several have already done. Notably, the approved final package removes the requirement for Member States to obtain an EU derogation to introduce local e-invoicing mandates, thereby simplifying and accelerating the process for early local implementation. Jurisdictions with existing e-invoicing and digital reporting mandates (in place since 2024) will have until 1 January 2035, to align with the ViDA proposal and EU standards.

Impact on Ireland

In accordance with the e-invoicing Directive 2014/55/EU, Ireland, since 2019, has mandated that public and government bodies must be able to receive and process e-invoices (B2G). Revenue has yet to confirm exactly when it intends to introduce further requirements for businesses; however, it has indicated on several occasions that local requirements may exceed the minimum scope required at EU level (e.g. requiring all domestic B2B transactions also to come within the scope of e-invoicing and digital reporting). If this is adopted, Revenue will be following the approach of many EU Member States, including Italy, France and Belgium.

Other Countries

Many countries in the EU and internationally have already introduced, or will be introducing, local e-invoicing requirements ahead of the introduction of ViDA. Table 1 shows some of the e-invoicing requirements and the current timelines.

Table 1: E-invoicing and digital reporting requirements in EU countries.

	Existing	Upcoming			
Criterion	**Italy**	**Belgium**	**Poland**	**France**	**Germany**
E-invoicing	B2B/B2G/B2C	B2B Already in place: B2G	B2B Already in place: B2G	B2B Already in place: B2G	B2B Already in place: B2G
Digital reporting to tax authorities	Yes – e-invoice issued to, and validated by, tax authority. Tax authority responsible for ensuring customer receives validated e-invoice.	Not included in timeline below.	Yes – e-invoice issued to, and validated by, tax authority. Supplier responsible for ensuring customer receives validated e-invoice.	Yes – e-invoice validated by certified third-party platform (PDP). Supplier responsible for ensuring customer receives validated e-invoice. E-invoice data digitally reported to tax authority.	Not included in timeline below.
Timeline	January 2019	January 2026	February 2026 for large businesses. April 2026 for all other businesses.	September 2026 for large and intermediate enterprises. September 2027 for SMEs.	January 2025 soft start – ability to receive. January 2027 mandatory issuance of e-invoices (excluding small businesses). January 2028 for all businesses

E-invoicing readiness

With e-invoicing gaining momentum across the EU and a clear legislative framework on the horizon, now is the time for Irish businesses – large and small – to begin engaging both internally and with external partners to initiate their e-invoicing journey.

For organisations beginning to consider how to prepare for e-invoicing – whether a multinational corporation aiming to streamline the global roll-out of e-invoicing or an Irish business anticipating ViDA and navigating the uncertainties around domestic requirements – there are several key questions that need to be addressed:

- **Who leads?** – Invoicing is primarily a commercial finance process, but the risk of e-invoicing non-compliance lies with the tax function. Understanding in the organisation of who should be leading the e-invoicing agenda is important.
- **Management buy-in** – In a constantly evolving economic landscape the business case for e-invoicing must be clear. A significant component is the impact on trading partner interactions. Ensuring that the transition to e-invoicing is managed properly is in the organisation's best interest.
- **Stakeholder engagement** – The e-invoicing agenda involves multiple stakeholder groups

in the business, such as IT, finance and tax. Establishing a robust governance model is essential to ensure sufficient involvement and alignment across all stakeholder groups.

- **Impact assessment** – For multinational enterprises (MNEs), understanding the jurisdictions in which the business operates and any planned future changes to this is important. This allows for consideration of the impact of e-invoicing mandates in each country. The scope of mandates varies significantly across jurisdictions, so it is important to prioritise countries correctly. For example, in some countries the existence of a legal entity brings an organisation into scope, whereas others include VAT-registered businesses.
- **Systems, data and process review** – There is a clear drive to get it right the first time with standardised e-invoicing and digital reporting. As invoices will be automatically created and transmitted to the customer and/or tax authority, there is little room for manual updates or amendments after issuance. Therefore, it is important to ensure clarity on the organisation's system landscape, including where invoice data originates (e.g. ERP, billing systems, AP systems, tax packages). A gap analysis between existing data and mandated requirements is necessary to ensure data availability for local requirements and at EU level. The e-invoicing agenda is an opportunity for organisations to review and streamline their current invoicing processes, including AP and AR processes.
- **Choosing the right e-invoicing solution** – For MNEs, consideration is needed of managing e-invoicing across multiple jurisdictions. A global roll-out will likely require a third-party e-invoicing solution. Assessing the suitability of various solution providers and their alignment with the organisation's business requirements is important. Criteria to consider include country coverage, integration ability with the organisation's ERP, customisations, implementation timelines and cost. Smaller businesses with limited cross-border transactions may manage e-invoicing in-house through their existing ERP provider.
- **Implementation** – To achieve seamless integration of the chosen e-invoicing solution, a well-defined e-invoicing strategy and roadmap should be developed and followed. This strategy should integrate all of the aforementioned items, ensuring alignment with business-specific processes, data requirements and scalability as requirements evolve.

Conclusion

With the official adoption of ViDA now in place and the rapid pace at which other EU jurisdictions are introducing local e-invoicing and digital reporting requirements ahead of the 1 July 2030 deadline, attention is focused on Revenue and the potential timeline for implementing domestic e-invoicing in Ireland. The transition to e-invoicing will, undoubtedly, pose significant challenges for organisations. Therefore, it is crucial to ensure that this shift is carefully managed to minimise disruptions and secure a smooth transition into the future.

UK and Northern Ireland Tax Update

Marie Farrell
Partner, KPMG Ireland (Belfast Office)

Introduction

There were limited tax changes announced in the Chancellor's UK Spring Statement at the end of March, which is not surprising, given the plethora of measures announced in Autumn Budget 2024. Closing the "tax gap" remains the focus and priority for the Government, which means that taxpayers can undoubtedly expect a more active and aggressive approach by HMRC, with a ramping up of compliance activity.

More significant, perhaps, is that there were no U-turns in the Spring Statement on some of the more controversial measures announced at Autumn Budget, especially in respect of the potentially significant changes to UK inheritance tax (IHT) that have now become a significant factor for IHT planning. Having had time to digest and consider the proposed substantive changes – in particular to the agricultural property relief (APR) and business property relief (BPR) IHT regimes and to pensions – I include further commentary below, as more and more taxpayers and tax advisers begin to consider their options. Other notable tax measures are also examined below, together with recent court judgments and developments in UK tax law outside of those announced in the Spring Statement.

Spring Statement

Inheritance tax: APR and BPR

Currently, relief of up to 100% is available on qualifying business and agricultural assets. With effect from 6 April 2026 the 100% rate relief will continue to apply to the first £1m of combined value, with 50% relief for value above this threshold. This means that an effective IHT tax rate of 20% will apply from 6 April 2026 to the value of qualifying assets above £1m.

A study by the Northern Ireland Executive's Department of Agriculture, Environment and Rural Affairs indicated that around half of the farms in Northern Ireland, accounting for 80% of farmed land, could be impacted by the proposed APR changes. This is at odds with the Treasury's figures and has led to calls from multiple stakeholders for the Government to turn back and reconsider the planned tax changes, given the disproportionate impact on family farms, which have marginal profitability and limited liquidity to discharge the consequent tax liabilities.

The proposed BPR changes will also have a significant impact on shareholdings in family trading companies, including those held in a trust structure.

The consultation on these changes announced at Autumn Budget 2024 was launched on 27 February and closed on 23 April 2025. There are welcome clarifications in the consultation, but it is also clear that some policy proposals set out in the consultation require urgent amendment if APR and BPR are to remain workable or valuable reliefs.

What is apparent is that the proposed changes to APR and BPR have become a significant factor in IHT and estate planning, and relevant individuals should consider their own position and take appropriate action, such as:

- reviewing current wills, taking advice on the quantum of current IHT exposure and considering the affordability of current plans;

- reviewing or taking out life policy arrangements that may mitigate the impact of these IHT changes; and
- considering whether it is appropriate to make a lifetime gift of all or part of their business, which could potentially result in the gift's falling outside the scope of IHT.

Inheritance tax: pensions

From 6 April 2027 it is proposed that most unused pension funds and death benefits will be included in the value of a person's estate for IHT purposes, subject to the spousal exemption. This change applies to both defined-contribution and defined-benefit schemes, ensuring consistent treatment across different types of pension arrangements.

Individuals should review their pension position to mitigate the impact of the new rules by maximising reliefs, e.g. by investing in IHT-exempt assets such as venture capital trusts, utilising APR/BPR within new £1m limit and making lifetime gifts. Individuals should also review their death benefit nominations to ensure that they are up to date with their wishes and, where required, make changes, having considered the new rules.

Inheritance tax: territorial scope

A new residence-based regime for IHT was introduced with effect from 6 April 2025. If an individual has been resident in the UK for at least 10 out of the 20 years immediately preceding the tax year in which the chargeable IHT event occurs, their worldwide assets will be within the scope of UK IHT. If they have not been resident in the UK for at least 10 out of the last 20 years, then only UK-*situs* assets will be within the scope of UK IHT.

Thus, although the change in IHT to a residence-based system will bring non-domiciled individuals within the scope of UK IHT on their worldwide assets, it opens the door for all UK residents, whether domiciled in the UK or not, to leave the UK IHT tax net (other than for UK-situated assets and UK residential property) if they are non-resident for 10 consecutive years. It will therefore be critical for relevant individuals and their tax advisers to establish an individual's residence position for each relevant tax year.

Closing the "tax gap"

The Chancellor announced further measures to assist in attaining the Government's goal to close the "tax gap", the difference between the amount of tax that should, in theory, be paid to HMRC and what is actually paid. Undoubtedly, given that the Government has ruled out major tax rises, this will lead to an increase in compliance checks across all tax heads. The Spring Statement also outlined a number of stronger measures aimed at combatting tax fraud, to include the expansion of HMRC's counter-fraud capability and the introduction of a new reward scheme, modelled on the US and Canadian whistleblower schemes, which rewards informants with compensation linked to a percentage of any tax taken as a result of their actions. The overall aim of the measures is to provide a strong deterrent and promote tax compliance among all taxpayers.

Taxation of non-domiciled individuals

In the last UK tax update the main features of the new foreign income and gains (FIG) regime, which took effect from 6 April 2025, were outlined in detail. An exodus of wealthy individuals from the UK was expected to follow, and it will be interesting to see how the new "non-dom" regime, along with the other UK tax changes, has already and will continue to impact the number of individuals moving abroad.

There are opportunities and pitfalls for UK-resident non-domiciled individuals and those newly arriving in the UK. The position is complex, and transitioning to the new regime has to be managed carefully. Although non-domiciled individuals wishing to stay in the UK for a long time will have different fact patterns, their tax treatment will be much more closely aligned to that of UK-resident and -domiciled individuals.

Individuals who are impacted should review their position and ensure that the transitional arrangements, to include the temporary repatriation facility (TRF), are considered and used where appropriate.

Other Developments

Register of Overseas Entities

Companies House has published guidance on how beneficial owners or managers of foreign companies or trusts can protect their identities or addresses from disclosure on the Register of Overseas Entities if exposure would put them at serious risk of harm or intimidation. This includes "trust members", which includes a beneficiary, a settlor, a grantor and an interested party.

If you are a trust member and you meet the criteria for protection, it is important that you apply to protect your details before 31 August 2025. From this date, third parties will be able to apply for access to trust details.

Statutory residence test: "exceptional circumstances"

In *Irish Tax Review*, Issue 4, 2022, and Issue 4, 2023, one of the first reported tax cases heard by the First-tier Tax Tribunal (FTT) and subsequently the Upper Tribunal (UT) dealing with the statutory residence test (SRT), *HMRC v A Taxpayer*, was briefly considered, as it helpfully clarified a number of aspects surrounding when days in the UK may be disregarded under "exceptional circumstances". In 2023 the UT set aside the decision of the FTT regarding the "exceptional circumstances" exemption in the SRT. That decision was appealed, and the Court of Appeal has now issued its judgment ([2025] EWCA Civ. 106).

As a brief reminder of the facts of this case,

- The taxpayer could spend not more than 45 days in the UK before she became tax resident under the SRT.
- The taxpayer claimed to be resident in Ireland (and not to be resident in the UK).
- The taxpayer's twin sister (who had two dependent children) had been suffering from alcoholism and mental health issues. The taxpayer spent time in the UK on a number of occasions to care for her sister's children, resulting in her spending more than 45 days in the UK.
- The taxpayer spent 50 days in the UK, but claimed that 6 days were covered by the "exceptional circumstances" exemption.
- The FTT agreed that the "exceptional circumstances" test had been met in this case, but the UT did not and found in favour of HMRC.

The UT indicated that exceptional circumstances should be construed narrowly and that one is prevented from leaving the UK due to exceptional circumstances when leaving is impossible. It did not appear to accept that the taxpayer's moral obligation to her sister's children prevented her leaving the UK.

The Court of Appeal decided in favour of the taxpayer on all grounds, with Nugee LJ stating that "the moral or societal obligations which the illness of a relative – or any other situation – imposes on [the taxpayer] form part of the overall circumstances". This is a welcome widening of the view of what can be considered "exceptional circumstances" for the SRT and will be welcomed by the significant number of taxpayers who sought to rely on "exceptional circumstances", particularly during the Covid-19 pandemic.

Taxpayers are again, however, reminded of the importance of having sufficient quantity and quality of evidence to substantiate any claim for "exceptional circumstances".

HMRC late payment interest rates

Previous UK tax update articles have referred to movements in HMRC's late payment interest rates in line with increases and, more recently, reductions to the Bank of England (BoE) base rate. Higher late payment interest rates have resulted in taxpayers' taking more care to monitor their tax payment position and minimise late payment interest arising. This will become even more important, as from 6 April 2025 the rate at which HMRC charges interest on most taxes and duties paid late increased to the BoE base rate plus 4 percentage points (previously, 2.5 percentage points). Late paid corporation tax quarterly instalment payments increased to the BoE base rate plus 2.5 percentage points (currently, BoE base rate plus 1 percentage point), and late paid customs duty increased to the BoE base rate plus 3.5 percentage points (currently, BoE base rate plus 2 percentage points), from the same date.

Capital Goods Scheme simplification

The Capital Goods Scheme has been simplified. Computers are no longer included in the scheme, and the capital expenditure value of land, buildings and civil engineering work, previously set at £250,000 (exclusive of VAT), has been increased to £600,000. This simplification will reduce the administrative burden on small businesses as the number of capital assets falling within the Capital Goods Scheme will fall.

"Green lane" changes and B2C parcel arrangements for GB to NI under the Windsor Framework

The full "green lane" has now taken effect for the movement of all goods between Great Britain and Northern Ireland, using the UK Internal Market Scheme. New arrangements are also coming into effect for the movement of parcels between Great Britain and Northern Ireland – the changes vary depending on whether the goods are being sent to a business or a private consumer, and thus impacted business should be aware of and ensure they are fully compliant with the new arrangements.


Customs and Trade Tariffs Update

John O'Loughlin Partner, Global Trade & Customs, PwC Ireland
David Lusby Senior Manager, Global Trade and Customs, PwC Ireland

Introduction

As the United States' trade policy has evolved in 2025, the reinstatement of Trump-era tariffs has become a focal point, particularly regarding its implications for international trade and European businesses. An examination of President Trump's prior trade policies offers valuable insights into how such measures might once again reshape the global economic landscape.

Between 2017 and 2021 President Trump's administration used tariffs as a strategic lever to address what were perceived as unfair trade practices. These policies aimed to reduce the trade deficit (the gap between the value of what a country imports and the value of what it exports) and to encourage domestic manufacturing. However, the tariffs also generated higher costs for businesses and consumers, disrupted supply chains and led to retaliation from other countries.

During this time President Trump's administration implemented several rounds of tariffs targeting various industries and goods:

- **Steel and aluminium:** In March 2018 tariffs of 25% on steel and 10% on aluminium were imposed for imports from most countries to the US, including the EU. This led to increased costs for industries relying on these materials, such as automotive and construction, and prompted retaliatory tariffs from the EU on US products such as motorcycles and bourbon.
- **Chinese electronics:** The administration also targeted Chinese goods, imposing tariffs on electronics, including smartphones and laptops. This not only increased costs for US consumers but also disrupted global supply chains, affecting European businesses that were part of these networks.
- **Solar panels and washing machines:** In January 2018 tariffs of 30–50% were placed on solar panels and washing machines. This impacted European manufacturers that exported these goods to the US, leading to reduced market access and increased competition from domestic producers.

The ripple effects of these tariffs were felt globally. European businesses faced higher costs for raw materials and components, reduced access to the US market and increased competition from American companies. The retaliatory tariffs imposed by the EU on US goods created further economic tensions and uncertainties in international trade.

What Are Tariffs?

At their core, tariffs are financial duties levied by governments on goods crossing their borders, whether imported or exported. In the context of international trade, import tariffs are more common and are applied in all countries, export tariffs being much rarer and applied only in certain jurisdictions on certain products. The tariff amount is typically calculated as a percentage of the customs value of the good, although in certain instances fixed monetary tariffs can be applied based on weight or quantity. For example, if an EU business imports vehicles from the US, it will be subject to a tariff on the customs value of the vehicle at the point of import.

The EU imposes a variety of tariffs on goods imported from non-EU countries to protect its domestic industries. For instance, there is a 10% tariff on imported cars, which supports the EU's automotive sector. Tariffs on agricultural products can vary significantly, with imported beef facing a tariff of up to 12.8% plus an additional fixed amount per 100kg. Textiles and clothing imported to the EU are subject to tariffs ranging from 5% to 12%, aimed at bolstering the domestic textile industry.

A notable example of a recent tariff dispute is the Boeing vs Airbus conflict, a long-standing rivalry between the US and the EU over subsidies to their respective aerospace giants. This dispute began in 2004 when the US filed a complaint with the World Trade Organization (WTO) alleging that the EU provided illegal subsidies to Airbus. The EU countered with a complaint about US subsidies to Boeing. In 2019 the WTO authorised the US to impose tariffs on $7.5bn worth of EU goods annually due to the illegal subsidies to Airbus. The EU was later authorised to impose tariffs on $4bn worth of US goods as a result of subsidies to Boeing. In 2021 the two sides agreed to suspend the tariffs for a period of five years; however, it is expected that discussions may recommence as a result of President Trump's re-election.

Why Are Tariffs Imposed?

Tariffs are often used as part of a country's economic strategy:

- **Economic protectionism:** Shielding domestic industries from foreign competition by making imports more expensive.
- **Revenue generation:** Historically, tariffs were a significant source of government income before the advent of modern taxation systems.
- **Geopolitical strategy:** Tariffs can be used as tools of negotiation, coercion or retaliation in international relations.

Main Types of Tariffs

The main types of tariffs include *ad valorem* tariffs, specific tariffs and compound tariffs. *Ad valorem* tariffs are charged as a percentage of the product's value, such as a 15% tariff on luxury goods. Specific tariffs involve fixed charges based on quantity or volume, such as €50 per tonne of imported steel. Compound tariffs combine *ad valorem* and specific tariffs.

Tariffs often lead to retaliation. For example, if the US imposes tariffs on EU wine, the EU might respond by taxing American whiskey, as seen in the case of US bourbon during the trade disputes under President Trump's previous administration.

This led to significant financial impacts on American whiskey producers, with exports from Kentucky, alone, dropping by $0.5bn since 2018. The tariffs not only increased costs for EU consumers but also strained the global supply chain and affected the profitability of American whiskey brands. This back-and-forth can escalate into a "trade war", where each side keeps imposing tariffs, that disrupts trade and increases costs for businesses and consumers.

"Trump Tariffs": Current State of Play

As of June 2025 the US administration has intensified its "America First" trade policy, with a renewed focus on economic resilience and reshoring critical industries. New tariffs have been implemented targeting key trading partners, including the EU. These "reciprocal" tariffs, announced on 2 April, imposed a baseline rate of 10% for all countries and additional, country-specific rates for certain trading partners, including an additional 10% for the EU, bringing the effective tariff to 20% on all goods of EU origin imported to the US. Further country-specific tariffs were imposed on other trading partners, ranging from 10% to 125% (in the case of China).

After the imposition of the country-specific tariffs, President Trump announced a 90-day pause on those tariffs but retained the 10% baseline rate. For now, EU exports to the US are subject to a 10% "reciprocal" tariff (unless specifically exempted) or to the tariff of 25% imposed on steel, aluminium and automotive products. In a further shift of US tariff policy, President Trump announced in early June that the 25% tariff on steel and aluminium would rise to 50%.Although pharmaceuticals were excluded from the recent Executive Order, the sector is still being reviewed separately and is likely to face future action due to its role in the US trade deficit.

On 28 May, in what may prove to be a significant blow for the trade policy and ongoing tariff actions of the Trump administration, The United States Court of International Trade ruled that tariffs imposed by President Trump under the International Emergency Economic Powers Act (IEEPA) are illegal. The ruling by a three-judge panel at the New York-based court came after several lawsuits argued that President Trump had exceeded his authority under IEEPA to impose tariffs.

While a small reprieve was provided by way of the Federal Court of Appeals, allowing the tariffs to remain in place temporarily while the motion is under review, the Court of International Trade ruling places a renewed spotlight on the legal framework under which many of President Trumps tariffs were imposed.

Additionally, this raises questions over how quickly tariffs could be imposed in the future, should the President have to use alternate legal mechanisms (e.g. Section 232) which can take longer to come into effect. This change in legal basis would likely impact the effectiveness of the US tariff plan which has seen the imposition of tariffs within a number of days following an announcement by President Trump being used as a key tool to place the US in a strong negotiating position with trading partners. The final ruling in this case, which looks likely to go to the Supreme Court, will be of significance for the direction of travel of US trade policy. For EU exporters these measures present both a policy challenge and a commercial threat. The latest tariffs increase uncertainty in transatlantic trade, particularly for high-value and industrial sectors. With a minimum 10% tariff now in place for almost all imports to the US, imposed on a country-by-country basis, EU businesses face a more fragmented and less predictable trading environment.

In response to the imposition of tariffs on steel and aluminium, the European Union has adopted and simultaneously suspended a structured, two-phase retaliation strategy. Phase 1 reinstates tariffs from 2018 and 2020, targeting US goods from a range of sectors, including boats, bourbon and motorbikes. Phase 2 introduces new tariffs on US exports, covering sectors such as steel, aluminium, home appliances, wood products, poultry, beef and other food imports. Further to this, the EU has considered what a response may look like to the imposition of tariffs under the US "reciprocal" plan and has published a draft list of US products, open to public consultation, which may become subject to tariffs in the future. Interestingly, aircraft are included on this list signalling a direct focus on a key US manufacture in Boeing.

Although they are now suspended, the adoption of these measures is designed to underscore the EU's willingness to respond to unfair tariffs placed on its goods and apply pressure on the US to negotiate a settlement and prevent an escalating trade war. The EU has also made clear that retaliatory measures can be accelerated should the US take any further tariff actions which negatively impact the bloc.

The EU has also considered further actions, including a tax on digital advertising revenues, which would affect major US tech companies, should negotiations fail. This comprehensive approach underscores the EU's commitment to defending its economic interests while remaining open to diplomatic solutions.

"America First" Trade Policy

The "America First" trade policy, announced in January 2025, aims to rectify the United States' persistent trade deficits, which the administration views as a threat to both economic stability and national security. The policy focuses on reducing reliance on foreign imports, particularly in critical sectors such as manufacturing and technology, to bolster domestic production and safeguard supply chains. This approach involves implementing tariffs and other trade measures to address perceived unfair trade practices and to encourage the reshoring of industries deemed vital to national interests.

However, the economic impact of these policies has been significant. The International Monetary Fund (IMF) has warned that the tariffs have caused a "major negative shock" to the global economy, leading to a downward revision of global GDP growth forecasts for 2025. The US economy is also projected to experience slower growth, with the IMF reducing its forecast due to increased policy uncertainty and reduced consumer demand. These developments highlight the complex trade-offs involved in pursuing protectionist trade policies, as they may achieve certain domestic objectives while posing risks to broader economic stability and growth.

Future Tariffs in the Pharmaceutical Sector?

Pharmaceutical exports have become a cornerstone of Ireland's trade relationship with the United States, positioning the country as a key player in the global pharmaceutical supply chain. In 2024 Ireland exported approximately €30.5bn ($33.1bn) worth of pharmaceutical products to the US, making pharmaceuticals Ireland's top export category to its largest non-EU trading partner.

This surge contributed significantly to Ireland's record €72.6bn in total goods exports to the US that year, representing a 34% increase on 2023. These exports include a range of high-value products such as vaccines, biologics and specialty medicines, many of which are manufactured by US pharmaceutical multinationals operating within Ireland's tax and regulatory environment.

This strong performance in pharmaceutical trade also played a significant role in shaping broader US–EU trade dynamics. In 2024 the US imported €531.6bn in goods from the EU while exporting just €333.4bn, resulting in a €198.2bn trade deficit. Ireland's pharmaceutical exports contribute notably to this imbalance, drawing increased scrutiny from US policy-makers focused on narrowing the trade gap.

The Trump administration has raised concerns about this dynamic, pointing to Ireland's corporate tax policies and the offshoring of US pharmaceutical production as key contributors to the deficit. As a result, Ireland finds itself navigating a complex political and economic landscape – balancing the benefits of US investment with the risks posed by shifting trade priorities and protectionist rhetoric.

Pharmaceutical products were initially excluded from President Trump's "reciprocal tariffs", which was seen as an initial positive for the industry. However, the narrative coming from President Trump and the US administration should temper this positivity somewhat as pharmaceutical products appear to still be in the crosshairs for the imposition of tariffs.

On 1 April an investigation into the national security implications of both pharma and semiconductor imports was opened under the legal mechanism of s232 of the Trade Expansion Act of 1962. The US Department of Commerce initiated this investigation, targeting "pharmaceuticals and pharmaceutical ingredients, including finished drug products, medical countermeasures, critical inputs such as active pharmaceutical ingredients, and key starting materials, and derivative products of those items". The Commerce Department will examine topics such as the demand for these products in the US, the role of foreign supply chains, the extent of domestic production and the feasibility of increasing domestic production and may deem that tariffs on pharmaceutical products should be imposed in the US.

Tariff Mitigation Measures

As trade tensions continue to rise globally, businesses across all sectors are under increasing pressure to adapt to evolving tariffs and trade policies. The imposition of tariffs, such as those introduced under the "reciprocal" tariff plan, has made it essential for companies to reassess their strategies for managing customs duties and compliance.

In addition to the direct financial impact, these measures create significant uncertainty, requiring businesses to adopt proactive approaches to mitigate risk and maintain competitiveness. For many sectors, including pharmaceuticals, automotive, steel and electronics, this may involve exploring options such as adjusting pricing strategies, reassessing supply chains and revisiting customs valuation methods.

By ensuring accurate country of origin and reviewing US content thresholds, companies can better manage their exposure to tariffs and reduce potential costs. Furthermore, diversifying markets and engaging in trade agreements can serve as a buffer against the volatility of protectionist measures. Ultimately, for businesses across industries, mitigation concerns not only complying with the current regulatory environment but also strategically positioning themselves to thrive in a complex, shifting global trade landscape.

Intangible Services

Tariffs, by their nature, are applied to physical goods and the movement of such goods across international borders and historically have not impacted or been applied to intangible services. However, the possibility of tariffs being applied to services has been raised by the US administration, with a proposed tariff of 100% on films produced outside the US announced by President Trump. No detail has been provided on how such tariffs would be applied, the value on which they would be applied or what part of a film would be subject to the tariff. However, it is clear that the possibility exists for services to be captured as part of the wider US tariff plan, and this is an area to monitor closely over the coming months.

What Next for Irish Businesses?

As Irish businesses navigate the implications of the renewed US tariff landscape, strategic clarity and timely action have never been more important. Although the situation is fast-moving, the imposition of the tariffs in recent months has introduced a level of predictability in terms of timing and scope. This provides businesses with an opportunity to pursue a number of no-regret mitigation strategies that can offer both immediate relief and long-term resilience. Irish exporters, especially those in high-risk sectors, such as pharmaceuticals, electronics and machinery, should now focus on understanding their tariff exposure across the full supply chain and identifying target actions to manage the impact.

Key areas of focus include calculating the effective tariff exposure and assessing how it will affect landed costs and pricing structures. Business should also explore short-term tactical options, such as customs reliefs, duty drawback schemes and transfer pricing adjustments, to reduce the immediate burden. In parallel, companies should review their medium- to long-term strategies to determine whether tariff measures reflect a lasting shift in US trade policy and what that could mean for sourcing, manufacturing locations and distribution models. Beyond the direct customs impact, companies must consider the wider business implications, including corporate tax planning, investor relations, M&A readiness, working capital, and supply chain or customer relationships.

Finally, it is essential for businesses to remain up to date not only with tariff-related developments but also with broader regulatory and policy shifts at EU level. For those in the pharmaceutical sector, monitoring changes will be critical. Staying informed will help to ensure that Irish businesses remain competitive, resilient and agile as global trade conditions continue to evolve.

Revenue Commissioners' Update: Overview of Revenue's Banking Modernisation Project

Maureen Marray
Principal Officer, Collector General's Division

Revenue's banking modernisation project is a multi-phased scheme which will update our banking and payments services. The project will:

1) ensure that our underlying technical architecture is sufficiently robust to align with developments in the digital payments landscape, and
2) expand our payment offerings to taxpayers in the years ahead.

This article outlines the planned changes, together with an overview of communications that customers can expect to receive as the project progresses.

Phase One

The main deliverables of phase one, scheduled for roll-out in July 2025, are outlined below.

Payments Hub

All payments and banking services will be centralised in a new Payments Hub. New look screens will allow Revenue staff and customers to view and manage direct debit mandates and bank accounts for both payments and refunds. A payment activity screen will give information on the status of recent payments.

Direct debits

Phase one will also focus on making improvements to direct debit payments options. This will include the migration of existing Preliminary Income Tax direct debit arrangements to the Payments Hub.

Another key change under phase one of the project will see a move away from the Fixed Direct Debit (FDD) payment options and a decommissioning of the legacy system used to manage same. As part of this process, the Variable Direct Debit (VDD) payment option will be extended to VAT customers.

Employers have had access to the VDD payment option since 2019, with the introduction of PMOD, and it is now the option favoured by most employers. Under the VDD collection process, approved credits are offset against the balance payable for the tax period, meaning that the customer pays only the net balance due for a period.

The VDD payment method also provides for:

- timely and automated payment: the balance outstanding for the tax period is collected automatically by Revenue on the due date, meaning no further action is needed by the customer and avoiding the risk of interest on late payments; and
- reduced payment frequency: instead of 12 monthly payments of a fixed amount, customers will make a maximum of six payments a year, and only when there is an outstanding balance due for a period.

Phase Two

Phase two of the project, to be delivered in 2026, will include the redesign of single debit instructions for once off payments, and the transition of remaining direct debit arrangements (including LPT, Vacant Homes Tax, Non-Resident Landlord Withholding Tax, and Customs and Excise) to the Payments Hub.

Future Phases

Future phases will follow, to leverage the new technical platform to expand Revenue's digital payment options. This will include options from the Open Banking landscape, including use of QR codes and Request to Pay (RTP) facilities. The new platform will also further align Revenue with anticipated EU payment regulations, as part of an evolving EU payments regulatory framework.

Customer Communications

Phase one will focus primarily on VAT customers, in addition to self-assessed Income Tax customers.

A correspondence campaign, highlighting the planned changes for VAT customers, commenced in April 2025. As part of this campaign, 11,000 letters issued. This will be followed by tailored letters to VAT customers, which will highlight the actions required to change over to VDD. These tailored letters will issue on a rolling basis up to April 2026, as the customer's annual VAT period ends.

The following additional supports will also be provided as part of our change management plan:

- ongoing presentations to internal and external stakeholders impacted by the Banking Modernisation Project, and
- website and Tax and Duty Manual updates, including the publication of video guides.

Self-assessed Income Tax customers with monthly direct debit payments for preliminary Income Tax will have their current arrangements migrated to the new Payments Hub in Q3 2025. Letters will issue to these customers in Q3 2025, with an update on their migration to the Payments Hub and explaining how to manage their direct debits arrangements going forward.

Practitioner bodies will be kept informed of project updates via the Tax Administration Liaison Committee (TALC) Collections forum and other relevant fora.

Queries on the banking modernisation project can be directed to the following contacts:

- Rory McMahon (romcma@revenue.ie),
- Barry Dillon (bndillon@revenue.ie), or
- ROS Payments Group (CGROSPaymentsGroup@revenue.ie).

Lee Squires
Partner and Head of Indirect Taxes, Byrne Wallace Shields LLP

Hanrahan v Revenue: Tax Avoidance and the GAAR

Introduction

In *Dermot Hanrahan v Revenue Commissioners* [2024] IECA 113 the Court of Appeal considered the application of the general anti-avoidance rule (GAAR) in s811 of the Taxes Consolidation Act 1997 (TCA 1997) to a scheme related to capital gains tax (CGT). The Court of Appeal held that s811 applied to the scheme, reversing the judgment of the High Court and restoring the first-instance decision of the Tax Appeals Commission. Section 811 has now been replaced by s811C TCA 1997 in relation to transactions commenced after 23 October 2014, but the decision remains of relevance, given that s811C is closely modelled on its predecessor.

The Court of Appeal also made important findings on the approach to statutory interpretation of taxing provisions and when a taxpayer's return will contain "a full and true disclosure of all material facts necessary for the making of an assessment" for the purposes of s955(2) TCA 1997, which determined the time limits in which Revenue may amend an assessment.

Relevant Issues

The Appeal Commissioner stated eight questions of law for the opinion of the High Court, but the High Court conveniently grouped those questions into three general issues, and this approach was followed by the Court of Appeal:

- Was the Notice of Opinion issued by Revenue under s811 TCA 1997 out of time by reason of s955(2) TCA 1997 ("the time limit issue")?

- Was the transaction entered into by the taxpayer a "tax avoidance transaction" within the meaning of s811 TCA 1997 ("the substantive issue")?
- Was the Notice of Opinion void by reason of an error in the description of the component parts of the transaction ("the invalidity issue")?

The Appeal Commissioner had found in favour of Revenue on all of these issues. The High Court agreed with the Appeal Commissioner on the time limit and invalidity issues but found in favour of the taxpayer on the substantive issue.

The Transaction and CGT Consequences

The Court of Appeal (Donnelly J and Butler J) described the taxpayer's arrangements at issue as:

> "an elaborate set of financial transactions, for which the taxpayer never provided any evidence of a commercial or business purpose and which were entered into for the purpose of ensuring the taxpayer gained maximum relief from Capital Gains Tax".

The overall result of the arrangements was that a significant tax loss for CGT purposes was purportedly created owing to the operation of the connected-party rules, even though no corresponding commercial loss had been suffered.

The alleged tax-avoidance transaction was a complex scheme involving a number of companies and consisted of the following elements (collectively, "the Transaction"):

(a) The beneficial interest in the issued share capital of CapPartners ("CapPartners") was held by CapPartners Tax Advisors and CapPartners Holdings Limited.

(b) The beneficial interest in the issued share capital in CapPartners Securitisation ("Securitisation") was held by CapPartners Tax Advisors.

(c) CapPartners Parnell Investments Limited ("Parnell") was formed on 2 June 2004, with CapPartners holding a single share, entitling it to all voting rights. As a consequence, CapPartners, Securitisation and Parnell were commonly owned and connected pursuant to s10 and s432 TCA 1997.

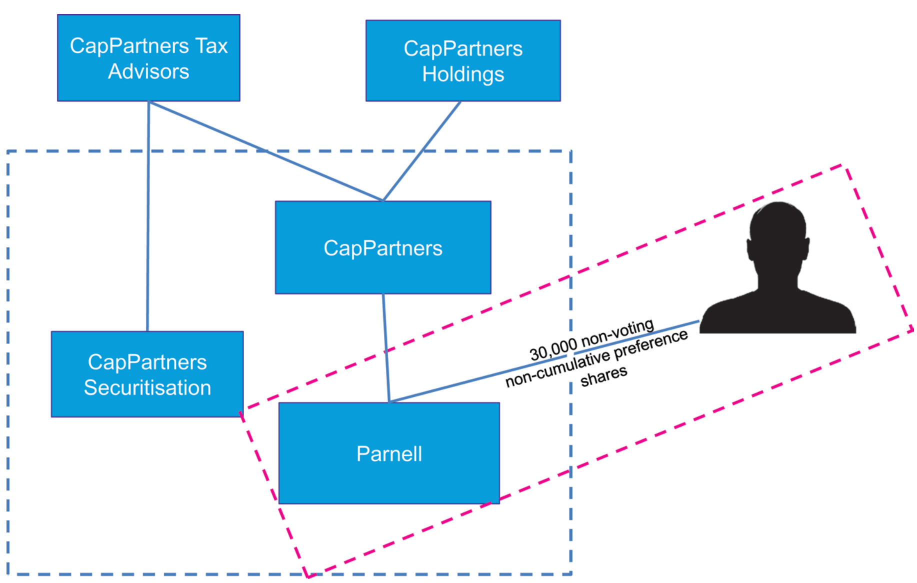


Fig. 1: Relationships between the parties in *Hanrahan* case.

(d) On 25 August 2004 Dermot Hanrahan acquired 30,000 non-voting, non-cumulative preference shares of €1 each in Parnell. As a result, Mr Hanrahan was connected with Parnell pursuant to s10 and s432 TCA 1997.

The relationships between the parties are shown above. The dotted lines show the connected parties for tax purposes.

(e) On 7 October 2004 Parnell purchased a German government bond (the "Bond") with a nominal value of €2.94m for consideration of €2.98m from a third party.

(f) By a call option agreement dated 7 October 2004, Parnell granted a call option to Securitisation for a premium of €2.67m, entitling Securitisation to purchase the Bond for an exercise price of €320K.

(g) By a bond purchase agreement dated 7 October 2004 between Parnell, Securitisation and Dermot Hanrahan (the "BPA"), Parnell undertook to sell the Bond to Mr Hanrahan for €578K, subject to the call option agreement in favour of Securitisation. Under the BPA, Securitisation also granted a put option to Mr Hanrahan to sell the Bond to Securitisation on the same terms as under the call option agreement.

(h) On 7 October 2004 Mr Hanrahan acquired the Bond (with a nominal value of €2.94m) from Parnell for €578K pursuant to the terms of the BPA, financed by an interest-free loan of €280K provided by Parnell and the remainder from his own resources.

(i) Pursuant to the BPA, on 22 October 2004 Mr Hanrahan exercised his put option, requiring Securitisation to purchase the Bond from him for €320K.

These transactions are shown below.

The relevant CGT provisions in TCA 1997 are as follows:

- Section 547(1) provides that a person's acquisition of an asset for CGT purposes is deemed to be for a consideration equal to the market value of the asset where it is acquired otherwise than by way of a bargain made at arm's length. Section 549(2) provides that

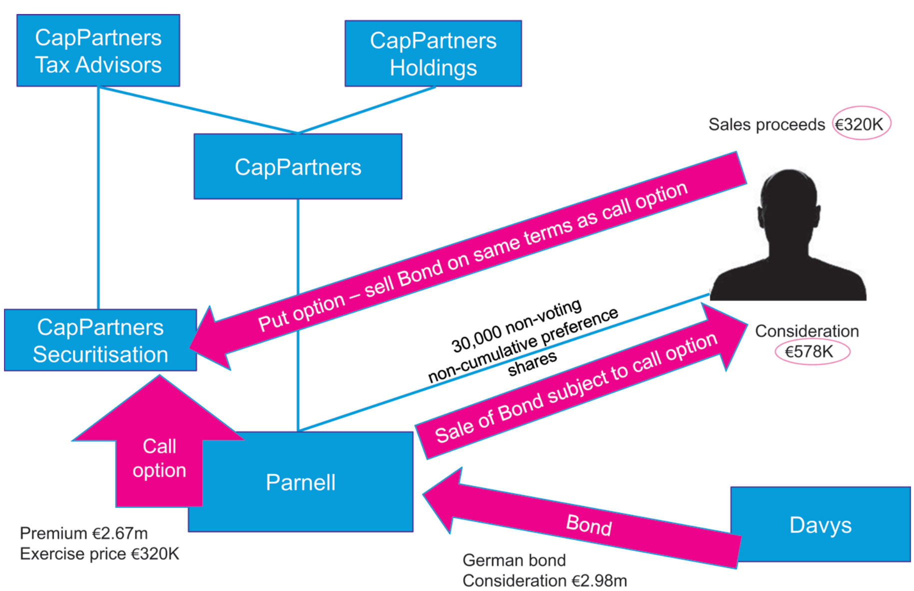


Fig. 2: Transactions in *Hanrahan* case.

where a person acquires an asset from a connected person, the acquisition shall be treated as made otherwise than by way of a bargain at arm's length.

- However, under s549(6) and (7), where an asset is subject to an option or other right to acquire the asset that is enforceable by the person making the disposal or by a person connected with them, the market value of the asset is determined as if the option or other right did not exist.
- Section 31 provides that allowable losses may be deducted from chargeable gains in determining the CGT due in a year of assessment, and s546 provides, broadly, that the allowable loss accruing on a disposal of an asset is computed in the same way as the amount of a gain.

The CGT consequences of the Transaction were therefore as follows:

- The sale of the Bond by Parnell to Mr Hanrahan was a transaction between connected persons and was therefore deemed to be for a consideration equal to its market value under s547 and s549(2) TCA 1997, even though Mr Hanrahan paid only €578K to purchase the Bond.
- Although the Bond was subject to a call option in favour of Securitisation, the market value of the Bond for these purposes was calculated as if the call option did not exist, given s549(6) and (7). This meant that Mr Hanrahan was deemed to purchase the Bond for an acquisition cost equal to its deemed market value of €2.98m.
- Having acquired the Bond from Parnell for €578K, which he sold to Securitisation for €320K, Mr Hanrahan made an actual loss of €258K. However, given that he was deemed to have acquired the Bond for €2.98m, the combined effect of s31, s547 and s549 TCA 1997 was that he made a CGT loss of €2.66m (i.e. €2.98m less the consideration received of €320K).

Revenue accepted that this was the correct application of the CGT rules in the absence of s811 TCA 1997, but in December 2009 it issued a Notice of Opinion under s811 to Mr Hanrahan which sought to deny this loss.

Section 811 TCA 1997

The Court of Appeal provided a useful definition of "tax avoidance" and its view of what s811 is trying to achieve:

> "It is possible, quite legally, to avoid paying tax on an income or gain. Avoidance of tax occurs where provisions of the tax code are exploited to the fullest extent permitted by their terms to ensure that a taxpayer pays either no tax or the least possible amount of tax. Skilful tax practitioners spend considerable energy setting up elaborate schemes for the purpose of reducing, in a legally compliant manner, the tax a taxpayer will ultimately have to pay. The State, through the tax code, has sought to reduce tax avoidance by use of either specific tax avoidance sections or, by introducing, for the first time...a general tax avoidance provision."

Section 811 TCA 1997 is a complex provision. O'Donnell J described its predecessor as "a provision of mind-numbing complexity" (*Revenue Commissioners v O'Flynn Construction Limited* [2013] 3 IR 533). However, it can be broken down into a number of sequential tests. Section 811 applies to a "tax avoidance transaction", which is defined by s811(2) as follows:

> "a transaction shall be a "tax avoidance transaction" if having regard to any one or more of the following –
>
> (a) the results of the transaction,
>
> (b) its use as a means of achieving those results, and
>
> (c) any other means by which the results or any part of the results could have been achieved,
>
> the Revenue Commissioners form the opinion that –

(i) the transaction gives rise to, or but for this section would give rise to, a tax advantage, and

(ii) the transaction was not undertaken or arranged primarily for purposes other than to give rise to a tax advantage."

For these purposes, "tax advantage" includes:

> "a reduction, avoidance or deferral of any charge or assessment to tax...arising out of or by reason of a transaction, including a transaction where another transaction would not have been undertaken or arranged to achieve the results, or any part of the results, achieved or intended to be achieved by the transaction".

Section 811(3)(a) then provides that Revenue shall not regard the transaction as being a tax avoidance transaction if it is satisfied that:

"(i) notwithstanding that the purpose or purposes of the transaction could have been achieved by some other transaction which would have given rise to a greater amount of tax being payable by the person, the transaction –

(I) was undertaken or arranged by a person with a view, directly or indirectly, to the realisation of profits in the course of the business activities of a business carried on by the person, and

(II) was not undertaken or arranged primarily to give rise to a tax advantage,

or

(ii) the transaction was undertaken or arranged for the purpose of obtaining the benefit of any relief, allowance or other abatement provided by any provision of the Acts and that the transaction would not result directly or indirectly in a misuse of the provision or an abuse of the provision having regard to the purposes for which it was provided."

Section 811(3)(b) provides that in forming an opinion under s811(3)(a) in relation to any transaction Revenue shall have regard to:

"(i) the form of that transaction,

(ii) the substance of that transaction,

(iii) the substance of any other transaction or transactions which that transaction may reasonably be regarded as being directly or indirectly related to or connected with, and

(iv) the final outcome and result of that transaction and any combination of those other transactions which are so related or connected."

Under s811(4) Revenue may "at any time" form the opinion that any transaction is a tax avoidance transaction and calculate the tax advantage that it considers arises from the transaction. Upon forming this opinion, it must, under s811(6), issue a Notice of Opinion to the taxpayer concerned setting out details of the alleged tax avoidance transaction and tax advantage obtained. Where Revenue's opinion that a transaction is a tax avoidance transaction becomes final and conclusive, under s811(5) it may make all such adjustments as are just and reasonable (including denying any deduction or loss) in order that the tax advantage is withdrawn.

Time Limit Issue

In general, s955(1) TCA 1997 provided that Revenue could amend an assessment made by a chargeable person "at any time". However, s955(2) provided an important limitation on this: where a person has delivered a return that contains a "full and true disclosure of all material facts necessary for the making of an assessment for the chargeable period", Revenue may not make an assessment more than four years after the end of the chargeable period in which the return is delivered.

As originally enacted, s811(4) TCA 1997 provided that Revenue could form an opinion that a transaction is a tax avoidance transaction "at any time". However, in *Revenue Commissioners v Hans Droog* [2016] IESC 55 the Supreme Court held that where the taxpayer had made a fully compliant return, the four-year time limit in s955(2) also applied to any additional tax payable under s811.

The Oireachtas effectively reversed *Droog* through s130 of the Finance Act 2012, which amended s811 by inserting a new sub-section (5A). This provided that where Revenue's opinion that a transaction is a tax avoidance transaction under s811 becomes final and conclusive (i.e. when all appeals have been finally determined), the time limits in Part 41 TCA 1997 (including s955) do not apply to the making of an assessment or any requirement to pay tax for the purposes of giving effect to this opinion. This applied to any assessment or amended assessment made on or after 28 February 2012.

The Court of Appeal therefore had to consider:

- whether the taxpayer had made a "full and true disclosure of all material facts necessary for the making of an assessment" in his relevant returns; and
- if so, whether s811(5A) disapplied the four-year time limit in s955(2) TCA 1997.

Full and true disclosure

In his 2004 return the taxpayer failed to check the boxes indicating that the Bond had been acquired from a connected person and market value had been substituted for the cost of acquisition. The court had little hesitation in holding that this return did not include a full and true disclosure of all material facts.

The taxpayer's 2005 return was also relevant, as the losses from the transactions occurring in 2004 had been carried forward to set against gains in 2005. The form used to complete the 2005 return did not make any express enquiry as to the nature or source of losses carried forward from preceding years. The High Court held that there was no material non-disclosure on this return.

The Court of Appeal disagreed with this, holding that full and true disclosure was required of the source of the losses, albeit that they were incurred in 2004, as this was a material fact necessary for the making of an assessment for 2005. The fact that this information could not be readily supplied by means of checking boxes on the digital form did not preclude the taxpayer from providing the information to Revenue through other means. The court left open the question of whether such disclosure would have been required for 2005 if a full and true disclosure had been made in 2004.

This meant that the four-year time limit in s955(2) TCA 1997 did not apply to either return.

Disapplication of four-year time limit

The Court of Appeal briefly addressed this issue, even though it was not strictly relevant, given the court's conclusion on the first point. The court held that the clear legislative intent behind s811(5A) was to enable assessments to be made or amended at any time, in order to give effect to an s811 opinion that had become final and conclusive, regardless of the chargeable period to which the assessment related and whether that period pre-dated the enactment of s811(5A). The presumption against retrospective legislation was displaced because the section was clearly intended to have retrospective as well as prospective effect.

The taxpayer also argued that the retrospective effect of s811(5A) impaired his constitutionally protected rights, but the court noted that the taxpayer would need to issue separate proceedings to make this challenge.

Tax Avoidance Transactions

It was not disputed that the Transaction met the requirements of s811(2), i.e. it gave rise to a tax advantage and was not undertaken or arranged primarily for purposes other than to give rise to a tax advantage. At issue was whether the Transaction was excluded from being a "tax avoidance transaction" under s811(3)(a)(ii), i.e. as a transaction undertaken or arranged for the purpose of obtaining the benefit of a "relief, allowance or abatement" provided by TCA 1997 (the deduction of losses under s31) and whether it was a misuse or abuse of that provision, having regard to the purpose for which it was provided.

The Court of Appeal therefore needed to consider the purpose of s31 TCA 1997 within the statutory scheme of the CGT provisions and whether the provision had been misused or abused by the taxpayer.

In the High Court, Stack J regarded s549 TCA 1997 as an anti-avoidance provision. She said that the deemed market-value acquisition cost of the Bond, which operated to create the artificial loss, arose because of the operation of this anti-avoidance provision. She held that where there is a specific anti-avoidance provision in place that governs the transaction under consideration, a general anti-avoidance provision such as s811 could not apply, as this would exceed the proper constitutional role of the courts. In addition, the purpose of s31 (which was to relieve losses computed under the CGT rules) should not be interpreted in light of s549. In effect, the taxpayer was able to avoid the anti-tax-avoidance provisions and take advantage of them to create the very artificial loss that they were designed to prevent.

Statutory interpretation

The Court of Appeal made some helpful observations on the principles applicable to the interpretation of taxation statutes. In *Heather Hill Management Company CLG v An Bord Pleanála* [2022] IESC 43 the Supreme Court (per Murray J) highlighted how the identification of the purpose of legislation plays a role in the interpretation of **all** statutes. This developed the approach set out by the Supreme Court in its earlier decision in *Bookfinders Ltd v Revenue Commissioners* [2020] IESC 60. In an important passage in *Heather Hill* (para. 116) Murray J summarised the limits of a purposive approach to construction:

> "the Oireachtas usually enacts a composite statute, not a collection of disassociated provisions, and it does so in a pre-existing context and for a purpose. The best guide to that purpose, for this very reason, is the language of the statute read as a whole, but sometimes that necessarily falls to be understood and informed by reliable and identifiable background information...However – and in resolving this appeal this is the key and critical point -- the 'context' that is deployed to that end and 'purpose' so identified must be clear and specific and, where wielded to displace the apparently clear language of a provision, must be decisively probative of an alternative construction that is itself capable of being accommodated within the statutory language."

The Court of Appeal therefore observed that not only does s811 direct Revenue and the courts to have regard to the purpose of the provisions at issue, but context and purpose are relevant to interpreting tax statutes even in a more general manner.

In *O'Flynn Construction*, the leading authority on the GAAR, the Supreme Court considered a scheme intended to obtain the benefit of export sales relief by a non-exporting company, where the transaction at issue was said to be "highly artificial and contrived". O'Donnell J, giving judgment for the majority, set out the approach to determining the purpose of a relieving provision and whether it has been misused or abused, under what is now s811(3)(a)(ii) (para. 77):

> "In other cases the provision may be so technical and detailed so that no more broad or general purpose can be detected, or may have its own explicit anti-avoidance provision. In such a case there may be no room for the application of s. 86 since it may not be possible to detect a purpose for the provision other than the basic one that the Oireachtas intended that any transaction which

> met requirements of the section should receive the relief. However, there are some cases, of which this is one, where it may be possible to say with some confidence that, though there has been compliance with the literal words of the statute, the result is not the sort of relief that the Act intended should result. In such cases, s. 86 permits an evaluation of the particular transaction and a consideration as to whether it comes not just within the words, but also within the intended scheme, or is rather a misuse or abuse of it."

The Court of Appeal held that, whatever the normal approach of the courts to statutory interpretation, it was clear that s811 provided a statutory imperative to go beyond this and consider the **purpose** of the relevant provisions. Therefore, even a relief arising from a transaction that complies with the words of a statute may be disallowed as a misuse or abuse of its provisions.

Does s811 apply where there is specific anti-avoidance legislation?

The Court of Appeal held that the High Court decision was wrong on this point. The fact that there is specific anti-avoidance legislation does not preclude the operation of s811. Section 811 is a general provision that is intended to apply to **any** transaction undertaken or arranged to benefit from **any** relief, allowance or abatement.

Identification of purpose

The Court of Appeal held that s811(3)(a)(ii) required a specific consideration of the purpose of each relevant legislative provision, which is understood by looking at the words used in their context, having regard to the legal background against which the provision was enacted.

The purpose of s31 therefore had to be viewed in the context of the wider CGT provisions in TCA 1997, including the deeming provisions in s549. The court said that the purpose of s549 was to combat tax avoidance by preventing connected persons manipulating the CGT provisions by the disposal of assets at an undervalue or by exploiting the CGT provisions to overvalue losses or undervalue gains. The purpose of s31 was to relieve financial loss against financial gain, and allowable losses were intended to be actual or real financial losses.

The court acknowledged that the exercise conducted under s811 was different from the consideration of purpose as part of the ordinary principles of statutory interpretation laid down in *Bookfinders* and *Heather Hill*, because s811 permits examination of the form, substance and outcome of the transaction. In the absence of s811 there would be a mechanical application of the tax code, including the s549 deeming provisions, to each of the steps taken in isolation. However, s811 gave Revenue "a completely different dissection kit with which to examine the Transaction".

In the court's view, the Transaction was "undoubtedly" undertaken or arranged for the purpose of taking advantage of the relief under s31 through the use of the deeming provisions of s549. The purpose of s31 had to be considered in the context of the provisions of TCA 1997, including those of the "interlocking" s549.

The court noted that under s811(3)(a)(ii) it had to consider whether the Transaction would "result **directly or indirectly** in a misuse of the provision or an abuse of the provision having regard to the purposes for which it was provided [emphasis added]". The words "directly or indirectly" illuminated the comprehensive nature of the sub-section and reinforced its conclusion that the purpose of s549 must be considered when addressing the purpose of s31.

The court therefore held that there was a clear misuse of s31 by the Transaction (para. 148):

> "Its sole purpose was to manipulate, and thereby misuse and abuse, the provisions of s. 549 concerning connected persons for the purposes of constructing 'an artificial loss'. This was truly an 'artificial loss' because it made use of the deeming

> provisions to generate a loss for the sole purpose of avoiding tax. That is a clear misuse of s. 549 which results directly or indirectly in a clear misuse of s. 31 provisions…Put simply, this Transaction, which was carried out solely for the purpose of avoiding tax, exploited the anti-avoidance provisions of s. 549 and thus misused and abused the purpose of that provision."

Validity of Notice of Opinion

The taxpayer argued that Revenue's Notice of Opinion was invalid as it contained an error in the description of the Transaction. The notice recited that a put option in respect of the Bond was granted by Securitisation to Parnell, when in fact the put option was granted by Securitisation to the taxpayer directly (see step (g) above).

The Court of Appeal considered that this error was not material, as the element of the Transaction that was misdescribed (the grantee of the put option) was not a matter that fed into the tax consequences of the transaction nor its nature as a tax avoidance transaction. The key factors that made the Transaction a tax avoidance transaction (the connection between the parties and the consequent substitution of market value for the price of the Bond) had been sufficiently set out in the Notice of Opinion. The court therefore decided that the notice was valid.

However, the court rejected Revenue's argument that the taxpayer should be regarded as having notice of the correct details of the transaction because he was a participant in it, which it criticised as "Kafkaesque". Revenue's argument that any error in the Notice of Opinion could be cured because the correct description was included in prior Revenue correspondence was looked on more favourably but not considered further, given the court's finding on the validity of the notice. The court also stated that, if it were necessary to do so, it would exercise the High Court's power to formally amend the Notice of Opinion to correct the error.

Outcome

The final outcome was that Revenue succeeded on all issues – Revenue's Notice of Opinion was valid; it was issued within the applicable time limit; and the Transaction was a tax avoidance transaction that could be defeated by s811 TCA 1997.

Commentary

The Court of Appeal has provided helpful guidance on the interpretation and application of s811. This will be useful to practitioners, given that the last significant judicial consideration of the GAAR was in *O'Flynn Construction* in 2011, although a number of questions remain.

As in *O'Flynn*, *Hanrahan* focusses on whether there was a misuse or abuse of a relieving provision, having regard to the purposes for which it was provided. This means that there remains limited judicial guidance on the tests in s811(2), i.e. when a transaction gives rise to a tax advantage, or when a transaction is undertaken or arranged primarily for purposes other than to give rise to a tax advantage.

Revenue will, no doubt, be pleased with the outcome here – the High Court decision that specific anti-avoidance legislation precluded the operation of s811 placed a significant limitation on the operation of the GAAR. This was, arguably, based on *obiter dicta* in *O'Flynn* that had been taken out of context.

The Court of Appeal decided the case on the basis that s31 TCA 1997 was a relieving provision and was abused indirectly in light of its purpose when considered together with s549 TCA 1997. However, this could have been reasoned differently, as s549 also uplifted the taxpayer's base cost and so, to that extent, was in itself a relieving provision. The taxpayer exploited an exception in s549 to obtain a base cost uplift that actually exceeded the market value of the Bond. Provisions such as s549 may be relieving or taxing, depending on the context and circumstances, which suggests that an *a priori* classification of particular provisions as relieving provisions or anti-avoidance provisions may not be appropriate. Arguably, this is what led the High Court astray.

Purpose of relieving provisions

The Court of Appeal held that the purpose of s31 TCA 1997 was to give relief for real and tangible losses. However, this conclusion seems open to debate. The CGT provisions in TCA 1997 are replete with fictions and artificiality; CGT is a very prescriptive tax with many deeming provisions. Section 31 gives relief for allowable losses which, by s546, are to be computed using the same detailed rules (including deeming provisions) as gains. The non-economic loss here effectively arose from the interaction of two artificial deeming provisions.

The Court of Appeal also took a rather one-sided view of the purpose of s549. This section contains an inherent symmetry – while the purchaser will benefit from an uplifted base cost, the seller will usually have been taxed on an uplifted gain. The beneficiary of s549 will depend on the market value of the asset disposed of relative to the actual consideration paid. There may be cases where the operation of the deeming provisions equally means that real and tangible losses are disallowed or converted into gains. Arguably, this was a case where, as O'Donnell J said in *O'Flynn Construction*, a "provision may be so technical and detailed so that no more broad or general purpose can be detected".

There remains some uncertainty as to how Revenue should determine the "purpose" of a relieving provision under s811(3)(a)(ii). The Court of Appeal started with a consideration of the purpose and context of a provision as part of the ordinary canons of statutory interpretation as laid down in *Heather Hill*. However, as the court itself acknowledged, if the normal rules of interpretation can defeat a scheme, there is no need to apply s811. The "purpose" of a provision under s811(3)(a)(ii) must therefore have a wider meaning, or s811(3)(a) would effectively be devoid of application. It seems that the Court of Appeal was willing to go beyond the normal rules of construction to consider the wider or overarching purpose of s31 (it should apply only to real and tangible losses), but it is not clear how this would be ascertained in other cases. The court also said that there should be a specific consideration of the purpose of each relevant legislative provision and cautioned against applying generalised expressions of purpose.

Taxpayer's purpose

Although the Court of Appeal focussed on the "purpose" of a relieving provision under s811(3)(a)(ii), the taxpayer's purposes in entering into a transaction are also of vital importance under the GAAR. A transaction will not be a "tax avoidance transaction" if it was undertaken or arranged primarily for purposes other than to give rise to a tax advantage.

In *Hanrahan* it appeared that the scheme had no commercial purpose other than to generate an artificial loss. As in *O'Flynn Construction*, it was an entirely contrived and tax-driven scheme. The taxpayer's purposes in entering the scheme were therefore not considered in any detail. This means that the Irish courts have not yet had to consider whether the GAAR could apply if arrangements have an overall commercial purpose but part of the structure is a "tax avoidance transaction". In this case should you look at the purpose of the overall scheme or the individual steps, and should the purpose of other participants in the scheme also be considered? And how much tax structuring is permitted where there is an overall commercial purpose? One of the matters to be taken into account in determining whether a transaction is a "tax avoidance transaction" is "any other means by which the results or any part of the results [of the transaction] could have been achieved", which suggests that Revenue may contrast the tax effects of a hypothetical alternative transaction the taxpayer could have entered into instead.

These difficult issues have been considered by the UK courts in the context of specific anti-avoidance provisions that deny a tax benefit if one of the "main purposes" of a scheme is to obtain a tax advantage or avoid a liability to tax.[1] Some of these cases are referred to in Revenue's Tax and Duty Manual Part 33-01-01 on "Main purpose tests" and could inform the Irish position when an appropriate case reaches the courts. Similar "main purpose" tests are found in the Irish tax code (e.g. in s586 TCA 1997 and s41(2) of the Stamp Duties Consolidation Act 1999) and have been considered by the Tax Appeals Commission.[2]

Interpretation of taxation statutes

More generally, it is helpful that the Court of Appeal recognised that the purposive and contextual approach to statutory interpretation discussed in *Heather Hill* may apply to tax statutes. However, although the Court of Appeal placed considerable reliance on *Heather Hill*, it is important to bear in mind that it is not a tax case. As the Supreme Court recognised in *Bookfinders*, slightly different rules apply when considering a tax provision. If after the application of all the normal rules of interpretation (including the context of the legislation) a doubt or ambiguity remains, the wording should normally be construed strictly in favour of the taxpayer, under the rule against doubtful penalisation (*Bookfinders* para. 52). It has also been held that exemption from tax must, similarly, be given expressly and in clear and unambiguous terms (*Revenue Commissioners v Doorley* [1933] IR 750 and *Perrigo Pharma International DAC v McNamara* [2020] IEHC 552, para. 74).

Section 811C

With effect for transactions commenced on after 23 October 2014, s811 has been replaced by s811C TCA 1997. There are subtle but important differences between the two provisions. In particular, s811 provided that a transaction would be a "tax avoidance transaction" if Revenue forms the opinion, having regard to certain matters, that the transaction gives rise to a tax advantage and was not undertaken or arranged primarily for purposes other than to give rise to a tax advantage. In contrast, a transaction is a "tax avoidance transaction" under s811C(2) if "it would be reasonable to consider that" these requirements are met. This suggests that Revenue does not need to establish the subjective purposes of the taxpayer, but only that objectively it would be reasonable to consider that a transaction gives rise to a tax advantage and is not arranged primarily for non-tax purposes.

The enforcement mechanism has also changed. Revenue is no longer required to issue a Notice of Opinion, and instead compliance with the GAAR forms part of a taxpayer's normal self-assessment obligations.

These changes widen the scope of the GAAR, although it does not appear that they would have any impact on the outcome in *Hanrahan*.

There are now also separate specific anti-avoidance provisions (s549(7A) and s546A TCA 1997) that could defeat the scheme used in *Hanrahan*, although these are outside the scope of this article.

Comparison with UK position

In *O'Flynn Construction* the Supreme Court acknowledged that the predecessor to s811 (s86 of the Finance Act 1989) was enacted in response to the decision in *McGrath v McDermott* [1988] IR 258. In *McGrath* the Supreme Court rejected the doctrine of "fiscal nullity" that had been developed in the UK courts in cases such as *WT Ramsay Ltd v Commissioners of Inland Revenue* [1982] AC 300, under which certain steps of a transaction that were legally valid but devoid of commercial purpose could be ignored for fiscal purposes.

The Court of Appeal sought to distinguish the Irish approach from the approach of the UK courts to tax avoidance as set out in cases such as *Ramsay*. However, in the intervening forty-year period the UK courts have significantly developed the *Ramsay* approach. Since at least the decision of the House of Lords in *Barclays*

1 See, for example, the recent decisions of the English Court of Appeal in *Kwik-Fit Group Ltd and others v HMRC* [2024] EWCA Civ 434, *BlackRock HoldCo 5 LLC v HMRC* [2024] EWCA Civ 330 and *JTI Acquisition Company v HMRC* [2024] EWCA Civ 652.
2 See, for example, determination 58TACD2025.

Mercantile Business Finance Ltd v Mawson [2004] UKHL 51 ("*BMBF*") it is now regarded as a principle of purposive construction of tax statutes rather than a separate doctrine of "fiscal nullity". It applies where the relevant statutory provisions, construed purposively, are intended to apply to the transaction, viewed realistically.[3]

Notably, O'Donnell J cited *BMBF* in *O'Flynn Construction* to support the application of a purposive approach. The modern UK *Ramsay* approach has some similarities to the modern approach of the Irish courts to purposive interpretation as laid down in *Heather Hill* and now *Hanrahan.* Even though the UK now has its own GAAR, the *Ramsay* approach continues to develop alongside it. It is therefore possible that UK case law could inform the approach of the Irish courts to consideration of the "purpose" of statutory provisions under the GAAR. In particular, the UK courts have given extensive consideration to when a provision may be so technical and detailed that a purposive interpretation is not possible.

Time limits and s955(2) TCA 1997

The Court of Appeal made it clear that the obligation to provide "full and true disclosure of all material facts necessary for the making of an assessment" goes beyond simply ticking the boxes and responding to direct questions on the standard return; taxpayers are also required to provide information to Revenue by other means where this is relevant to their tax liability and Revenue's decision to assess in a particular period.

The Court of Appeal did not consider the meaning of the expression "full and true disclosure of all material facts" in detail, but this was addressed by the High Court in two judgments in 2024: *Revenue Commissioners v Tobin* [2024] IEHC 196 and *O'Sullivan v Revenue Commissioners* [2024] IEHC 611. These judgments held that the test in s955(2) is an objective one and "*prima facie*, if a relevant fact is not disclosed, for whatever reason, **the return** is not true" (para. 46 of *Tobin*; emphasis in original) and that "the words 'full and true' equates with 'accurate' and 'correct' which is appropriate in circumstances where the system is one of self-assessment" (para. 90 of *O'Sullivan*). This suggests that a tax return must be accurate in every material respect before it contains a "full and true disclosure of all material facts".

However, it would seem that the requirement is limited to the disclosure of "facts" and not the potential legal or tax characterisation of transactions.

Where a transaction in one year has tax implications in subsequent chargeable periods, the requirement to disclose material facts extends to the returns for those periods. Effectively, non-disclosure in one year may infect subsequent periods. As well as the carrying forward of losses, there are a number of other situations where the facts and characterisation of a transaction could impact later periods (for example, whether an asset is acquired as trading stock or held as an investment).

Consistent with the High Court decisions in *Tobin* and *O'Sullivan*, the Court of Appeal has set a high bar for taxpayers to rely on the four-year time limit in s955(2).

Section 955(2) is part of the pre-2013 rules governing assessments and time limits in Part 41 TCA 1997. These were substantially revised in Part 41A for periods after 2012. A question arises of whether the same interpretation of the time limit provisions in Part 41A applies, given the new statutory context. Although this is outside the scope of this article, the new self-assessment rules contain a similar provision in s959AA TCA 1997, and so *Hanrahan* and the other decisions above are likely to remain of relevance.

3 See, for example, the UK Supreme Court decisions in *HMRC v Tower MCashback LLP* [2011] UKSC 19 and *Rossendale Borough Council v Hurstwood Properties* [2021] UKSC 16.

Conclusion and practical implications

As practitioners, we are asked to assess the risk that a particular transaction could be challenged by Revenue under the GAAR. When tax planning arrangements are entered into, the following should be borne in mind:

- Any transaction should have a demonstrable overall commercial purpose. While the extent to which a commercially-driven transaction may include the addition of steps to achieve a favourable tax result is unclear (see above), a commercial transaction structured in a tax-efficient manner is less likely to fall foul of the GAAR. The cases where Revenue has succeeded in applying the GAAR typically involve artificial or contrived transactions that are devoid of any commercial purpose (such as *Hanrahan* and *O'Flynn Construction*).
- Particularly where a taxpayer is aiming to obtain the benefit of a relieving provision or exemption, the approach taken by the Court of Appeal suggests that they must bring themselves within the wider spirit or intendment of the relevant provision, in the context of the statutory scheme as a whole and any related provisions, and not merely within its strict terms. Coming within the overarching purpose of the relief (widely construed) will be as important as a technical parsing of the statutory language.

Following *Hanrahan*, it is clear that the GAAR will remain a powerful tool for Revenue in combatting tax avoidance.

Lauren Clabby
Director, PwC Ireland

Preparing for Pay & File 2025

Introduction

At the time of writing this article Trump tariffs are at the forefront of many CTAs' minds. In the midst of this the tax filing season seems to be in the distance but recent confirmation that the ROS extension is 19 November 2025 reminds us that it is coming nearer. With the changes introduced by Finance Act (No. 2) 2023 in particular, and a ramp-up of compliance interventions after the introduction of the revised Code of Practice for Revenue Compliance Interventions, CTAs might be well advised to review their clients' evolving needs sooner rather than later. In this article we navigate our way through the issues that we are likely to face during the upcoming compliance season.

The Administrative Basics

Background

Before you embark, ask whether your client is definitely a chargeable person and, therefore, required to file a tax return! Revenue's Tax and Duty Manual (TDM) Part 42-04-13, "PAYE Taxpayers and Self-Assessment", outlines that an individual will not be a chargeable person where he or she is in receipt of:

- PAYE income only or
- PAYE and non-PAYE income where:
  - the total non-PAYE income assessable to tax does not exceed €5,000 (€3,174 for 2015 and prior years) and is "coded" into the individual's tax credit certificate and
  - the gross non-PAYE income does not exceed €30,000 (€50,000 for 2015 and prior years).

Those criteria do not apply to proprietary directors, who are automatically obliged to file a tax return unless the company is inactive. Revenue provides additional guidance on this in TDM Part 47-06-03, where it states that the obligation does not apply to:

- certain directors such as directors of shelf companies, directors of genuinely dormant companies and others who take up temporary directorships in the period prior to a company commences activity; or
- directors of a company that, during the three years ending on 31 December in the tax year:
  - was not entitled to any assets other than cash on hand, or a sum of money on deposit, not exceeding €130,
  - did not carry on a trade, business or other activity, including the making of investments; and
  - did not pay charges on income within the meaning of s243 Taxes Consolidation Act 1997 (TCA 1997).

If an individual is a chargeable person in one year in relation to a source(s) of income, that person will, regardless of the amount of that income in future years, continue to be a chargeable person as long as that source of income continues to exist (s959B(1) TCA 1997).

Preliminary tax

Preliminary tax for 2025 should be equal to:

- 90% of the final liability for 2025,
- 100% of the final liability for 2024 or
- 105% of the final liability for 2023.

Compliance with preliminary tax obligations has come under increased Revenue scrutiny in recent years. Interest on underpayments is charged at a rate of 0.0219% per day and is charged from 31 October of the year in question to the date of payment. In addition, the amount on which the interest is charged is 100% of the final liability for the year in question.

Typically, the 105% option is not considered. This is available only where preliminary tax is paid by direct debit, and it does not apply where the tax payable for the pre-preceding year was nil. It is worth considering that where this option is availed of previously, there must be at least eight equal monthly instalments during the year in question. The number of monthly instalments is reduced to three where the option is being availed of for the first time, thus facilitating the late preparation of the taxpayer's tax return. This option is useful where a taxpayer's income has increased significantly over the previous two years but he or she has not made adequate cash-flow provisions to facilitate availing of either of the other options above.

Taxation of married couples

Joint assessment is the default method of assessing married couples/civil partners. The deadline for claiming separate assessment for 2024 income tax purposes was 31 March 2024. Such a claim cannot be backdated and continues into future years until it is withdrawn. The spouse or civil partner who made the initial claim for separate assessment must be the person to withdraw it, and a 31 March deadline in the year in question again applies.

Should it transpire that one spouse has some unused standard rate band or personal tax credits, it may be possible to transfer these to the other spouse after a review of both spouses' taxes for the year in question. This ensures that, in net tax terms, the couple are in the same position as if they had been jointly assessed. This is not possible where a couple opt for separate treatment. A spouse can elect for separate treatment. It must be done within the year in question, and again if the couple decide to withdraw the election, that same spouse must withdraw the original election.

Self-correction

Taxpayers can "self-correct" a return without penalties where they realise after filing that the return is not entirely accurate. Revenue allows a taxpayer to "self-correct without penalty" if the following conditions are satisfied:

- the self-correction is notified to Revenue within 12 months of the due date for filing the return that is being adjusted; and
- the taxpayer notifies Revenue in writing of the adjustment to be made.

A self-correction will not, in itself, result in a Revenue intervention, but a taxpayer who has been notified of an intervention or who has been contacted by Revenue in respect of a Level 2 or 3 compliance intervention cannot avail of self-correction.

Local property tax

Failure by the taxpayer to file a local property tax (LPT) return and/or pay the LPT liability by the tax return deadline deems the tax return to be late, and therefore the late-filing surcharge applies **automatically**. Revenue has clarified that this surcharge will not exceed the amount of LPT due where the LPT return is subsequently filed and the payment due is paid or a payment arrangement is agreed. Taxpayers should also be mindful that outstanding LPT returns and liabilities are taken into account for tax clearance purposes, and it can cause difficulties for partnerships, in particular, in obtaining tax clearance where one or more partners is not LPT compliant.

Finance (No. 2) Act 2023 Changes/Revenue eBriefs

During 2024 and to date in 2025 Revenue has published a significant number of eBriefs that are relevant to completing 2024 Forms 11 and 12 and calculating 2025 preliminary tax if it is being paid on an estimated basis. For the most part they reflect changes introduced by Finance (No. 2) Act 2023.

Revenue eBrief No. 016/24: Exemption of Certain Profits of Microgeneration of Electricity

Tax and Duty Manual Part 07-01-44 provides guidance on the income tax exemption of certain profits from the microgeneration of electricity by an individual at his or her sole or main residence. This manual has been updated to reflect amendments made in Finance (No. 2) Act 2023.

Section 216D of TCA 1997 provides for an exemption from income tax, USC and PRSI for certain profits arising to a qualifying individual from the microgeneration of electricity. For tax years 2022 and 2023 the exempt amount was €200. Finance (No. 2) Act 2023 increased the exempt amount to €400 and extended the scheme to 31 December 2025. There is no requirement for individuals to include the exempt profits in an income tax return. However, where the annual profit is in excess of the exempt amount, that excess must be declared and will be subject to income tax, USC and PRSI in the usual manner.

Revenue eBrief No. 023/24: Accelerated Capital Allowances for Farm Safety Equipment

Tax and Duty Manual Part 09-02-07 has been updated to reflect the following:

- a revised threshold of State Aid received of €10,000, above which there is a requirement to publish details of the recipient, as provided for by Finance Act 2023, and
- the extension of the scheme of accelerated capital allowances available under s285D TCA 1997 to 31 December 2026, as provided for by Finance (No. 2) Act 2023.

The 2024 Form 11 has been updated under the "Self-Employed Income" section to reflect the above changes.

Revenue eBrief No. 028/24: Farming Taxation Guidance

Amendments to farming taxation introduced by Finance (No. 2) Act 2023 are reflected in two TDMs. Tax and Duty Manual Part 23-02-01, "Stock Relief – Young Trained Farmers", has been updated to reflect an increase in the maximum amount of relief (100% but subject to aggregate limits of €40,000 per annum or €100,000 over the course of four years) that may be granted under s667B (stock relief) and s667D (relief for succession farm partnerships) TCA 1997.

Tax and Duty Manual Part 23-02-09, "Taxation Issues for Registered Farm Partnerships", has been updated as follows:

- to reflect an increase to €20,000 in the maximum cash equivalent of relief that a partner is entitled to receive over a three-year period; and
- to include new content at section 2.1.2. regarding Regulation (EU) No. 1408/2013, which deals with *de minimus* aid in the agriculture sector and sets out the maximum *de minimus* aid available to any individual farmer.

Revenue eBrief No. 029/24: Capital Gains Tax (CGT) Farm Restructuring

Tax and Duty Manual Part 19-07-03b has been updated to reflect the Finance Act 2023 extension to the relevant period in which the initial restructuring transaction must be completed from 30 June 2023 to 31 December 2025.

Revenue eBrief No. 070/24: Part 15-01-29 Home Carer's Tax Credit

Tax and Duty Manual Part 15-01-29 has been updated to reflect an increase to the tax credit from €1,700 to €1,800 for 2024 and subsequent years, by Finance (No. 2) Act 2023.

Revenue eBrief No. 150/24: Rent a Room Relief

Tax and Duty Manual Part 07-01-32 on rent-a-room relief has been updated as follows:

- Paragraph 3.1 has been updated to clarify when relief is not available between family members.
- Paragraph 7.2 provides details of the reintroduced rent tax credit and how the credit interacts with the relief.
- Paragraph 7.3 has been updated to refer to the mortgage interest tax credit introduced in Finance (No. 2) Act 2023, which does not affect entitlement to rent-a-room relief.

Revenue eBrief No. 161/24: Taxation of Crypto-Asset Transactions

Tax and Duty Manual Part 02-01-03 has been updated to include minor clarifications, including confirming that central bank digital currencies are to be treated as currency assets and not crypto-assets for tax purposes.

The TDM provides significant guidance on the taxation of transactions involving crypto-assets, but the overall premise is that normal taxing principles apply to such transactions. As with any other activity, the treatment of income received from, or charges made in connection with, activities involving crypto-assets will depend on the activities and the parties involved.

Revenue eBrief No. 180/24: Ex-Gratia Magdalen Laundry Payments

Tax and Duty Manual Part 07-01-23 has been updated at paragraph 4 as follows:

- to clarify that the investment exemption applies to the person who received a "relevant payment" under the scheme; and
- to remove references to repayment claims for taxes paid between 1 August 2013 and 31 December 2014, which arose as a result of the investment of Magdalen redress payments, as they are no longer relevant. The deadline for making a claim for repayment in relation to the tax years 2013 and 2014 was 31 December 2019. The usual time limits apply with regard to refund claims for the tax year 2015 and subsequent years.

Revenue eBrief No. 193/24: Taxation of Foreign Pension Lump Sums

Tax and Duty Manual Part 07-01-09A has been updated as follows:

- Paragraph 4.1 includes guidance to the effect that when determining the tax-free amount that is available on a foreign pension lump sum, account should be taken of the value of all foreign lump sum payments paid on or after 1 January 2023, whether or not such payments are chargeable to Irish tax under s200A TCA 1997.
- Paragraph 4.3.1 includes guidance that the value of a foreign pension arrangement, as defined in s200A TCA 1997, is not taken into account for standard fund threshold purposes.
- A new paragraph 12 has been inserted to provide guidance on Revenue's treatment of foreign pension lump sums paid to resident taxpayers before 1 January 2023.

Revenue eBrief No. 203/24: Incapacitated Child Tax Credit

Tax and Duty Manual Part 15-01-05 has been updated at paragraph 3 to remove references to specific medical conditions.

Revenue eBrief No. 204/24: Health Expenses – Qualifying Expenses

Tax and Duty Manual Part 15-01-12 has been updated:

- at section 4.2 to confirm that chargeable persons in receipt of PAYE income may avail of the real-time credit facility in respect of health expenses and nursing home fees;
- at section 12 to update the flat-rate amounts allowable in respect of children with life-threatening illnesses; and
- at Appendix 1 to update the flat-rate amounts allowable for kidney patients.

Revenue eBrief No. 223/24: Income Tax Credits and Reliefs for Individuals Over 65 and Individuals Caring for Those Over 65

Tax and Duty Manual Part 15-01-26 has been updated:

- Section 2.7 has been updated to reflect changes to the upper age limit for a PRSI exemption introduced by the Department of Social Protection, effective since 1 January 2024. Since 1 January 2024 any individual may draw down their State Pension (Contributory) between the ages of 66 and 70. An individual will continue to be liable for PRSI until they are in receipt of the State Pension (Contributory) or reach the age of 70.
- The TDM's title has been amended to remove the reference to the age of 65, as it is not relevant for all sections of the manual.

Revenue eBriefs Nos 225/24 and 314/24: Residential Premises Rental Income Relief

Tax and Duty Manual Part 15-03-04 is a new manual outlining residential premises rental income relief (RPRIR). This relief was introduced in Finance (No. 2) Act 2023 and is contained in s480C TCA 1997. In summary:

- The relief applies to rental income in the tax years 2024–2027, inclusive.
- It is in the form of income tax relief at 20% of residential rental income up to €3,000 for 2024, €4,000 for 2025 and €5,000 for 2026 and 2027, i.e. an annual tax credit for landlords of up to €600, €800 and €1,000, respectively.
- It is subject to a limit of 20% of the overall rental income of a landlord in a year, meaning that the tax credit is not available where a landlord is in an overall rental loss position for income tax purposes for a particular year.
- The relief applies only to Residential Tenancies Board-registered landlords who hold a valid tax clearance certificate.
- It does not apply to corporate landlords or premises occupied by connected parties.

The 2024 Form 11 has been updated to include confirmations that all criteria have been satisfied if this relief is being claimed.

Revenue eBrief No. 234/24: Dependent Relative Tax Credit

Tax and Duty Manual Part 15-01-27 has been updated:

- in the Introduction to clarify that references to "maintaining at his or her own expense", for the purposes of this tax credit, mean financially maintaining the dependant relative by meeting their everyday living costs;

- in paragraph 2 by the inclusion of an additional example that deals with a claimant who maintains his father, who is incapacitated by old age;
- in paragraph 4 to clarify that where the dependant relative is not resident in the State the claimant must prove that all conditions of the tax credit are met;
- in paragraph 6 and throughout the manual to include the "specified amount" for 2024 – information pertaining to the "specified amount" for previous tax years has been moved from paragraph 5 to paragraph 6; and
- in paragraph 7 to distinguish between in-year and out-of-year claims.

Revenue eBrief No. 247/24: Rent Tax Credit

Tax and Duty Manual Part 15-01-11A has been updated to reflect changes impacting the rent tax credit, introduced by Finance Act (No. 2) 2023. The changes include an increase in the value of the credit for tax years of assessment 2024 and 2025, as well as a change in the eligibility of qualifying payments made by parents under tenancies that are not required to be registered with the Residential Tenancies Board, such as rent-a-room or "digs" arrangements, to facilitate their child's attendance at or participation in an approved course (where there is no relationship to the landlord in respect of the claimant or child). The TDM has been updated as follows to reflect these changes:

- in the Introduction and paragraph 6 to reflect the increase in the credit for the 2024 and 2025 tax years;
- in paragraph 5.3 and Appendix 1 to reflect the change in respect of eligibility where a parent is paying rent for a child; and
- in paragraph 7.3 with reference to out-of-year and in-year claims.

A note has also been included in the manual to advise that income tax returns for 2022 and 2023 may be used by taxpayers seeking to claim the rent tax credit in respect of payments made for digs or rent-a-room-type arrangements to facilitate their child's attendance at an approved course. As noted above, this change in eligibility, which was introduced by Finance (No. 2) Act 2023, was applied retrospectively to tax years 2022 and 2023 and has not been reflected in all 2022 and 2023 income tax return forms.

Finance Act (No. 2) 2023 provided for the increase of the rent tax credit to €750 in respect of rental payments, with jointly assessed couples now being entitled to a maximum credit of €1,500 (€750 each). These increases apply for the 2024 and 2025 tax years.

The 2024 Form 11 requires the inclusion of a significant level of detail for those claiming the rent tax credit.

Revenue eBrief No. 288/24: Taxation of Provisions and Accruals

Tax and Duty Manual Part 04-05-06 has been updated to reflect recent changes in Irish generally accepted accounting practice (FRS 100–FRS 105) published in September 2024 and to provide for some miscellaneous minor revisions.

The relevant Irish statute law concerning provisions and accruals is:

- s76A(1) TCA 1997, computation of profits or gains of a company – accounting standards; and
- s81 TCA 1997, general rule as to deductions.

Section 76A(1) TCA 1997 legislates for a long-established case law principle and provides that Case I or Case II profits or gains of a trade or profession carried on by a company are required to be "computed in accordance with generally accepted accounting practice subject to any adjustment required or authorised by law in computing such profits or gains for those purposes". "Law" for these purposes is not defined, but it would include statute law, case law, statutory instruments and any directly applicable EU law. The case law principle embodied in s76A(1) TCA applies equally to income tax.

Section 81 TCA 1997 applies to both income tax and corporation tax charged under Case I or II of Schedule D and provides that tax is to be charged "without any deduction other than is allowed by the Tax Acts". Section 81(2) is concerned with prohibiting various claims for deduction from Case I or II profits, rather than being directly concerned with the computation of Case I or II profits or gains or losses, the latter being determined by s76A(1) TCA 1997 case law principles. Section 81(2)(a) provides that one of the critical tests of deductibility is whether the expense is "money wholly and exclusively laid out or expended for the purposes of the trade or profession". The terms "laid out" and "expended" are not defined in statute and are interpreted in accordance with case law principles.

Revenue eBrief No. 300/24: Pre-letting Expenses

Tax and Duty Manual Part 04-08-11, "Pre-letting Expenditure in Respect of Vacant Residential Premises", has been updated to reflect the amendment by Finance Act 2024 of s97A(2) TCA, which extends the availability of the relief until 31 December 2027.

The relief allows for the claiming of pre-letting expenditure that would normally be disallowed in accordance with s97A(3) TCA 1997 but is subject to a cap of €10,000 per vacant premises from 1 January 2023 (previously, the cap was €5,000). The basic criteria for claiming the relief are:

- The property must be vacant for at least six months before it is let.
- The expenses must be such that if they had been incurred after the property was let they would have been deductible.
- If the landlord ceases to let the premises as a residential premises within a four-year period after the premises has first been let, after the vacant period, the deduction claimed is clawed back.

Revenue eBrief No. 321/24: General Rule as to Deduction of Expenses in Employment

Tax and Duty Manual Part 05-02-20 has been updated as follows:

- A new paragraph 3," Claiming employment expenses (other than flat rate expenses 'FRE')", has been added to provide guidance on how to make a claim for employment expenses in respect of actual vouched expenses incurred wholly, exclusively and necessarily in the performance of the duties of employment that are outside of the FRE regime.
- Paragraph 5, "Continuous professional development (CPD)", has been updated to explain the circumstances where a course is regarded as relevant to the business of an employer for the purpose of deciding whether the cost of such a course is regarded as a taxable benefit when paid for or reimbursed by an employer.
- The guidance in paragraph 6 pertaining to the deductibility of typical expenses has been expanded on to provide greater clarity.
- A new paragraph 7, "FRE allowances", has been included in the manual. This paragraph provides detailed guidance on how to make a claim for an FRE allowance, including how to claim the increase in the FRE allowance available for eight employment categories, effective from 1 January 2023.

Revenue eBrief No. 338/24: Mortgage Interest Tax Credit

Tax and Duty Manual Part 15-01-11B has been updated to reflect the extension of the credit to the 2024 year of assessment, as provided for by Finance Act 2024. The relief is available to taxpayers with mortgage balances of between €80,000 and €500,000 as of 31 December 2022 and is available only for the 2023 and 2024 tax years.

In respect of the 2023 year of assessment the credit is based on the increase in interest paid in 2023 over interest paid in 2022; and in respect of the 2024 year of assessment, the credit is based on the increase in interest paid in 2024 over interest paid in 2022. The increase will, subject to a cap of €6,250, qualify for relief at the standard rate of income tax (20%). This equates to a maximum tax credit of €1,250 per property. Only one credit is available per property.

Revenue eBrief No. 053/25: Guidelines for Agents and Customers regarding the Agent e-linking process

- Tax and Duty Manual Part 37-00-04c contains information on a new e-linking process for both agents and customers.
- The new Agent Link Manager application is an enhancement to digital security. Where a client has access to ROS or MyAccount they will be requested to approve any agent links submitted by their agent/tax advisor.
- Tax payers without a ROS or myAccount registration will continue to be processed under the existing linking rules, i.e. upon submission of the link request by the agent with an attached and signed "Agent/Advisor link notification" form.

Revenue eBrief No. 088/25: Pay and File Extension Date 2025

For tax-payers who file their 2024 Form 11 return **and** make the appropriate payment through ROS for:

- Income Tax balance due for 2024, and
- Preliminary Tax for 2025

the due date of 31 October 2025 is extended to **Wednesday 19 November 2025.**

For beneficiaries who received gifts or inheritances with valuation dates in the year ended 31 August 2025 and who make a CAT return and the appropriate payment through ROS, the due date is also extended to **Wednesday 19 November 2025.**

To qualify for the extension, tax-payers must **both pay and file through ROS.** Where only one of these actions is completed through ROS, the extension does not apply and the due date to submit both returns and payments is on or before 31 October 2025.

The Complexities

Domicile levy

For 2024 the domicile levy of €200,000 and the filing of a Form DL1 (separate to a Form 11) apply where an individual:

- is Irish domiciled – the requirement to be an Irish citizen does not apply for 2012 and subsequent years,
- has worldwide income for 2024 in excess of €1m,
- holds Irish property valued at in excess of €5m on 31 December 2024; and
- has an Irish tax liability for 2024 of less than €200,000.

The scope of the domicile levy is wider than anticipated when it was introduced by Finance Act 2010. Initially, it was thought to apply only to non-Irish-tax-resident individuals, but although it was introduced to target such taxpayers, the underlying legislation does not limit the charge in this way. Accordingly, it can apply to all taxpayers who otherwise satisfy the criteria. CTAs should also be mindful that Revenue does not consider that USC comprises part of a taxpayer's Irish tax liability for the purpose of determining whether the €200,000 threshold has been exceeded (this view has been upheld by the Tax Appeals Commission). Likewise, capital allowances and losses cannot be used to reduce income for domicile levy determination purposes.

High-income earner restriction

Although not as topical as it once was, the high-income earner restriction has applied to those claiming "specified reliefs" since 2007. There is a limit on the use of specified reliefs by taxpayers with "adjusted income" in excess of €125,000. The specified reliefs are restricted to €80,000 or 20% of the relief due before the restriction, whichever is greater. Tapering relief applies to taxpayers with income of between €125,000 and €400,000. In the case of married taxpayers, each spouse has a €125,000 threshold. In addition to filing a Form 11, those taxpayers subject to the high-income earner restriction are obliged to file a Form RR1.

Property relief

Finance Act 2012 introduced a 5% property relief surcharge in the form of an increased USC charge where annual gross income is at least €100,000 (as calculated in accordance with USC computational rules). The surcharge applies to income sheltered by property reliefs, i.e. "specified" reliefs. The increased USC charge is calculated before taking the high-income earner restriction into consideration.

Passive investors should not claim any unused accelerated capital allowances carried forward beyond 2014 (or the tax life of the building or structure, if later).

Non-resident landlords

Until July 2023 where rents were paid directly to a person whose usual place of abode was outside Ireland, s1041 TCA 1997 obliged the tenant to deduct income tax at the standard rate from the payment in the absence of the appointment of an agent in Ireland by the landlord.

2023 changes

The non-resident landlord regime as outlined above changed with effect from 1 July 2023. Finance Act 2022 provided that collection agents who act for a non-resident landlord must deduct withholding tax at the standard rate of 20% from rental payments to non-resident landlords and must remit the tax withheld to Revenue.

Tenants paying directly to a non-resident landlord most also withhold and remit 20% of the rent paid by them to Revenue but will not be designated as chargeable and will not be responsible for accounting for the withholding figure of 20% on their personal tax return.

Previously, where a collection agent was appointed, the non-resident landlord was assessed and charged to tax in the name of the collection agent. Where the collection agent deducts and remits the tax to Revenue, they will no longer be designated chargeable and will not be responsible for filing an income tax return (Form 11) or corporation tax return (CT1) for the rental income.

Revenue notes on its website that "non-resident landlords should note the removal of all current derogations".

The Form 11 for 2024 has been updated considerably to reflect the changes to the non-resident landlord regime, in terms of both landlord and tenant reporting.

Retrofitting rental premises

Finance Act 2022 inserted a new s97B in TCA 1997. The section provides for a tax deduction against rental income for certain retrofitting expenses incurred by landlords on rented residential properties. The expenses that qualify for deduction are those for which the landlord has received a home energy grant from the Sustainable Energy Authority of Ireland (SEAI), and the deduction is conditional on the landlord's having received a grant from the SEAI for the retrofitting works.

The following are the key features of this relief:

- A tax deduction of up to €10,000 per property in respect of retrofitting works is available, with landlords being able to claim for up to two properties. A deduction for USC and PRSI also applies.
- Retrofitting works carried out in a year can be claimed against Case V rental income for the following year. For example, expenses incurred on retrofitting works undertaken in 2023 can be claimed as a tax deduction against Case V rental income for 2024.
- For the purposes of calculating the deduction available to a landlord under this section, the amount of the SEAI grant received is not considered.

The Form 11 for 2024 has been updated to reflect the availability of this relief.

Investment portfolios

The area that possibly presents the greatest difficulty for a CTA when preparing a tax return is determining the status of different assets held in an investment portfolio. The popularity of collective investment vehicles has soared in recent years, and where such vehicles are domiciled outside Ireland they are typically considered to be "offshore funds", as defined under Irish law. As most CTAs know, such a classification is not necessarily favourable for a taxpayer. Revenue's Tax and Duty Manual Part 27-02-01 includes very useful decision trees to assist in determining the nature of foreign investments that have the appearance of possibly being offshore funds. Key points to remember when reviewing portfolios are:

- An eight-year charge applies to EU/EEA/OECD-regulated funds, i.e. a disposal is deemed to occur based on the uplift in value of the fund in the eight-year period. The onus is on the taxpayer, not the fund manager, to calculate the tax due and return details of the deemed disposal in their tax return.
- The death of the holder of an EU/EEA/OECD-regulated fund triggers an exit charge. The units of the fund are deemed to have been disposed of and immediately reacquired by the deceased for market-value consideration (this is often overlooked and is particularly detrimental where the fund is bequeathed to a spouse and it was assumed that no tax would arise).
- Loss relief is not available in respect of losses arising from an EU/EEA/OECD-regulated fund.
- The remittance basis does not apply to gains arising from regulated funds within the EU/EEA/OECD.
- Certain exchange-traded funds that previously were not thought to fall within the regime outlined above may now do so after updated Revenue guidance was published in September 2022 (see TDM Part 27-01A-03, which was reviewed in July 2023).

Guidance on the appropriate tax treatment of investments is ever evolving, and CTAs should review it regularly.

The Tax Appeals Commission (TAC) considered the topic in 2024 (determinations 104–117TACD2024, 124–127TACD2024, 137–146TACD2024 and 152–159TACD2024). These appeals were grouped together under the case management provisions. Each of the appellants had been an investor in a fund and had treated that investment as being subject to CGT treatment. Revenue had, however, treated the investments as subject to the "offshore funds" regime. The TAC held, in dismissing each of their appeals (in line with its earlier determination 42TACD2024), that the investment was an investment in an offshore fund for the purposes of s743 TCA 1997 and that the appellant held a "material interest" (under s743) as the appellant could realise the value of the investment within seven years on the basis that there was a secondary market for the fund investment.

Foreign bank accounts

Opening a foreign bank account (including those operating via online platforms) deems a taxpayer to be a "chargeable person" for self-assessment purposes in the year in which the bank account is opened. Full details of the bank account, including the amount of money deposited, must be reported.

Finance Act (No. 2) 2023 amended the provisions to provide that individuals who are not otherwise obliged to file a tax return are excluded from the obligation to disclose certain foreign bank accounts.

Foreign authority reporting

As CTAs will be well aware, clients with foreign assets are coming to Revenue's attention as a consequence of the sharing of information by foreign authorities under exchange-of-information provisions, including the US Foreign Account Tax Compliance Act and the Common Reporting Standard.

Capital gains tax

CGT is an integral part of a Form 11 tax return. Taxpayers who are not required to file a Form 11 are still obliged to return to Revenue details of any chargeable disposals made by filing a Form CG1, even where no tax is due because of the availability of reliefs, losses etc. A typical example of this would be the disposal of a residential property in the UK. Such a disposal before April 2015 would not have been subject to UK CGT if the property was owned by a non-UK tax resident. However, UK CGT now applies, and Irish CGT on such a disposal may be mitigated by claiming a credit for the UK tax paid.

CGT on disposals made between 1 January 2024 and 30 November 2024 should have been paid by 15 December 2024, and that on disposals made in December 2024 paid by 31 January 2025.

Capital acquisitions tax

CAT is not an integral part of a Form 11 tax return, but it is mandatory to disclose receipt of a gift or inheritance on a personal tax return. Delivery to Revenue of a return and discharge of any CAT liability in respect of gifts or inheritances with a valuation date arising between 1 January 2025 and 31 August 2025 must be undertaken by 31 October 2025. The applicable date for gifts/inheritances with a valuation date arising between 1 September 2024 and 31 December 2024 is also 31 October 2025 (this deadline is 19 November2025 where the IT38 is filed and the CAT paid through ROS).

It is worth noting that after the introduction of reporting requirements in respect of certain loans at below market-rate interest for CAT purposes, the Form 11 mentions the requirement to complete an IT38 in this regard under the "Capital Acquisitions" heading.

Conclusion

The Form 11 has grown significantly in size and complexity over the past few years. Although the Form 11 for 2024 appears similar on first reading to previous versions, on closer consideration there are a number of issues that require more thought than might previously have been the case. As has been highlighted throughout this article, where new reliefs have been introduced, the Form 11 requires the inclusion of a significant level of information, which a CTA may not necessarily have readily available. Unfortunately, a quote from Will Rogers can on occasion come to mind – "The only difference between death and taxes is that death doesn't get worse every time Congress meets".

Eoin Tobin
Partner and Head of Private Client Services, RDJ LLP

Tax Changes for Charities and Sports Bodies in Finance Act 2024

Introduction

This article considers tax changes introduced in Finance Act 2024 that will affect charities and sports bodies.

Charities

Section 16 and 17 of Finance Act 2024 introduced two important changes to the tax rules that apply to charities. The first is a change to the eligibility criteria that a charity must satisfy to qualify for tax relief on donations. The second relates to the tax relief that a charity can avail of on its income and imposes a new time limit within which that income must be applied.

Tax relief on charitable donations

Section 848A and Schedule 26A of the Taxes Consolidation Act 1997 (TCA 1997) provide for tax relief for donations to approved bodies. The list of approved bodies, which is contained in Schedule 26A TCA 1997, includes eligible charities, which are the focus of this article.

The procedure to be followed for a body to be authorised as an eligible charity is set out in Part 3 of Schedule 26A TCA 1997. A body that satisfies the necessary requirements will receive an authorisation from Revenue stating that it is an eligible charity and, accordingly, an approved body for the purposes of s848A TCA 1997, which means that it can qualify for tax relief on donations it receives.

Since 2013, tax relief on donations made by individuals, whether self-assessed or PAYE-only taxpayers, to an approved body is, in accordance with s848A TCA 1997, given to the charity rather than the donor. The relief is calculated by grossing up the donation at the specified rate, which is currently 31%.

Before the Finance Act 2024 changes, a charity would not be issued an authorisation as an eligible body unless it could satisfy the Revenue that:

(a) it is a body of persons or a trust established for charitable purposes only,

(b) the income of the body is applied for charitable purposes only,

(c) before the date of the making of the application it has been granted exemption from tax for the purposes of s207 for a period of not less than two years, or it has received a notice of determination from Revenue in accordance with s208A at least two years before that date,

(d) it provides such other information to Revenue as it may require for the purposes of its functions, and

(e) it complies with such conditions, if any, as the Minister for Social, Community and Family Affairs may, from time to time, specify.

The requirement at (c) above that the charity must have held a CHY number – or, in the case of a foreign charity, a DCHY number – for at least two years before making the application for an authorisation has now been removed by Finance Act 2024 and is no longer a criterion that must be satisfied where such applications are made on or after 1 January 2025.

This change also applies to restructured or amalgamated bodies, as defined in Schedule 26A TCA 1997, which now also no longer need to satisfy requirement (c) above that the restructured, or amalgamated body, held an authorisation for at least two years before the reorganisation.

The two-year waiting period could have been seen to serve the purpose of ensuring new charities had to establish themselves as legitimate and compliant organisations in their initial start-up phase before benefiting from tax relief on donations. This helped to maintain the integrity of the charitable sector and prevented short-lived charitable endeavours being able to obtain tax relief on donations where the organisation may not survive past infancy.

The Tax Strategy Group looked at this issue before Budget 2025. It pointed out that stakeholders in the area argued that given the bespoke nature of many philanthropic endeavours, there may be grounds to grant tax relief retrospectively for a major philanthropic donation.[1]

In the Dáil the change to the two-year waiting period was described as an enhancement to the current tax arrangements for charities. The removal of the waiting period so that charities can obtain tax relief immediately is to support charities and their work and the wider implementation of a national philanthropy policy.[2]

It is noteworthy that although the *National Philanthropy Policy 2024–2028*[3] refers to the role of fiscal incentives being provided to support philanthropic endeavour to stimulate and accelerate engagement in major giving, there is no specific reference to making any changes to the charity donation scheme, which was overhauled in 2013, arguably to the detriment of the scale of giving to charities.

1 "Income Tax: Tax Strategy Group – 24/01" (July 2024), page 41, https://assets.gov.ie/static/documents/tsg-24-01-income-tax.pdf.

2 See https://www.kildarestreet.com/debates/?id=2024-10-16a.208.

3 See https://www.gov.ie/pdf/?file=https://assets.gov.ie/280970/9db88719-c3b3-49ba-ab4b-0a0683d32021.pdf#page=null.

The *National Philanthropy Policy 2024–2028* states:

> "The 2020 OECD study on Taxation and Philanthropy highlights that countries need to ensure that the design of their tax incentives for philanthropic giving is consistent with their underlying policy goals and that 'countries with a progressive personal income tax system wishing to provide a greater incentive to richer donors in order to maximise total giving, may wish to provide a tax deduction'.
>
> While it is important in the context of national economic policy that tax changes must be targeted to address needs and add value, they can also play a vital role in removing blockages to philanthropic giving and encourage greater levels of giving. Thoughtful fiscal changes could lead to increased support of charities that have more strategic projects and a major-gifts approach. Targeted measures could further inspire the philanthropic journey of individuals and others to increase their scale of giving and to become more strategic in their giving approach."

Although removing the two-year waiting period might incentivise corporate giving, as a corporate donor can now receive a tax deduction on a donation to a new eligible charity without having to wait two years, it is not clear that such corporate giving would, in any event, be made to such new charitable bodies.

The removal of the waiting period may encourage individuals to set up their own personal charitable foundations to pursue a charitable cause close to their heart where such individuals might be looking to fund the foundation from funds that they hold in personal holding companies, as they can now get an immediate tax deduction for such donations without having to wait two years.

It is not clear that the changes will encourage major giving by individual donors to charities, which is a central tenet of the *National Philanthropy Policy 2024–2028*. Not having a two-year waiting period could give a donor pause before making a donation where a charity is just established and has no track record of compliance. Also, the changes introduced in Finance Act 2024 for funding sports bodies, which are considered below, could encourage greater levels of major gifts by individuals to sports bodies rather than charities.

Charitable income

The charitable tax exemption exempts from tax the income of a charity insofar as it is applied for charitable purposes only. The two main relevant sections are s207 and s208 TCA 1997.

Section 207 provides that certain income of hospitals and other charities chargeable to income tax under Schedules C, D and F is exempt from income tax where such income is applied solely for charitable purposes.

Section 208 exempts from income tax certain income arising to charities. The income covered by the exemption is:

- income arising from lands, tenements or hereditaments that are owned and occupied by a charity and
- profits, which would otherwise be taxed under Case I or Case II of Schedule D, where the profits are applied solely for the purpose of the charity, and the trade or profession is exercised in the course of the actual carrying out of the primary purpose of the charity or the work in connection with the trade or profession is mainly carried on by beneficiaries of the charity.

As pointed out by Tom Maguire in *Irish Income Tax 2024*, apart from the profits of any trade that may be taxable on the charity, the view appears to be accepted now that the charitable exemption extends to all types of income from any property or other asset that is chargeable to income tax (or corporation tax) under Schedule D. This, of course, assumes that the income in question is actually applied to charitable purposes only, the overriding condition that must be met irrespective of the type of income or the Schedule or Case under which it normally falls.[4]

Finance Act 2024 has introduced an additional overriding condition that must also now be met for the charitable tax exemption to be available. In addition to the income having to be actually applied to charitable purposes only, there is also now a time limit by which the income must be expended by the charity.

From 1 January 2025 a new cut-off point means that the charity must apply its charitable income no later than the end of the fifth year of assessment after the year of assessment in which the income was received. The cut-off point means that there is a now a statutory time limit within which the income must be used for charitable purposes; otherwise, it will be taxable.

Revenue may allow an extension of the cut-off point, but it must be satisfied that the charity is in the process of applying the income to charitable purposes.

The wording of the new sub-section seems to indicate that it is not sufficient for a charity to have a plan for the use to which the income will be put, and instead the charity must have actually started using the income, at least in part, for its charitable purposes but it has not been fully expended at that time.

Before the cut-off point was put on a statutory footing, the administrative practice was that a charity could accumulate funds for more than two years only if they were for a specific charitable purpose that has been approved by the Revenue charities section and where accounts are submitted and checked regularly.[5]

The Tax Strategy Group considered this issue before Budget 2025, pointing out that changes to the two-year rule could be merited in enabling incremental permanent endowments and perpetual philanthropic legacies in Ireland that invest over the long term.[6]

Although the changes to s207 and s208 TCA 1997 have been described as allowing charities five years to apply tax-relieved funds to their charitable purpose rather than the two-year period that operated on an administrative practice,[7] it is not necessarily clear whether the change clears the matter up entirely for charities.

Although it is now a statutory requirement that the taxable income of a charity must be used within five years, many charities' main source of income will be donations, which are not taxable under s207 or s208, and therefore, on the face of it, not affected by the cut-off point.

It was generally accepted that the reference to funds in Revenue Precedent CHY 9661, which imposed the two-year cut-off point, included donations as well as income. The Finance Act 2024 changes presumably replace this precedent and make clear the cut-off point as it applies to taxable income but not to other income, such as donations, which would not fall to be taxed under s.207 or s208. To address this gap, it would be helpful for the Charities Regulator to issue guidance on charity reserves similar to the guidance published by the UK Charities Commission[8] This guidance would help charities to understand how to manage and report their reserves ensuring they fulfil their statutory obligation to apply all property, including donations in furtherance of their charitable purpose. It would also provide clarity on maintaining reserves as a safety net to balance the needs of future and current beneficiaries of a charity.

4 See https://www.bloomsburyprofessionalonline.com/view/irish-income-tax/IIT-0121254.xml.

5 Revenue Precedents, file reference CHY 9661 (originally published on 30 November 1990).

6 "Income Tax: Tax Strategy Group – 24/01" (July 2024), page 41, https://assets.gov.ie/static/documents/tsg-24-01-income-tax.pdf.

7 See https://www.kildarestreet.com/debates/?id=2024-10-16a.208.

8 See https://assets.publishing.service.gov.uk/media/5a7c88c840f0b626628acbc8/rs3text.pdf.

Previously, a charity that accumulated funds beyond two years would have been concerned that it could lose its charitable tax exemption/CHY number. Since 1 January 2024 the procedure that must be followed where Revenue is satisfied that a charity has ceased to be eligible for the charitable tax exemption is clearly set out in s208B (7) TCA 1997.

From 1 January 2025 a charity that does not use its income within five years could have to pay tax on these amounts unless it is in the process of spending the funds for its charitable activities and Revenue approval of an extension of the time limit has been obtained.

Charities may decide that they will have to segregate taxable income from all other funds and spend this income first to ensure that there is no issue with the availability of the tax exemption.

Also, whereas the five-year "use it or lose it" test now applies to income earned by a charity, no such time limit applies to gains made by a charity that are exempt from capital gains tax in accordance with s609 TCA 1997, as long as the gain accrues to a charity and is applicable to and applied for charitable purposes, without any cut-off point.

Sports Bodies

Section 20 of the Finance Act 2024 has made changes to s847A TCA 1997, which deals with tax relief on donations to approved sports bodies for funding approved capital projects. Before these changes, an individual who is a chargeable person (i.e. a self-assessed individual) could claim an income tax deduction for the amount of the relevant donation to the sports body. To constitute a relevant donation the following criteria must be satisfied:

- it is made to the approved sports body for the sole purpose of funding an approved project;
- it is or will be applied by that body for that purpose;
- it is not otherwise deductible in computing the profits or gains of a trade or profession or deductible as an expense of management in computing the profits of a company;
- it is not a relevant donation for the purposes of s848A TCA 1997 (donations to approved bodies, such as charities);
- it is not subject to repayment;
- neither the donor nor any person connected with the donor receives a benefit, whether directly or indirectly, as a result of making the donation (for example, a person will be regarded as receiving a benefit where a donation is in substitution in full or in part for an annual membership fee or where a donation entitles the donor to rights or enhanced rights or facilities etc. not available to members who have not made a donation – s10 TCA 1997 sets out the circumstances where a person is regarded as "connected with" another person for tax purposes);
- the donation is not conditional on, or related to, the acquisition of property by the approved sports body from the donor or any person connected with the donor, other than as a gift;
- where the donor is an individual, that individual is resident in the State for the year of assessment in which the donation is made, makes a donation, in the case of a PAYE-only taxpayer, gives an appropriate certificate to the approved sports body in relation to the donation, has paid the tax referred to in the certificate and is not entitled to a repayment of any of that tax; and
- the donation is the payment of a sum or sums of money to an approved sports body amounting to at least €250 in a year of assessment for a donation by an individual, and at least €250 in an accounting period for a donation by a company. Where an accounting period is less than 12 months,

the €250 is proportionally reduced – for example, if the accounting period is six months, the donation must be at least €125.[9]

A relevant donation by an individual who was not a chargeable person (i.e. a PAYE-only taxpayer) was grossed up at the individual's marginal rate of tax, and the sports body could benefit from the tax relief.

Changes introduced in Finance Act 2024, which apply from 1 January 2025, mean that an individual, regardless of whether they are a self-assessed individual or a PAYE-only individual, can now elect either:

- to take a tax deduction for the relevant donation or
- to allow the sports body to benefit from the tax by re-grossing the donation at the taxpayer's marginal rate of tax (and not the 31% blended rate that applies to charities).

The election is now included in sub-section 9(a) for self-assessed individuals and in sub-section 11(a) for PAYE-only individuals. Self-assessed individuals who elect to take a tax deduction for the relevant donation must include a claim for this in their tax return.

PAYE-only taxpayers who elect to take a tax deduction for the relevant donation will be required to make an electronic claim for the refund. The claim, which will likely have to be made through PAYE Anytime, must include:

- full particulars of the relevant donation,
- a receipt from the sports body, which shall include certain prescribed information, and
- any other relevant information that may be reasonably required by Revenue to determine whether the requirements of s847A have been met.

Conclusion

The differences between the tax relief rules that apply to donations to charities and donations to sports bodies were considered by the Tax Strategy Group.[10] Finance Act 2024 has added to the differences by allowing individual donors to sports bodies to choose who benefits from the tax relief. This choice is not available for donations to charities.

The new right of election, which applies equally to PAYE and non-PAYE taxpayers, is nonetheless a welcome development. It empowers donors to decide whether they or the sports body should benefit from the tax relief, potentially encouraging larger donations.

Although charities benefit from tax relief on donations, the lack of a tax deduction for individual donors to charities could be a disincentive to major giving. To level the playing field and promote major giving to charities, it is suggested that the right of election should be extended to donations to charities. This change would align with the *National Philanthropy Policy 2024–2028* and encourage greater levels of charitable giving.

9 See https://www.revenue.ie/en/tax-professionals/tdm/income-tax-capital-gains-tax-corporation-tax/part-36/36-00-14.pdf.
10 "Income Tax: Tax Strategy Group – 24/01" (July 2024) page 30, https://assets.gov.ie/static/documents/tsg-24-01-income-tax.pdf.


Aidan Lucey
Partner, Tax Transparency, PwC Ireland

Opeyemi Osunsan
Manager, Tax Transparency, PwC Ireland

Tax in ESG and Sustainability Reporting

Introduction

Sustainability has become a hot topic for businesses owing to increasing stakeholder demand for long-term financial benefits associated with sustainable operations. Amid all the discussion about sustainability, tax is often overlooked. Yet tax is an important component of sustainability, intersecting with each of its environmental, social and governance (ESG) pillars. Not only is tax becoming an indicator of a company's societal commitments but also the tax system is being used as a mechanism to facilitate the transition to a net-zero world.

Against this backdrop it is important that tax practitioners have an awareness of the sustainability landscape and how this relates to tax. This article explores how tax and sustainability intersect and the implications of new regulations on tax transparency and governance. The article also provides practical insights for tax practitioners on how to navigate the evolving landscape of tax and sustainability, including best practices for tax governance and transparency.

How Tax and Sustainability Intersect

Sustainability is a broad concept that encompasses the responsible management of resources to meet current needs without compromising the ability of future generations to meet theirs. Sustainability spans environmental, social and governance (ESG) pillars:

- The **environmental** pillar considers how a company performs as a steward of nature.
- The **social** pillar examines how a company manages relationships with stakeholders such as employees, suppliers, customers and the communities where it operates.

- The **governance** pillar deals with a company's leadership, executive pay, internal controls and stakeholder engagement.

Tax and the environmental pillar

The environmental pillar addresses issues such as climate change, biodiversity, land use, waste management and water usage. Companies are increasingly committing to net-zero emissions, implementing decarbonisation plans and managing climate-related risks. The tax system can play a key role in driving change in these areas:

- Tax incentives can help to mobilise investment in decarbonisation and green innovation. For example, R&D credits are available for organisations that develop innovative clean-tech products. Similarly, where an organisation incurs capital expenditure on energy-efficient equipment, it may be entitled to accelerated capital allowances. These incentives not only reduce the financial burden on companies but also encourage the adoption of sustainable practices.
- The tax system can also be used to discourage corporate behaviours that are not sustainable. This includes the imposition of green taxes, such as carbon taxes and plastic taxes. For instance, carbon taxes are designed to penalise companies for their carbon emissions, thereby incentivising them to reduce their carbon footprint.
- Sustainability considerations are also reshaping the actions and strategic direction of businesses. As companies restructure their operations to meet their sustainability commitments, the tax implications will need to be considered. For example, where a company implements a new supply chain with a lower carbon footprint, this could give rise to VAT, customs and transfer pricing considerations.

Tax and the social pillar

The social pillar focuses on the impact of a company's operations on society. This includes labour practices, community engagement, and their overall societal contribution and impact. Tax is an important component of the social pillar. Tax is seen as a sustainability metric in its own right. This is because tax is no longer viewed as a short-term cost to a company. Rather, it is seen as a company's contribution to society, one that helps to fund new infrastructure, community initiatives and public services. Stakeholders are now factoring tax into their considerations when assessing the sustainability profile of companies. For example, a number of institutional investors have released codes of conduct setting out principles to promote responsible tax practices in investee companies. These codes often emphasise transparency and ethical tax practices, encouraging companies to adopt a more socially responsible approach to tax.

Many organisations will introduce benefits and initiatives to support the wellness of their workforce. The employment tax implications of any such benefits will need to be considered. For instance, providing health and wellness programmes, educational assistance and other employee benefits can have tax implications that need to be managed effectively. Additionally, the social pillar encompasses corporate social responsibility (CSR) initiatives. Companies that engage in CSR activities, such as charitable donations and community development projects, can benefit from tax deductions and credits. These tax benefits are not only tax deductible but also enhance a company's reputation as being socially responsible.

Tax and the governance pillar

The governance pillar focuses on the processes that a company has in place for decision-making, reporting and ethical behaviour. This extends to the governance of tax. To ensure that companies adopt a responsible approach to their tax affairs, stakeholders expect the company to have a robust tax governance and control framework in place. This means having a tax strategy that documents the company's risk appetite, approach to tax and how it engages with tax authorities. It also means formalising governance and risk management procedures relating to tax to ensure that there is sufficient board oversight and that those with day-to-day responsibility for tax implement the tax strategy in line with its core principles.

Sustainability Is Driving Greater Demands on Tax Transparency and Governance

As noted above, tax is now viewed as a sustainability metric, a powerful indicator of a company's societal impact. In order to ascertain that impact, stakeholders are demanding a greater level of transparency regarding companies' tax affairs. Although all stakeholders have a close interest in companies' tax affairs, there is growing interest from the investor community in understanding the tax practices of their portfolio companies. This has led to calls for more meaningful tax disclosures so that investors can assess companies' financial, governance and reputational risks. Action being taken by investors is having a tangible impact on companies. For example, several high-profile multinational corporations have recently faced much-publicised shareholder motions urging them to publicly disclose tax data. As a result, many companies are voluntarily choosing to publish some level of data in respect of tax, whether that be a stand-alone tax strategy or specific tax disclosures within broader sustainability reports.

Voluntary reporting

The increasing demand for tax transparency has led to the development of voluntary tax reporting standards that aim to standardise the type of information on tax that companies are disclosing. The most commonly used tax reporting standard is GRI 207, which was developed by the Global Reporting Initiative (GRI). GRI 207 enables companies to report on tax practices as part of their sustainability reporting. It consists of disclosures across four broad categories:

- Disclosure 207-1: Approach to tax – This requires disclosures on a company's public tax strategy and details on who oversees it. It also requires information on how the company's tax strategy aligns with its ESG strategy.
- Disclosure 207-2: Tax governance, control and risk management – This requires the disclosure of information about an organisation's tax governance structure and how tax risks are identified, managed and monitored. Additionally, it requires disclosures on the mechanisms adopted by a company to prevent and address unethical and unlawful tax behaviour.
- Disclosure 207-3: Stakeholder engagement and management of concerns related to tax – This disclosure considers how an organisation engages with its stakeholders on tax matters.
- Disclosure 207-4: Country-by country reporting – This disclosure covers detailed financial information such as profits, revenues and corporate income tax paid on a country-level basis. GRI 207-4 also includes reporting recommendations on total tax contributions (TTC), which are far broader than country-by-country reporting (CbCR).

Regulatory drivers

Although investor pressures and the introduction of reporting standards have resulted in increased levels of voluntary tax disclosures by companies, it is the introduction of new regulations that will really intensify the pace of change for companies. The EU recently introduced two regulations that could require some level of disclosures on tax: the Corporate Sustainability Reporting Directive (CSRD) and public country-by-country reporting (PCbCR).

Corporate Sustainability Reporting Directive

The CSRD aims to drive accountability and transparency by mandating large companies operating in the EU to publicly disclose information on material sustainability topics across environmental, social and governance pillars. In February 2025 the European Commission released the "Omnibus" package, which proposes to increase the CSRD application thresholds. Based on the Omnibus proposals, the CSRD would apply only to undertakings with 1,000+ employees (formerly, 250 employees) and either turnover above €50m or a balance sheet above €25m. For companies in scope, the CSRD will require consideration of several tax issues and may necessitate the disclosure of tax data.

Tax as a material topic

In determining what is a material sustainability topic, the CSRD introduces the concept of double materiality, which requires companies to evaluate their impact on the environment and society (impact materiality) and how environmental and social factors affect their future performance (financial materiality). Where a company concludes that tax is a material topic, it will be required to include tax disclosures in its management report. These disclosures will cover areas such as approach to tax, tax risk management and total tax contribution. Notably, some companies in the first wave of CSRD reports have concluded that tax is material and made tax disclosures in their sustainability reports.

Tax compliance and governance

Companies in scope of the CSRD are also required, as part of their CSRD disclosures, to confirm alignment of their activities with the EU Taxonomy. Based on the Omnibus proposals, reporting on the Taxonomy will be mandatory only for organisations in scope of the CSRD and that have a turnover of more than €450m (previously, mandatory for all companies in scope of the CSRD).

The EU Taxonomy is a common classification system that helps companies and investors to identify "environmentally sustainable" economic activities to make sustainable investment decisions. To be Taxonomy aligned, companies must comply with a tax minimum safeguard, meaning they are required to:

- "comply with the letter and spirit of tax law and regulations of the countries in which they operate" and
- "treat tax governance and tax compliance as important elements of their oversight and broader risk management systems".

To demonstrate that the minimum safeguard has been met, a company should be able to evidence that it has a tax control framework (TCF) in place. A TCF consists of various arrangements, structures, policies and procedures to manage tax risk. The Taxonomy does not include an exhaustive list of the components of a TCF, but the following are examples of what one would expect to see in an effective TCF:

- tax strategy,
- operational policies and procedures,
- tax governance procedures including evidence of oversight,
- tax process maps,
- tax risk and controls matrices,
- documented roles and responsibilities for tax,
- training/CPD policy for staff on tax and
- tax control testing programme.

Outside of the Taxonomy requirement, a TCF will serve a number of other purposes:

- **Revenue scrutiny:** As part of its interventions, Revenue is now placing a greater weighting on the tax controls that a company has in place. Where an organisation can demonstrate that it has a robust TCF, this will help to provide assurance to Revenue and should help to streamline the intervention process.
- **Directors' compliance statement:** The directors of certain companies must include a compliance statement in the annual directors' reports confirming that (i) they have "arrangements or structures" in place to meet their tax obligations and (ii) those arrangements have been reviewed during the year.

Transfer pricing documentation

Companies are required to disclose information on their market position, strategy, business model(s) and value chain as part of their CSRD disclosures. Much of this information overlaps with what is typically included in transfer pricing documentation submitted to tax authorities.

It could be expected that tax authorities will compare CSRD disclosures with information contained in a company's transfer pricing documentation to identify inconsistencies. To mitigate this risk, tax functions should proactively engage with internal teams responsible for CSRD reporting. Transfer pricing documentation can serve as a reliable starting point for preparing CSRD disclosures.

CSRD will impact both large and small businesses

The entry threshold for CSRD is high, meaning that only large companies are in scope. Although SMEs will not have a statutory obligation to comply with these regulations, they should be mindful of why the regulations are being introduced and consider the merits of some level of voluntary compliance.

There is a growing expectation from external stakeholders that all organisations are transparent on tax and have a robust tax governance framework, even if they do not have a legal requirement to do so. Large organisations will be looking at companies in their supply chain to ensure that those companies align with their key sustainability principles, including tax. Tax transparency can help to foster trust with stakeholders. Interestingly, a voluntary sustainability reporting standard (VSME) has been developed for non-listed micro, small and medium enterprises that are not in scope of the CSRD. The VSME is designed to be a simple and standardised framework for SMEs to report on sustainability issues, creating better opportunities for them to obtain green financing.

Public country-by-country reporting

The EU's PCbCR regime is now in force across all EU Member States. It applies to multinationals that have consolidated net turnover of at least €750m in each of the last two consecutive financial years and either (i) are headquartered in the EU or (ii) are headquartered outside the EU and operate in the EU through a medium or large subsidiary or a branch. PCbCR is a tax transparency initiative that aims to give stakeholders a clearer view of MNEs' tax contributions and economic activities and is designed to foster corporate responsibility in the EU. Companies in scope are required to disclose the following information:

- nature of activities,
- number of full-time equivalent employees,
- total revenue, including from related parties,
- profit/loss before tax,
- income tax accrued in the current year,
- income tax paid and
- accumulated earnings.

The information must be disclosed on a country-by-country basis for each EU Member State and for each jurisdiction included on the EU's black and grey lists. The information can be presented on an aggregated basis for all other countries.

PCbCR is likely to bring increased media scrutiny of how much tax MNEs pay and where. The sheer scale and complexity of an organisation's operations, across multiple jurisdictions with differing regulations, makes tax a difficult matter to navigate. When considered in isolation, PCbCR data could be easily misunderstood, so there is an impetus on MNEs to consider providing supplementary narratives and explanations to ensure that the data is not misinterpreted.

Benefits of Tax Transparency in Sustainability Reporting

Companies of all sizes can use their tax disclosures to tell their story about how they pay taxes and contribute to society. Tax transparency can offer various advantages for businesses, such as:

- enhancing trust with stakeholders who are interested in how companies pay and manage their taxes, especially in sectors that face more public scrutiny on tax issues;
- explaining the rationale behind the tax strategy and the tax payments of the business in a clear and accessible way, which can help to address any misunderstandings or questions that may arise from the use of tax losses or incentives in some periods;

- demonstrating their contribution to society and their alignment with other sustainability goals through their tax practices, which can be reported on currently, unlike some long-term targets, such as net-zero transition;
- building trust and credibility with tax authorities, which can facilitate more constructive and efficient interactions and potentially reduce the level of audits or inquiries; and
- complying with the mandatory tax disclosure requirements that may apply in different jurisdictions where they operate, by adopting consistent and transparent reporting standards.

Conclusion

Sustainability is going to reshape the strategic direction of businesses for years to come. All of the sustainability-led decisions taken by businesses will give rise to tax implications, which in-house tax teams and/or their advisers will need to consider. Many of these tax considerations are matters that tax practitioners are already advising on day to day. These include preparation of capital allowances and R&D credit claims; assessing the indirect tax implications of cross-border transactions; and quantifying the impact of environmental taxes. Sustainability will also give rise to new considerations for tax practitioners. The area of tax governance will become increasingly important, not just in the context of sustainability but also because Revenue is increasingly requesting details of companies' tax control frameworks during compliance interventions. Tax transparency will also be an important consideration for practitioners, and we are moving fast from a world of voluntary practices to one of mandatory requirements. Although some of the regulations included in this article will apply only to larger organisations, smaller organisations should be mindful that their customers and investors may expect them to disclose information on tax voluntarily. By voluntarily disclosing information on tax, all companies can demonstrate their commitment to ethical business conduct, which in turn builds confidence among their key stakeholders.

Mairéad Hennessy
Principal, Taxkey

Carol Ryan
Senior Chartered Tax Consultant, Taxkey

Managing UK ISAs When Relocating to Ireland

Introduction

The movement of individuals between jurisdictions often presents complex tax considerations, particularly when it comes to the management of cross-border savings and investment products. Individual savings accounts (ISAs) are a popular tax-advantaged savings vehicle in the UK, but their treatment under Irish tax law differs significantly. This article explores the key Irish tax implications for ISA-holding individuals returning to Ireland from the UK.

Overview of ISAs

An ISA is a tax-efficient savings and investment product available to UK residents, offering exemptions from income tax and capital gains tax (CGT) on returns generated in the account. A Cash ISA is a savings account, and a Stocks and Shares ISA is an investment account where an investor's money is invested in stocks, shares, bonds, funds and other investments.

The key advantage of ISAs is that they allow tax-free growth on savings and investments. ISAs provide a straightforward and flexible mechanism for UK residents to save and invest tax-efficiently, with varying options to suit individual financial goals.

In Ireland there are no such ISAs, so they must be carefully considered from an Irish taxation perspective. A comprehensive understanding of the structure of ISAs is crucial when advising clients returning to Ireland. The specific type of ISA and its underlying investments will determine its classification under Irish tax law and the tax treatment that follows.

Tax Implications of ISAs for Irish Tax Residents

The concept of tax residency is fundamental to determining an individual's tax obligations, and its implications are particularly significant for those moving between jurisdictions. An individual is resident in Ireland for tax purposes if they are present in Ireland for:

- 183 days or more in a tax year or
- 280 days or more in total, taking the current tax year plus the preceding tax year together. They will not be resident in Ireland if they are not here for 30 days or fewer in a tax year.

An individual will be present in Ireland for a day if they are here for any part of a day.

If an individual has been tax resident in Ireland for three consecutive tax years, they become ordinarily resident from the beginning of the fourth tax year. If they leave Ireland after this time, they continue to be ordinarily resident for three consecutive tax years.

When an individual becomes an Irish tax resident, their worldwide income and gains generally become subject to Irish tax. This includes any income and gains arising from UK ISAs.

Individuals who are ~~resident and~~ ordinarily resident must pay Irish tax on their worldwide income except for:

- income from a trade or profession no part of which is performed in Ireland;
- income from an office or employment where all of the duties are performed outside Ireland; and
- other foreign income if it is €3,810 or less (if it is more than €3,810, the full amount is taxable).

So, although ISAs are not liable to tax in the UK, they are liable to Irish taxation under first principles that apply to other investment products. The income derived from ISAs, including interest on cash holdings, dividends from investments and capital gains from the disposal of assets in the ISA, are generally taxable under Irish law.

Offshore Funds Regime

What are offshore funds?

Collective investment vehicles that are domiciled outside Ireland are typically regarded as being "offshore funds", as defined under Irish law. Offshore funds fall into different categories that have unique tax treatments.

There are two distinct parts to the offshore funds regime, depending on where the offshore fund is located:

- offshore funds located in an EU or EEA state, or in an OECD member with which a double tax agreement (DTA) has been signed, and
- offshore funds located in other territories.

Sections 743(1) and (6) TCA 1997 outline that an interest in any of the following may be an interest in an offshore fund:

(a) company resident outside the State (referred to as an 'overseas company'),

(b) a unit trust scheme the trustees of which are resident outside of the State and

(c) any arrangements, other than companies and unit trusts coming within paragraph (a) and (b) above, which take effect by virtue of the law of a territory outside the State and which create legal rights of a kind with co-ownership. Arrangements that are treated as transparent for tax purposes and where the investor is taxed on the income as it arises do not come within the offshore funds legislation.[1]

However, with respect to s743(1)(b), where the general administration of an authorised unit trust is carried on in Ireland, that unit trust will not be treated as an offshore fund, solely on the basis that its trustee is an Irish branch of a company resident in another EU or EEA Member State.

If an investment in an offshore (i.e. non-Irish) fund is a "material interest", then the investor will be subject to the offshore funds tax regime.

What is a material interest?

Generally, an investor has a material interest in an offshore fund if, at the time the investor acquired the interest, it could be reasonably expected that, at some time during the period of seven years beginning at the time of acquisition, the person will be able to realise the value of their investment in some manner and the amount realised is proportionate to the value of the underlying assets in the offshore fund.

In practice, to determine whether an investment constitutes a material interest, it is essential to examine carefully the terms under which the investment was made. This includes reviewing prospectuses, offering memoranda, financial statements, marketing materials regarding the fund structure and other documentation.

Where an investor has invested through an intermediary, the intermediary must be in a position to advise the investor on whether or not they have invested in a material interest in an offshore fund. However, as ISAs are a UK investment product, such information may not be readily available from the intermediary for Irish tax purposes.

For individuals who do not use an intermediary, to correctly identify whether an investment is a material interest in an offshore fund, they must carefully examine the terms under which it was made.

Types of offshore funds

Once it has been established that the investment is a "material interest" in an offshore fund, the investment will fall into one of the following categories:

- "Equivalent" offshore funds based in the EU, EEA, or an OECD country with which Ireland has a DTA, i.e.
  - the fund is authorised as a UCITs (undertaking for the collective investment in transferable securities),
  - the fund is similar in all material respects to an Irish authorised investment company and is authorised and regulated in its country of domicile or
  - the fund is similar in all material respects to an Irish authorised unit trust and is authorised and regulated in its country of domicile.
- "Non-equivalent" offshore funds based in the EU, EEA, or an OECD country with a DTA with Ireland, i.e. they are not an "equivalent" fund, as outlined above.
- Offshore funds located in other territories.

Application of the Irish offshore funds regime to ISAs

Revenue's Tax and Duty Manual Part 27-02-01 notes that an interest in an ISA may fall within the definition of an offshore fund. If so, it will be subject to tax under the Irish offshore funds regime.

Different ISAs have different structures, so it is important to look at the structure of the particular ISA when determining whether

1 TDM Part 27-02-01.

it is an offshore fund. Some investment ISAs will turn an investment in quoted shares (unlikely to be an offshore fund) into a holding in an investment trust (likely to be an offshore fund).

It is not the underlying asset that determines the tax treatment but the nature of the vehicle in which the investment is made and the terms on which that investment was made.

Taxation of Income and Gains

Under Irish tax law, individuals who are considered tax residents of Ireland are generally subject to taxation on their worldwide income and gains. This includes income and gains arising from foreign investment products, such as UK ISAs. ISAs are tax-exempt in the UK, but Irish tax law does not extend this tax-free status, meaning that interest, dividends and capital gains generated in these accounts are subject to Irish tax.

For the purposes of this article, as the UK is an OECD country with which Ireland has a DTA, we outline below the tax treatment of income and gains from offshore funds located in an EU or EEA state, or in an OECD member with which a DTA has been signed.

It is important that a detailed review and analysis of each investment held is carried out to determine the correct nature and tax treatment.

"Equivalent" offshore funds

Any income received by an individual from an "equivalent" offshore fund is taxable at 41% under Case III (s747A(a) TCA 1997). The gain on a disposal of a material interest is taxed at 41% under Case IV (s747E(1)(b)). As both the income and gains are determined in accordance with Chapter 4 of Part 27 TCA 1997, universal social charge (USC) and pay-related social insurance (PRSI) do not apply.

There is also a deemed disposal of the interest in the offshore fund every eight years (s747E(6) TCA 1997). Provision is made such that if no taxable gain arises on an actual disposal of an interest, account is taken of any deemed disposals on which tax has already been paid (s747E(3)(b) TCA 1997). There is also a deemed disposal at the date of death, which may trigger a taxable deemed gain.

Where a loss arises on the disposal of a material interest in an offshore fund, no CGT or other loss relief is available.

"Non-equivalent" offshore funds

Any income and gains arising from a "non-equivalent" offshore fund are taxed under the general principles of taxation and included in annual tax return as such, i.e. outside of the offshore funds regime.

Income payments (dividends) are subject to income tax at the standard or higher rate, as appropriate, and taxed under Case III. Gains on disposals are subject to CGT, and there is no deemed disposal at the date of death or on the eight-year anniversary. Losses arising on the disposal of units by an investor are available for offset against any gains subject to CGT

As a result, an increasing number of individuals who are moving to or returning to Ireland, who become Irish tax resident and who hold ISAs are facing unexpected liabilities to Irish income tax and CGT.

Remittance basis of taxation

It is important to note that the tax treatment of ISAs for Irish tax residents can vary depending on whether the individual is non-Irish domiciled, as the remittance basis of taxation may apply.

Domicile

Domicile refers to the country that an individual regards as their permanent home. It is distinct from residence or citizenship. Every individual acquires a domicile of origin at birth, usually based on their father's domicile at the time of their birth (or their mother's if the parents were unmarried). This domicile of origin remains with the individual unless they acquire a domicile of choice by moving to another country with the clear intention of residing there permanently and cutting ties with their domicile of origin.

Irish domicile (domicile of origin retained)

An individual was born in Ireland to Irish parents (domicile of origin is Irish). They moved to the UK for work, married and had a family there. After retiring, they return to Ireland to live permanently. In this case the individual retains their Irish domicile of origin as they never demonstrated a clear intention to abandon Ireland as their permanent home.

Non-Irish domicile (spouse of Irish-domiciled individual)

An English-born individual marries an Irish-domiciled person and moves to Ireland. Despite living in Ireland, they maintain strong ties to England, such as owning property and expressing an intention to return there eventually. In this case the individual retains their English domicile of origin as they have not shown a clear intention to abandon England as their permanent home.

Spouses do not automatically acquire each other's domicile; each individual's domicile is assessed independently, and the above illustrates the importance of reviewing the domicile in detail for each spouse separately.

Taxation of non-domiciled individuals

Under the remittance basis, income taxed under Case III and gains taxed under general CGT rules from foreign sources are taxable in Ireland only if they are brought into the country. Income from "equivalent funds" is taxed under Case III under the offshore funds regime, and income from "non-equivalent funds" is taxed under Case III under normal rules of taxation.

This means that, in practice, non-domiciled individuals could potentially avoid Irish taxation on income payments from their ISAs that are both "equivalent" and "non-equivalent" offshore funds and on gains arising on the disposal of "non-equivalent" offshore funds, as long as those funds and relevant payments or gains remain outside of Ireland.

Gains arising on the disposal of "equivalent" offshore funds are taxable under Case IV, and therefore the remittance basis does not apply, so such gains will be taxable in full in the year in which they arise.

ISAs not classified as an offshore fund

If it is determined that an ISA is not an offshore fund, the tax treatment of income and gains generated from the ISA for an Irish tax resident would follow the normal Irish tax rules for income and capital gains. Interest and dividend income earned from the ISA would be subject to income tax at the individual's marginal rate under Schedule D, Case III. USC and PRSI may also apply, depending on the individual's total income. Capital gains realised on the disposal of investments in the ISA would be subject to CGT at the standard rate of 33%.

Reporting Obligations

Section 896(5) TCA 1997 imposes specific reporting obligations on individuals who hold a material interest in offshore products, including UK ISAs that are considered offshore for Irish tax purposes. Under this provision Irish tax residents are required to disclose details of the acquisition of material interests in offshore funds, along with any income, gains or disposals related to such offshore funds, in their annual tax return, Form 11.

A person who acquires a material interest in an offshore fund is treated as a chargeable person for tax purposes, even if they are not otherwise treated as such, and are therefore required to submit an annual tax return.

Practical Considerations

Individuals relocating from the UK to Ireland will commonly hold investments in ISAs. It is often the case with married couples that each spouse holds ISAs in their own names. This means that each individual's investment account must be reviewed in detail to determine the appropriate tax treatment and ensure that acquisitions, income and gains are reported correctly on the annual tax return, whether the couple is jointly or separately assessed for tax purposes.

There may be difficulty in obtaining all of the information required to ensure full compliance with the Irish taxation treatment of ISAs. As the investments are tax-free in the UK, the relevant information regarding income and gains on disposals is not always readily available from the investment managers or intermediaries through whom the investments are made, as the information is not required for UK tax reporting purposes.

The calculation of deemed gains can prove time-consuming with regards to extracting the required information – in particular, determining market values of investments at specific points in time. There may also be a large number of acquisitions in a tax year owing to the nature of the investments, and each individual investment must be considered independently to determine if it falls under the offshore funds regime or normal taxation rules.

In addition, it is important to note that CGT reports that might be provided by investment managers for a specific UK tax year regarding disposals may not follow the Irish "first in, first out" (FIFO) rules for calculation of gains/losses arising, so they would not be a reliable source for calculating any gains arising for Irish taxation purposes.

Given the possibility of unexpected significant tax liabilities on income, dividends and capital gains, as well as the potential for certain ISAs to fall under the offshore funds provisions, tax advisers should work closely with individuals returning to Ireland who hold such ISAs to understand the full scope of the tax implications.

It is critical to examine the structure of the ISA, the types of investments held in the account and the potential for those investments to be classified as offshore funds. There may be strategic considerations regarding the timing of withdrawals or disposals of investments in the ISA. Depending on the specific circumstances, it may be advantageous for individuals to realise gains or income before establishing Irish tax residency.

Ideally, individuals should have the Irish tax treatment of their ISA reviewed before becoming Irish tax resident, given that they become Irish tax resident from 1 January of the tax year in which they become resident, even if they do not arrive until later in the year, e.g. April. Carrying out this analysis before the establishment of Irish tax residency allows the individual to determine whether it is worthwhile to retain their investments, given the Irish tax treatment, or if it makes more sense to sell the investments before becoming Irish tax resident.

Conclusion

This article examines the significant tax implications faced by individuals returning to Ireland who hold UK ISAs. Although ISAs offer valuable tax advantages under UK law – most notably, the exemption from income tax and CGT on investments held in the account – these benefits do not carry over once an individual becomes an Irish tax resident.

The change in tax treatment can come as a nasty surprise to returnees to Ireland who assume that their UK ISAs remain exempt from tax. Furthermore, the onus is on the individual to report and pay the appropriate Irish taxes, and failure to do so may result in penalties or interest charges. In addition, complications may arise with currency fluctuations, reporting requirements and determining the correct tax treatment of the ISA.

Individuals returning to Ireland with UK ISAs are therefore strongly advised to seek professional tax advice before or shortly after becoming tax resident, to evaluate whether maintaining the ISA is financially beneficial and compliant with Irish tax obligations.

Ronan Moore
Director, R&D Incentives Practice, KPMG

In a Digital World Is It Time to Drop "Industrial" from Industrial Buildings Allowances?

Introduction

Industrial buildings allowances (IBAs) have provided taxpayers with important tax relief on significant capital investment projects since the introduction of the scheme more than 60 years ago. For most categories of industrial buildings, a company can claim capital allowances on eligible buildings at a rate of 4% over 25 years. For certain buildings, allowance can be granted at a higher rate and over a shorter period of time.

Combined with Ireland's broader tax offering, our highly educated and skilled workforce and access to European markets, it has meant that Ireland has been able to attract significant overseas investment from some of the largest manufacturing companies across different industries that have established significant operations across all corners of Ireland.

The investment has led to the creation of tens of thousands of highly skilled jobs, many of which are in science, technology, engineering and mathematics, also referred to as STEM. In addition, the spill-over impact through the establishment of a substantial presence in Ireland by such companies should not be underestimated. The construction jobs required to deliver and maintain the new facilities and the jobs created indirectly in the local area (cafes, shops, restaurants etc.) are all attributable to the investment.

Such investment is also "sticky". Think of a company site with 5,000 employees and tens of millions of euro invested in its manufacturing process, together with years' worth of time and effort validating a process to obtain the appropriate regulatory approval. Moving its operations to another location, albeit not impossible, would be a costly, time-consuming and complex undertaking.

In short, IBAs have incentivised meaningful, long-term investment in Ireland, particularly in the manufacturing sector. IBAs also intertwine with the R&D tax credit, and where companies are constructing an industrial building that is to be used for qualifying R&D activities (above the relevant thresholds), both IBAs (at 12.5% benefit over 25 years) and an R&D tax credit of 30% can be available on the construction expenditure.

What Constitutes an "Industrial Building"?

An industrial building or structure includes a building or structure that is in use for the purposes of a trade carried on in:

- a mill,
- a factory or
- other similar premises.

Over the course of time the legislation has been regularly updated to include other buildings/structures that can qualify for IBAs, such as hotels, registered guesthouses and campsites, and airport runways.

Industrial buildings allowances came into effect with Finance Act 1959,[1] but the phrase "mill, factory or other similar premises" has been around for much longer, with the earliest reference that the author could find with respect to tax legislation going back to Finance Act 1919.[2]

The words "mill" and factory" are not defined in legislation and therefore must be given their ordinary meaning. In *Vibroplant Ltd v Holland (Inspector of Taxes)* [1981] 54 TC 658 a factory was defined as "a place where goods are manufactured" and a mill as a place "where goods are subjected to some processing in which machinery is used".

Therefore, in modern times, to qualify for IBAs under the definition of a "mill, factory or other similar premises", it needs to be demonstrated that within the building there are goods being subjected to a process. This clearly applies to the manufacturing sector, where raw materials or components are subjected to a process, with an output product/material/component produced thereafter. Other buildings used by companies to conduct their activities, such as offices, would clearly not meet this definition, and therefore it is accepted that offices do not qualify for IBAs.

Modern Manufacturing

In the past traditional manufacturing relied predominantly on manual labour and mechanical processes, with factories filled with workers operating machinery producing tangible goods. This approach, although effective in its time, is now considered slow, prone to errors and lacking the flexibility needed to adapt to new market demands.

Manufacturing processes have undergone a profound transformation over the past few decades, moving away from traditional methods to embrace digital technologies. This shift is driven by the need for increased efficiency, sustainability, and the ability to meet the demands of a rapidly changing market.

1 Finance Act, 1959 - https://www.irishstatutebook.ie/.

2 Finance Act, 1919 - https://www.irishstatutebook.ie/.

The rise of the Fourth Industrial Revolution (more commonly referred to as Industry 4.0) is changing how products are designed, produced and distributed. Some of the key digital technologies that are changing the manufacturing sector are:[3]

- **Internet of things (IoT)**: Connecting machines to other devices and sensors to collect and exchange valuable.
- **Artificial intelligence (AI) and machine learning**: Enabling machines to predict outcomes based on data and make decisions.
- **Cloud computing with big data and analytics**: Cloud computing can allow for large volumes of data to be analysed to gain insights and optimise processes. It is integral to the connectivity and integration of engineering, supply chain and distribution, along with service.
- **Edge computing**: A distributed computer model that brings computation and data storage closer to the sources of data to facilitate the demands of real-time production operations and minimise latency time from when data is produced to when a response is required.
- **Cyber-security**: The connectivity of operational equipment in the factory that enables more efficient manufacturing processes also exposes new entry paths for malicious attacks and malware. When undergoing a digital transformation it is essential to consider a cyber-security approach that encompasses information technology (IT) and operational technology (OT) equipment.
- **Advanced robotics**: Using robots for complex tasks and improving efficiency and precision.
- **Digital twin**: Manufacturers can create digital twins that are virtual replicas of processes, production lines, factories and supply chains. Digital twins can help to increase productivity, improve workflows and design new products. By simulating a production process manufacturers can test changes to the process to find ways to minimise downtime or improve capacity.

Through the emergence of new technologies in the software space, modern manufacturing facilities are now equipped with smart machines that can communicate with each other, collect and analyse data, and make autonomous decisions to optimise production processes. This has led to significant improvements in efficiency, quality and speed.

Sandvik is a global, high-tech engineering group providing solutions that enhance productivity, profitability and sustainability for the manufacturing, mining and infrastructure industries.[4] In January 2025 it published a white paper[5] highlighting the six stages of automation in component manufacturing, from manual operations to "lights-out" production.

The survey results highlight that, of the 341 respondents, 80% intend to increase their level of automation by 2030, underscoring the industry's drive toward greater efficiency and competitiveness.

The report highlights that 80% of the respondents fall within Levels 2 (assisted system) and 4 (highly automated) of the framework, Level 3 being the most common, with 38% of respondents categorising their manufacturing operations as being semi-automated. The report also estimates, based on current levels of automation and given that 80% of respondents expect to increase their automation levels, that close to half (44%) could be fully automated supported by robots and with humans focussed primarily on creativity.

3 What is Industry 4.0? | IBM - https://www.ibm.com/.

4 Sandvik Group - https://www.home.sandvik/.

5 Whitepaper: 6 levels of automation in component manufacturing - https://www.manufacturingsolutions.sandvik/.

Although the digital evolution in manufacturing is positive, it means that through a combination of automation, robotics and AI, there will be less direct human interaction in the manufacturing process. Instead, the human involvement is moving toward 'desk based' research, analysis and the development of vital software and digital technologies that have become more ingrained in the manufacturing process. With industrial buildings becoming less reliant on direct human involvement, it is worth pausing to consider whether allowances for building expenditure should be ringfenced to only include industrial buildings and whether this remains in line with tax policy objectives.

The Role of Software Giants

The shift towards digital manufacturing is in some ways representative of the rise of software companies as the largest entities by market capitalisation. Key players in the software industry Microsoft, Apple, Google and Amazon dominate the market and are four of the five largest companies in the world,[6] together employing approximately 2m people globally.[7] These leading software corporations have leveraged their expertise in software and digital technologies to create products and services that are integral to modern life.

These corporations, among others, have not only transformed their own industries but also played a crucial role in the digital transformation of manufacturing. Their cloud computing services, AI solutions and IoT platforms are widely used by manufacturers to enhance their operations. For instance, Microsoft's Azure IoT platform allows manufacturers to connect their machines and systems, enabling real-time monitoring and data analysis,[8] whereas Google's AI capabilities are used to optimise supply chains and production processes. SAP, a global software company known for its enterprise resource planning (ERP) solutions, contributes to digital manufacturing through its key products tailored for the manufacturing sector that collectively help manufacturers to improve productivity, reduce cycle times and maintain sustainable operations.

The dominance of these software corporations reflects a broader trend in the global economy. The value of intangible assets, such as intellectual property and digital services, has surpassed that of physical assets. This shift has profound implications for how businesses operate and compete. Companies that can harness digital technologies to innovate and improve their processes are better positioned to succeed in the modern economy.

Moreover, the integration of digital technologies in manufacturing has led to the creation of new business models. Manufacturers can now offer digital services alongside their physical products, such as predictive maintenance, remote monitoring and customised solutions. This not only adds value for customers but also creates new revenue streams for businesses.

The evolution from traditional manufacturing to a digital world is reshaping industry and the global economy. The continued rise of the key players in the software industry highlights the importance of digital technologies in driving this transformation. As manufacturers continue to embrace these innovations, they will unlock new opportunities for growth, efficiency and sustainability, paving the way for a future where digital and physical worlds seamlessly converge.

Interaction Between IBAs and the R&D Tax Credit

Ireland's R&D tax credit provides a valuable incentive to companies that are engaged in and investing in R&D activities. The primary policy objective of the credit is to increase business

6 Companies ranked by Market Cap - CompaniesMarketCap.com - https://companiesmarketcap.com/.

7 Companies ranked by number of employees - page 2 - https://companiesmarketcap.com/.

8 Azure Industrial IoT – IoT for Industry 4.0 | Microsoft Azure - https://azure.microsoft.com/.

R&D in Ireland, as R&D can contribute to higher innovation and productivity, thereby increasing economic activity and contributing to high value-add employment.

The R&D tax credit provides a 30% refundable tax credit on eligible expenditure incurred by companies in carrying out qualifying R&D activities. Generally, every €100 of eligible expenditure on R&D results in a €30 refund for companies. Based on the most recent information available, in 2022 the R&D tax credit stood at an overall cost to the Irish Exchequer of €1.158bn, which indicates that more than €4.5bn was spent by Irish companies on R&D activities. Looking at the same statistics, we can see from Table 1, below, which shows the breakdown of R&D claimants across the different industry sectors, that there has been an increase in the number of companies in the information and communications (ICT) sector claiming the credit over the last 10 years and a decrease in the number of R&D tax credit claimants from the manufacturing sector.

Table 1: Breakdown of the R&D credit by business sector (showing manufacturing and ICT only).[9]

Business sector	Number of claimants 2012	Percentage of overall R&D claimants 2012	Number of claimants 2022	Percentage of overall R&D claimants 2022
Manufacturing	492	32%	431	26%
Information and communication	462	30%	588	36%

The R&D tax credit is also available on capital expenditure that is used by companies for the purposes of R&D activities. This applies to expenditure incurred on plant and machinery (P&M), if the P&M qualifies for wear-and-tear capital allowances (WTAs), that is used in a company's R&D process. It also applies to the construction costs of certain industrial buildings, subject to a 35% *de minimus* R&D activity threshold's being met for the first four years in which the building or structure is brought into use.

Therefore, for many companies, the close interaction between industrial buildings allowances and the R&D tax credit can be a key tax consideration when planning to invest in a new facility in Ireland that is expected to be used for R&D activities. Companies that plan to invest in industrial buildings that will also be used for R&D purposes can potentially qualify both for IBAs and for R&D tax credits on the construction costs. With IBAs and the R&D tax credit, along with any direct grant funding that may be available, taken into consideration, this can make Ireland an attractive location for companies looking to locate operations here.

However, importantly, both the building-related R&D tax credit and IBAs are available only on industrial buildings. Construction costs relating to offices, regardless of the office's usage, even if used solely for R&D, would not be allowable for either IBAs or R&D tax credits (albeit that P&M expenditure could still qualify for WTAs and R&D tax credits).

Example

PharmaCo

Let us take two companies as an example. PharmaCo Ltd is a company that specialises in drug development and manufacturing. To develop and manufacture its new pipeline drug it will construct a new facility, that will be used to research and develop the drug and the manufacturing process before obtaining

9 Research and Development Tax Credit statistics.

regulatory approval. Below is some key information about its proposed investment and expected R&D usage for the facility:

- The new facility would cost €200m to construct.
- €120m of this would relate to P&M, which would qualify for WTAs, and the balance of €80m would qualify for IBAs.
- The building is expected to be used 100% for R&D activities for the first five years from when it is first brought into use for PharmaCo's trade.
- For the next five years the facility is expected to be used less for R&D (i.e. *c*. 20%), as commercial production is expected to be carried out.
- The P&M located in the building has a useful life of 10 years.

Similar to the building, the P&M will be used 100% for R&D activities for years 1–5 of its useful life and 20% for years 6–10, i.e. an average R&D usage of 60% across the ten-year useful life. Based on the above scenario, Table 2 outlines the potential tax incentives that may be available to PharmaCo on its new investment.

PharmaCo will receive WTAs on the full cost of the P&M over eight years and will also receive IBAs on the full cost of the construction over a period of 25 years.

Where the P&M in the facility is used 60% for R&D across its useful life of ten years, an R&D tax credit of €21.6m would be available (€120m x 60% x 30% = €21.6m).

In addition, as the manufacturing facility qualifies for IBAs, PharmaCo is entitled to claim an R&D tax credit on the building expenditure based on its use for R&D over the first four years it is brought into use (i.e. €80m x 100% x 30% = €24m).

SoftwareCo

In contrast with PharmaCo, let us consider SoftwareCo, which specialises in developing AI software solutions used by manufacturing companies such as PharmaCo in their processes. The software that SoftwareCo develops is used to optimise manufacturing processes, reduce downtime and improve product quality through advanced analytics and machine learning.

SoftwareCo has grown its headcount in Ireland significantly in recent years to keep up with demand for its innovative software. Considering its growth in operations, it has decided to acquire and reconstruct a large office, which will become its new European R&D centre of excellence, in Dublin. The R&D centre of excellence is expected to be used predominantly for research and development of new and improved software solutions.

Below is some key information about its proposed investment and expected R&D usage for the new R&D office:

- The new facility would cost €200m to construct.

Table 2: PharmaCo tax incentives for new manufacturing facility.

	Total cost	Capital allowances/IBAs (taxable benefit @ 12.5%)	R&D tax credit (benefit @ 30%)
P&M (useful life of 10 years)	€120m	€15m	€21.6m
Building	€80m	€10m	€24m
Subtotal	€200m	€25m	€45.6m
	Total tax savings	**€70.6m**	
	% of investment met by tax incentives	**35%**	

- €120m of this would relate to P&M, which would qualify for WTAs.
- The balance of €80m would relate to non-P&M (i.e. building/structural costs), which do not qualify for WTAs or IBAs as the building is not an industrial building.
- The P&M located in the building has a useful life of ten years.
- The office and P&M are expected to be used on average (based on headcount) 75% for qualifying R&D activity during the P&M's useful life and for the foreseeable future.

Based on the above scenario, Table 3 outlines the potential tax incentives that may be available to SoftwareCo on its new investment.

SoftwareCo will receive WTAs on the full cost of the P&M over eight years. Where the P&M is used 75% for R&D across its useful life of ten years, an R&D tax credit of €27m would also be available (€120m x 75% x 30% = €27m).

However, as the R&D centre of excellence is not a "factory nor a mill or similar premises", it does not qualify for IBAs. In addition, no R&D tax credit is available on the construction costs as the building does not qualify for IBAs and therefore does not meet the definition of a "qualified building" for R&D tax credit purposes.

Observations

What can be seen from the two examples is that both companies can receive WTAs and an R&D tax credit on the P&M that forms part of the new manufacturing facility and the new software development office. However, despite the R&D centre of excellence being used for a greater proportion of time for R&D than the manufacturing facility, it is only the manufacturing facility that qualifies for R&D tax credits on the building expenditure. The net result is a difference of €28.6m of tax incentives that are not available to SoftwareCo.

Objectively, the key difference between the two examples above is the nature of the activities undertaken by the companies. PharmaCo is involved in manufacturing that is entitled to a full suite of tax incentives that Ireland has to offer. However, SoftwareCo is at a disadvantage from a tax incentive viewpoint, based solely on the type of activities that it undertakes (notwithstanding the fact that the activities that SoftwareCo is involved in we consider "research and development"). Both, however, have a key role to play in creating highly skilled jobs in STEM, which in turn increases competitiveness and stimulates economic growth. Also, as digitisation becomes more integrated in the manufacturing process, even within manufacturing companies, more of the

Table 3: SoftwareCo tax incentives for new R&D centre of excellence.

	Total cost	Capital allowances/ IBAs (taxable benefit @ 12.5%)	R&D tax credit (benefit @ 30%)
P&M (useful life of 10 years)	€120m	€15m	€27m
Building	€80m	€0	€0
Subtotal	€200m	€15m	€27m
	Total tax incentives	**€42m**	
	% of investment met by tax incentives	**21%**	

engineers and scientists will be undertaking desk-based research and analysis and spending less time at the coalface with the physical manufacturing equipment.

UK Approach for Buildings

In 2018 the UK introduced a new allowances scheme, structures and buildings allowance (SBA), in relation to the construction of non-residential buildings.[10] Before this the UK had an IBA scheme similar to Ireland's current scheme, but this was phased out from 2008. The SBA scheme provides for relief on expenditure incurred on the purchase, construction or renovation of a structure. Under the SBA scheme the building must be used for "qualifying activities", but the definition is quite broad and includes:

- any trades, professions and vocations;
- a UK or overseas property business (except residential and furnished holiday lettings);
- managing the investments of a company; and
- mining, quarrying, fishing and other land-based trades, such as running railways and toll roads.

The key distinction between the Irish and UK schemes is that under the UK's SBA scheme the building in question must only be used for the purpose of a company's trade and does not need to be a mill or factory. Therefore, offices (among other buildings) would qualify for SBAs in the UK. The policy objective of the relief is that it support business investment in constructing new structures and buildings, including necessary preparatory costs, and the improvement of existing ones, as well as improving the international competitiveness of the UK's capital allowances system.

Conclusion

The global landscape is rapidly shifting, and so, too, is digitisation in industry in general. Traditional manufacturing, for example, has fundamentally changed with the continued evolution of digital technologies such as AI, machine learning and advanced robotics. In certain industries software simulation tools are used to simulate a live manufacturing environment and can be used instead of the traditional method of developing physical prototypes. This has redefined the R&D process and led to far greater efficiencies through highly innovative software solutions.

It is important for Ireland that our tax incentives also evolve to reflect the change in how industry operates and to ensure that businesses are incentivised to invest in meaningful operations in Ireland. The UK's SBA regime is a significant move to enhance its capital allowances offering, and Ireland's IBA regime is currently less competitive.

Ireland's R&D tax credit is generally viewed as favourable by international comparisons. It is one of the few regimes that provide an R&D tax credit on capital expenditure incurred that is used for the purposes of R&D activities. However, when the R&D credit was introduced in Ireland, in 2004, there was the (incorrect) perception by many that it was more applicable to companies that employed people in "white coats" and worked in labs.

Although this could perhaps be put down to an early misconception when the credit was in its infancy, 20 years later there still seem to be certain aspects of the R&D credit that favour "white coat R&D". Revenue's own R&D tax credit guidelines provide its interpretation of legislation, whereby it views expenditure on rent as being allowable for the R&D tax credit only where the rent relates to a specialised lab or cleanroom and not an office. Couple this with the R&D tax credit's not being available to companies that construct/reconstruct or refurbish an office to be used for R&D activities where the building is not an industrial building.

10 CA91300 - Structures and buildings allowance (SBA): allowances: amount of allowance - HMRC internal manual - GOV.UK - https://www.gov.uk/.

It presents the question of whether our tax incentives need to be reviewed to ensure that companies from all industries are appropriately incentivised to invest in their future in Ireland. In the past the industrial buildings legislation has been updated to include other types of buildings (e.g. hotels, nursing homes, hospitals) to align with Government policy objectives. Perhaps adopting a broad SBA regime similar to what has been introduced in the UK may be seen as a bridge too far.

However, with the key definitions of what constitutes an industrial building being more than 100 years old, and given the shift in society and technology, it would certainly seem like an opportunity to update the definition for modern times. Consideration should be given to whether all buildings or structures that are used to produce new or improve existing materials, products, devices, processes, systems or services be should be brought within the remit of industrial buildings allowances.


Kim Clarke
VAT Director, PwC Ireland
Bríd Harkin
VAT Manager, PwC Ireland

Overview of VAT Considerations for the Irish Funds Sector

Introduction

Value-added tax (VAT) can represent a significant cost for VAT-exempt financial services entities, including traditional and alternative Irish investment funds. Against the backdrop of continued growth in the Irish funds industry and the expected industry developments outlined in the Department of Finance's recent Funds Sector 2030 report, we outline the current VAT landscape for investment funds domiciled in Ireland, including the impact of recent legislative changes, key VAT risks and topical developments that are likely to impact Irish funds going forward.

VAT Compliance for Funds

Although the investment activities of a fund are exempt from VAT, the receipt of taxable non-Irish services by an Irish investment fund will give rise to an obligation to register and self-account for Irish VAT on a "reverse-charge basis". The standard rate of VAT (currently, 23%) is applicable to most services, and there is no *de minimus* threshold for registration purposes in terms of the value of the non-Irish services received.

The taxable services typically received by funds from non-Irish suppliers that give rise to an Irish VAT obligation include legal, consulting and other professional services, translation and data processing services, and the provision of staff. To the extent that a fund is in receipt of such services from outside of Ireland, a VAT registration application should be submitted to Revenue, and the trigger point for registration will be the date the first invoice is received from a non-Irish service provider. In the absence of an Irish VAT number, an Irish fund may incur foreign VAT on invoices received from EU service providers, which is unlikely to be recoverable from the local tax authorities (on the basis that the VAT has been incorrectly charged by the supplier and, in any case, the fund is unlikely to be engaged in taxable activities under local rules).

In addition to reverse-charge VAT, a fund may incur Irish VAT on domestic services – for example, audit and other professional fees.

Certain services received by a fund from domestic and non-Irish suppliers may qualify for specific VAT exemption, based on the exemptions contained in Schedule 1 of the Value-Added Tax Consolidation Act 2010 (VATCA 2010), and therefore would not give rise to any VAT registration obligation or VAT cost for the fund. Such services typically include investment management, fund administration and distribution services. In addition, directors' fees and certain regulatory fees may not be subject to VAT. However, determining whether a particular service may qualify for VAT exemption requires a detailed analysis of the nature of the services. To manage VAT risk at the fund level effectively, it is strongly advised to put robust procedures in place to identify and review the nature of all non-Irish services expected to be received by the fund before the launch date and to monitor the position on a regular basis thereafter. This should ensure that the fund registers for Irish VAT on a timely basis and meets its ongoing Irish VAT compliance obligations, mitigating the possibility of interest and penalties. It is also recommended to document the basis for treating any inbound services as exempt from VAT. This is a highly complex and subjective area with significant case law, where the potential VAT exposure can be significant.

Scope of the "Fund Management" VAT Exemption

Under Article 135(1)(g) of the VAT Directive,[1] the "management of special investment funds as defined by Member States" is exempt from VAT. In an Irish context, for the VAT exemption to apply, there are two criteria;: the services must comprise "management", as defined; and the vehicle in respect of which the services are received must be an undertaking of a kind specified in paragraph 6(2), Schedule 1, VATCA 2010.

"Management" for the purpose of the VAT exemption consists of any one or more of the three functions listed in Annex II of the UCITS Directive[2]: investment management, administration and marketing.

Paragraph 6(2), Schedule 1, VATCA 2010, contains the list of designated undertakings to which the fund management exemption applies. Broadly, this includes Irish collective asset-management vehicles (ICAVs), common contractual funds, unit trusts and investment limited partnerships, including those set up under the Investment Limited Partnerships (Amendment) Act 2020. The exemption also applies to certain undertakings that are qualifying companies for the purposes of s110 TCA 1997.

Finance Act 2022 and 2024 Changes

The Finance Act 2022 (FA22) amended paragraph 6(2), Schedule 1, VATCA 2010, such

1 Article 135, Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax.

2 Directive No. 85/611/EEC.

that two significant changes were made to the scope of the fund management exemption from an Irish perspective.

First, with effect from 1 March 2023, s110 companies holding plant and machinery assets are not considered to be qualifying funds for VAT purposes and no longer entitled to avail of the fund management exemption. This primarily impacts aircraft-owning s110 companies, and although these companies are likely to have full VAT recovery, given the nature of their activities, the change in the VAT treatment of "fund management" services has led to issues with VAT reporting and invoicing for impacted service providers.

Second, with effect from 1 January 2023, the definition of a qualifying fund was broadened to include (a) EU UCITS funds and (b) EU alternative investment funds (AIFs) that are managed by an alternative investment fund manager (AIFM) that is "authorised by the competent authority of another member state".

Before 1 January 2023 the management of a non-Irish fund by an Irish fund manager was outside the scope of Irish VAT, with full input credit. The effect of the FA22 changes was that fund management services provided to qualifying EU funds became VAT exempt, meaning that there is no longer an input VAT recovery entitlement for Irish fund managers and administrators in relation to costs that are directly attributable to the management/administration of these EU qualifying funds. As a result, fund managers managing Irish and EU funds experienced a reduction in their VAT recovery rate for 2023 and subsequent years. Aside from the VAT recovery implications for fund service providers, these changes may have positively impacted the Irish VAT treatment applied to fund management services delegated by an Irish fund manager to third-party or affiliated entities – for example, outsourced investment advisory services – which may benefit from VAT exemption post-FA 2022, to the extent that those services are used for the management of qualifying Irish and EU funds. It is worth noting that the management of UK-domiciled funds is not impacted by the FA22 changes and remains outside the scope of Irish VAT, with full input credit.

In practice the FA22 changes also meant that certain Irish limited partnerships established under the Limited Partnership Act, 1907, which are "EU AIFs", could benefit from the fund management exemption, but the wording implied that this was only where the AIF[3] was managed by an AIFM authorised in a Member State other than Ireland.

Section 85 of Finance Act 2024 (FA24) updated the wording of the amendment to paragraph 6(2)(ed), Schedule 1, VATCA 2010 made by FA22 to clarify that the VAT exemption for the management of EU AIFs applies to the management of all EU AIFs, including where the AIFM is "authorised by or registered with the competent authority of a member state". In practice this amendment has clarified that, with effect from 1 January 2025, the fund management exemption applies to any Irish AIFs not already covered by paragraph 6(2) – for example, a limited partnership established under the Limited Partnership Act, 1907 with an Irish AIFM.

The scope of the "fund management" VAT exemption is a much-debated topic at EU level and has been the subject of frequent European case law over the last 20 years. That litigation concerns both the nature of the activities that should be included in the concept of "management" and the types of investment fund that should qualify as a "special investment fund". Changes in the nature of the services being outsourced by fund managers, particularly in light of digitalisation, have led to uncertainty surrounding, in particular, the application of the VAT exemption to new technology-enabled services – for example, fund platform software services relating to portfolio management and distribution activities. Traditionally, IT or software services

3 As defined under the Alternative Investment Fund Managers Directive (Directive 2011/61/EU).

would be subject to VAT at 23%, but recent case law decided by the Court of Justice of the European Union could provide a basis for VAT exemption, depending on the specific nature of the services supplied. Therefore, service agreements should be carefully reviewed to understand the precise nature of the services and whether those services are specific to and essential for the management of such funds.

VAT Recovery Rules for Funds and Apportionment Calculations

Despite the fact that a fund's activities are exempt from VAT, there is an entitlement to recover VAT on allowable costs (e.g. audit fees, legal fees) under s59(1)(d) of VATCA 2010, to the extent that the fund is involved in "qualifying activities". Revenue's Tax and Duty Manual "VAT Deductibility for the Funds Industry" outlines that there are two possible methods for calculating the proportion of "qualifying activities" in a regulated funds context. The default method is by reference to the proportion of non-EU investments that are included in the net asset value (NAV) of the fund. An alternative methodology, based on the proportion of non-EU investors in the fund, may be permissible where it can be demonstrated that it more accurately reflects the use to which the costs of the fund are attributed.

By way of example, where an Irish fund is wholly invested in non-EU financial assets (e.g. UK bonds or US equities) it will be entitled to full VAT recovery on costs and should be in a permanent VAT refund position. Where a fund has a mix of non-EU and EU financial assets there will be an entitlement to partial VAT recovery, and an apportionment calculation is required to compute the proportion of VAT that is deductible on costs (i.e. the non-EU proportion of investment activity).

Where costs incurred by a fund can be directly attributed to its "qualifying" non-EU activities or its "non-qualifying" EU activities, it may be necessary to apply VAT recovery rates of 100% or 0% to these costs using a "direct attribution" approach to VAT recovery. However, in practice, as fund costs cannot generally be directly attributed to a particular investment, a general overhead VAT recovery rate is typically applied to these "dual-use" costs. For multi-subfund umbrella funds, consideration should be given to whether it is more appropriate to use a separate VAT recovery rate for the costs incurred by each subfund.

Generally, in practice, the general overhead VAT recovery rate for a fund is based on the geographic split of investments held at the fund's previous financial year-end. Under Irish VAT regulations[4] the recovery rate for dual-use inputs may be applied on an estimated basis, using the actual VAT recovery rate from the previous financial year-end. In this case the estimated VAT recovery rate should be reviewed annually, and any necessary adjustment to the VAT returns filed in the previous year (between the estimated VAT recoverable and actual VAT recoverable) should be made within three VAT periods of the fund's financial year-end. In this regard the 2024 VAT recovery rate calculation and annual adjustment for a fund with a 31 December 2024 year-end and bi-monthly filing obligations is due to be completed no later than the deadline for filing the May/June 2025 VAT return, i.e. 23 July 2025.

If the fund does not currently receive any taxable services from outside of Ireland, and is therefore not obliged to register for VAT, a VAT60E reclaim may still be sought from Revenue, to the extent that the fund is involved in "qualifying activities" and has incurred Irish VAT on domestic purchases over the previous four years.

Managing VAT Risks and Identifying Potential Opportunities

By virtue of the fact that many Irish funds will have a restricted VAT recovery entitlement, there are two key risk areas where a VAT exposure may arise.

4 Regulation 17(2), Value-Added Tax Regulations 2010 (SI 639 of 2010).

First, the completeness of reverse-charge VAT accounting is an area where errors are commonly identified. For example, an Irish fund omits to identify that there is an obligation to register and account for VAT on receipt of professional services from a service provider established in another country.

Second, the method of calculating the VAT recovery rate for a fund (as outlined above) can be complex. Given that there are alternative methods that can be adopted, depending on the particular fund structure, the nature of the investments and the data points available in respect of the geographic location of those investments, this is an area to be carefully considered for a newly registered fund.

In terms of opportunities, it can simplify Irish VAT reporting if contractual arrangements with the investment manager, other related parties and third-party vendors are reviewed before invoices are issued. This is to ensure that the VAT treatment aligns with the contractual and invoicing flows. Material services received from outside of Ireland should be reviewed to determine the precise nature of the services supplied, which may result in the application of an Irish VAT exemption (meaning that no reverse-charge VAT liability arises).

Future VAT Policy Changes that May Impact the Funds Sector

Significant VAT changes could be on the horizon for financial services, in general, and the asset management sector, in particular, as a result of the European Commission's ongoing review of the VAT rules for financial and insurance services. In acknowledging that the current VAT rules for financial and insurance services are complex, difficult to apply and outdated by the development of new services in the sector, the Commission is carrying out an impact assessment involving EU industry bodies and other stakeholders. There are a number of options for reform being considered, including taxing financial services transactions in some capacity, with one proposal being to apply a reduced rate of VAT to fee-based income (including fund management fees).

Although it is very difficult at this stage to comment on the expected outcome of the review, and there has been no timeline announced by the Commission, the review certainly presents a risk to the future of the fund management exemption, which is currently to the benefit of the majority of Irish traditional and alternative funds.

Separately, on 11 March 2025 the VAT in the Digital Age (ViDA) package of measures was finally adopted. ViDA aims to modernise VAT rules across the EU to coincide with the ever-changing digital landscape. These rules will mark the most substantial change to the VAT reporting landscape in decades. Of particular significance to the funds industry, ViDA marks a mandatory shift towards digital reporting requirements in respect of business-to-business cross-border transactions. This means that, by 1 July 2030, taxable supplies of services made to Irish funds must be reported by EU service providers to the tax authorities on a near-real-time basis. Tax authorities across the EU will have access to large volumes of transaction-level data on a continuous basis. The exchange and processing of that information will assist Member States in monitoring the correct application of VAT on cross-border services and in detecting instances of non-compliance. In addition, the roll-out of mandatory e-invoicing means that Irish fund service providers will need to have the appropriate system capabilities to receive and process e-invoices, which represents both a challenge, given the prevalence of outsourcing the accounts payable function in the funds industry, and an opportunity, given the scope to streamline VAT reporting into the future across a high volume of entities.

Revenue completed its own public consultation on modernising the VAT regime in January 2024, and it is expected to continue to consult with industry bodies, including the Irish Funds Industry Association, as Ireland prepares to implement the ViDA package over the coming years.

It is not yet clear whether VAT-exempt supplies will be within the scope of digital reporting and e-invoicing or if special measures can apply under the ViDA measures.

Future Considerations Arising from Industry Trends

The Irish funds industry continues to grow, with approximately 9,000 regulated investment funds with total net assets valued at €4.5 trillion as of February 2025.[5] In addition, there is over €1.1 trillion of total net assets held by unregulated Irish special-purpose vehicles, many of which are “special investment funds” for the purpose of the fund management VAT exemption. In recent years there is a notable trend towards asset diversification and the growth in private alternative investment funds. In alternative funds, asset classes including infrastructure assets, digital assets and physical gold are becoming more popular. These types of investments may well have a different VAT treatment than traditional funds investing in financial securities, which should be thoroughly evaluated before commencing to trade. Furthermore, the anticipated retailisation of Irish funds is likely to necessitate new business models, distribution channels, and product offerings, which will potentially impact the VAT profile of Irish funds moving forward.

5 See https://www.irishfunds.ie/facts-figures/industry-statistics/total-irish-domiciled-funds/.

Keith Daly
Tax Director, Xeinadin

Taxing the Future

Introduction

The rapid advancement of blockchain technology and the rise of tokenised assets are reshaping financial markets, investment structures and business models globally. But what exactly are these technologies?

At its core, blockchain is a digital ledger that is a secure, transparent and decentralised way of recording transactions. Instead of relying on a central authority such as a bank, blockchain technology distributes this record across a network of computers, making it nearly impossible to alter after the fact. This technology underpins digital currencies such as Bitcoin but also has much broader applications, from tracking supply chains to recording land ownership.

A simple real-life example is the partnership between Ticketmaster and blockchain platform Flow. In 2022 Ticketmaster began issuing selected event tickets on the Flow blockchain. Fans who purchased tickets to certain events, such as NFL games or concerts, received digital tickets. Each transaction, including resale or transfer, was recorded on the blockchain, making it easier to verify authenticity and ownership while reducing the risk of counterfeit tickets.

Tokenisation refers to the process of converting ownership of a real or digital asset into a digital token on a blockchain. These tokens can represent anything from shares in a company to real estate to digital artworks. To appreciate the scale and relevance of tokenisation activity, consider the sale of a single digital artwork. In March 2021 digital artist Beeple sold an NFT (non-fungible token) titled “Everydays: The First 5000 Days” for a staggering USD 69.3m through Christie’s auction house.[1] The buyer, an individual investor, paid the consideration in crypto-currency (Ether), with the NFT serving as a blockchain-based certificate of ownership of the digital file. Beeple received the payment in Ether and converted it to US dollars. This landmark moment introduced NFTs and, by extension, blockchain technology to the mainstream art world and highlighted a new kind of digital asset that raises significant tax questions for buyers, sellers and platforms alike.

Blockchain’s potential goes far beyond art. For example, journalists and publishers have used blockchain to authenticate news articles, combat misinformation and preserve trust in digital content. In 2020 a case study by the University of Arkansas Blockchain Center of Excellence examined how ANSA (Italy’s leading news agency) used blockchain to fight misinformation.[2] Every time ANSA publishes a story, a corresponding entry is made on the Ethereum blockchain, effectively time-stamping and sealing that version of the article.

In this article I break down what blockchain and tokenisation are and explain how people make money from them and what that means from a tax perspective.

What Is Blockchain?

Blockchain is a way of securely storing and sharing information across a network of computers, where everyone can see the same information, and no one can change it without everyone else knowing. It is a distributed ledger technology (DLT) that records transactions across multiple computers in a way that ensures the data is secure, immutable and transparent.

Imagine if you could trace items sitting on a shelf in your local supermarket by scanning a QR code. Well, Walmart implemented blockchain technology to improve food safety and traceability, starting with sliced mangoes.[3] Previously, tracing their origin took seven days. With IBM’s Food Trust blockchain Walmart reduced this to just 2.2 seconds. The system tracks each step from farm to store, enabling rapid response during contamination outbreaks. After a successful pilot Walmart mandated blockchain use for all leafy green suppliers by 2019 and expanded it to other high-risk foods, such as pork in China. This real-time transparency not only enhances consumer safety but also reduces waste and improves overall supply chain efficiency.

This is why blockchain is valuable for applications such as crypto-currencies (like Bitcoin), verifying ownership and ensuring the reliability of data. Originally developed to underpin crypto-currencies, blockchain has evolved to support a wide range of applications, including smart contracts, decentralised finance (DeFi), asset tokenisation and, as already seen, supply chain management.

From a tax perspective, blockchain’s decentralised nature challenges traditional concepts of jurisdiction, ownership and transaction timing.

Understanding Tokenisation

Tokenisation transforms assets such as property, stocks and intangible items into digital tokens recorded on a blockchain.

1 Christie’s, Beeple (b. 1981), “Everydays: The First 5000 Days” (2021), https://onlineonly.christies.com/s/beeple-first-5000-days/beeple-b-1981-1/112924/.

2 University of Arkansas, Blockchain Center of Excellence, “Authenticating Real News with ANSAcheck, a Blockchain-Enabled Solution Developed by ANSA and EY” (February 2020), https://cpb-us-e1.wpmucdn.com/wordpressua.uark.edu/dist/5/444/files/2018/01/BCoE2020ANSACaseStudyPost.pdf.

3 Rakesh Kamath, “Food Traceability on Blockchain: Walmart’s Pork and Mango Pilots with IBM”, *Journal of the British Blockchain Association*, 1/1 (2018), 1–12.

This allows investors to purchase fractional ownership of high-value assets. The process increases accessibility, transparency and liquidity, making it simpler to buy, sell and monitor these assets.

McKinsey expects that the total tokenised market capitalisation could reach around USD 2 trillion by 2030 (excluding crypto-currencies),[4] driven by adoption in mutual funds; bonds and exchange-traded notes; loans and securitisation; and alternative funds.

Monetisation Across Blockchain Networks

The mere ownership of a crypto-asset or token would generally not bring about a tax liability; the taxing point commonly arises on receipt of income or gains on holding of the asset. Consideration should, of course, be given to the required disclosures on the acquisition of a crypto-asset in a relevant tax return.

There are no special Irish rules in respect of the tax treatment of crypto-assets. Revenue, in its published guidance on the taxation of crypto-asset transactions (updated in June 2024),[5] emphasises that the underlying facts determine the tax treatment rather than the technology. Revenue's attitude or view is that the starting point in transacting in crypto-assets from a direct tax perspective is that it is "most likely to be a disposal for CGT purposes". The UK's HMRC has a similar perspective, as it states in guidance notes[6] that "[i]n the vast majority of cases, individuals...will be liable to pay Capital Gains Tax when they dispose of their cryptoassets".

The 2022 article[7] in *Irish Tax Review* by Susan Roche, Nicola Sheridan and Ruth Maloney, titled "The Tax Framework for Crypto-Assets", discusses taxing income as deriving from trading versus investing, valuing transactions, the importance of record keeping and the VAT treatment of crypto-currency transactions. This article does not intend to repeat the contents of that article, given that they are still very relevant, but aims to highlight the different ways in which investors and traders can monetise crypto-assets, along with the likely tax treatments applicable to each activity.

Non-Fungible Tokens and Creative Works

NFTs are unique digital tokens that represent ownership of a specific item or piece of content, such as digital art, music and in-game assets. Unlike other tokens, NFTs are not interchangeable (they are non-fungible), meaning that each one is unique. For example, NBA Top Shot is a blockchain-based platform that lets fans buy, sell and trade officially licensed US National Basketball Association highlights called "Moments". These Moments are short video clips of iconic plays – dunks, buzzer-beaters, blocks, etc. – all tokenised on the Flow blockchain. One of the most famous NBA Top Shot NFTs is a LeBron James dunk highlight, which sold for over USD 200,000 in 2021.[8]

NFTs can be created, or "minted", by a wide range of individual creators and entities (Dapper Labs in the above example). Most commonly, digital artists, musicians and content creators mint NFTs to sell digital works with embedded proof of ownership and authenticity. Businesses and global brands are also increasingly minting NFTs for use in marketing campaigns, in loyalty programmes or as digital collectibles. These activities would typically be expected to constitute a trade. However, where the minting of NFTs is undertaken on a more casual or occasional basis, Schedule D,

4 McKinsey & Company, "From Ripples to Waves: The Transformational Power of Tokenizing Assets" (20 June 2024), https://www.mckinsey.com/industries/financial-services/our-insights/from-ripples-to-waves-the-transformational-power-of-tokenizing-assets.

5 Revenue, Tax and Duty Manual Part 02-01-03, "Taxation of Crypto-Asset Transactions" (June 2024).

6 HMRC, "Cryptoassets for Individuals: Which Taxes Apply", CRYPTO20050 (10 February 2025).

7 Susan Roche, Nicola Sheridan and Ruth Maloney, "The Tax Framework for Crypto-Assets", *Irish Tax Review*, 35/3 (2022).

8 Dapper Labs, NBA Top Shot: Jesse's Moment, NBA Top Shot, n.d. (accessed 11 April 2025), https://nbatopshot.com/moment/jesse%2B0189f1e3-a5e9-48a4-909b-2e0886777f2b.

Case IV, may apply to the income arising from the creation of the asset, with capital gains tax (CGT) potentially applying to any proceeds from subsequent secondary-market transactions.

Each time that one of these NFTs is sold, a rights holder may receive a percentage of the sale price as a royalty. In NBA Top Shot NFT example above, the NBA received such a royalty. In tax terms this recurring income would likely be treated as trading income where the business is engaged in a commercial enterprise of licensing and monetising digital rights.

For an Irish taxpayer in a similar position, such as a content creator, brand or sports organisation, these royalties would typically be taxable under Schedule D, Case I. As ever, where the consideration for the asset is a crypto-asset, there is a challenge in converting the value of the asset to euro to calculate the tax liability. Revenue's Tax and duty Manual provides that taxpayers must make a "reasonable effort" to "use an appropriate valuation" in valuing crypto transactions.

The application of the artist exemption under s195 of the Taxes Consolidation Act 1997 to NFT sales is untested, but it may be available where the NFT represents an original and creative piece of work, such as a digital painting. For the work to qualify for the exemption, Revenue must make a determination that it is original and creative, is regarded as having cultural or artistic merit and is within certain categories of work. This may prove challenging. However, in theory, the income from the initial sale of an NFT by an Irish creator could qualify for exemption from income tax.

Mining

Mining is a key mechanism by which individuals or entities are rewarded for helping to validate transactions on a blockchain. Mining, associated with proof-of-work blockchains such as Bitcoin, involves using computing power to solve complex mathematical problems that secure the network and validate transactions. Successful miners are typically rewarded with newly issued crypto-currency and, in some cases, transaction fees. An example of this is Marathon Digital Holdings, one of the largest publicly traded Bitcoin mining companies, which reported earning more than 3,000 Bitcoin in 2023 through its mining operations.[9]

From an Irish tax perspective newly issued crypto-currency or transaction fees received through mining or staking is typically treated as taxable income. A mining or staking trade is generally known as a "mining farm", which is a facility that houses a large number of high-powered computers called "mining rigs" that are specifically designed to mine crypto-currency. These farms are often located in warehouses or data centres and are built to maximise computing power, energy efficiency and cooling. Although most Irish taxpayers are unlikely to trade through mining farms on this scale, some hobbyists still mine smaller coins using home set-ups, particularly in areas with low electricity costs.

With respect to block rewards (i.e. the provision of newly minted coins) Revenue has set out in the previously mentioned Tax and Duty Manual that "mining activities will generally be outside of the scope of VAT on the basis that the activity does not constitute activity for VAT purposes", as there is no identifiable recipient of the service being provided. However, where a transaction fee is paid by a user for the inclusion of their transaction in a block, this may constitute a supply of service for consideration. In such cases VAT could apply, as there is now:

- a recipient (the sender of the transaction),
- a service (validating and including the transaction) and
- consideration (the fee paid).

9 See: https://cointelegraph.com/news/marathon-digital-bitcoin-mining-revenue-surges-results-q4-earnings.

DeFi and Staking

DeFi (decentralised finance) is a blockchain-based alternative to the traditional financial system. It allows users to access financial services such as lending and borrowing without relying on banks or intermediaries, and it allows lenders to earn interest. DeFi uses smart contracts on blockchains to automate these services, which means that anyone with a crypto wallet and internet connection can participate, without needing approval from a central authority.

Staking, by contrast, is associated with proof-of-stake systems where investors stake their existing crypto-assets, essentially locking them up in the network to participate in transaction validation. In return they receive newly issued tokens or a share of network fees. Platforms such as Coinbase and Kraken allow Irish users to stake Ethereum and other tokens and earn passive income.

The tax treatment of income earned through DeFi protocols and staking depends on the nature and extent of the activity. Where the activity is organised, is frequent and is carried out with a view to profit and the business has employees with the relevant knowledge and experience, the income may be regarded as arising from a trade taxable under Schedule D, Case I. Each case will turn on its facts, and the traditional "badges of trade" remain relevant in determining the correct classification.

Where an individual passively supplies liquidity via lending assets to a DeFi platform or stakes crypto-assets to earn returns in the form of interest, rewards or additional tokens, such income is typically assessed under Schedule D, Case IV, as miscellaneous income. However, and more crucially in respect of passive activity, where the beneficial ownership of the crypto-asset has been transferred by the passive taxpayer under a DeFi or staking contract, this would likely trigger a CGT charge.

Where the recipient of the tokens has the ability to deal with the tokens received under the DeFi or staking arrangement, this will be a strong indicator that the recipient has acquired the beneficial ownership of those tokens and thus triggered a disposal for CGT purposes for the lender. Conversely, if the recipient is specifically restricted from dealing with the tokens received, this will be a strong indicator that the recipient does not have beneficial ownership of the tokens received, and a CGT transaction may not have been triggered for the lender.

In the UK HMRC, through its guidance,[10] sets out this approach, such that changes in ownership or token structure can trigger CGT even if the investor maintains economic exposure. HMRC has acknowledged the practical challenges that this creates and is consulting on reform proposals to defer CGT on certain DeFi and staking arrangements until actual disposal. As Revenue has not issued specific guidance on DeFi and staking transactions, tax practitioners should exercise caution when advising on these activities.

Tokens or Tokenised Assets

The tax treatment of tokens and tokenised assets in Ireland depends not only on whether the taxpayer is trading in tokens or holding them as investments but also on the nature of the underlying asset and the rights conferred by the token.

The form of the token does not alter the tax character of the underlying asset, and the key consideration remains the economic substance of the transaction. For example, an investor can buy Aspen Coins, which represent shares in a real estate investment trust (REIT) that owns the St. Regis Aspen Resort in Colorado. Where a gain arises on a disposal of the Aspen Coins, this is deemed to arise on the investment in a REIT and taxed accordingly.

Given the wide variety of token types and structures, a case-by-case analysis is essential to determine the correct treatment under tax

10 HMRC, "Decentralised Finance: Lending and Staking: Chargeable Gains: Making a DeFi Loan", CRYPTO61620 (10 February 2025).

legislation. Determining the tax domicile of a token representing a fractional interest in a synthetic exchange-traded fund may represent one of the more complex challenges for an Irish tax practitioner.

Payment tokens such as Bitcoin (BTC) are, arguably, the most well-known form of crypto-asset. Some businesses accept BTC as payment for goods and services. Tesla famously did so in 2021, although it later suspended the option due to environmental concerns. More recently, in April 2025, a private school in Scotland announced that it would begin accepting BTC for the payment of tuition fees.[11]

If a similar arrangement were adopted by a school in Ireland, Irish individuals using BTC to pay fees would be treated as having disposed of a crypto-asset, potentially triggering a CGT liability if the value of the BTC had increased since acquisition. On the receiving side, the school would be treated as having earned trading income equivalent to the euro value of the BTC at the time of receipt, as Irish tax rules do not currently recognise crypto-currencies as a valid functional currency for financial reporting purposes. If the school were to retain the BTC rather than convert it to euro immediately, and later dispose of it, any gain on that disposal could also give rise to a capital gain, subject to CGT.

The value of some tokens is backed by tangible, real-world assets, such as gold, real estate and oil. They bridge the gap between the physical and digital worlds, providing stability to token value and making traditionally illiquid assets more accessible and tradable. For example, PAX Gold is backed 1:1 by physical gold stored in vaults. Each token represents one "fine troy ounce of a London Good Delivery" gold bar. A USD Coin is a stablecoin pegged to the US dollar that is widely used on exchanges and DeFi platforms as a reliable store of value and medium of exchange.

A transaction involving the sale of an asset-backed token would generally be treated as non-trading and would be subject CGT unless it can be proved that the taxpayer is a trader in crypto-assets.

Tax Authorities' Recent Activities

To date, there has been no Tax Appeals Commission case specifically concerning a taxpayer's transactions in crypto-assets, nor has Revenue launched any formal disclosure campaign targeting undeclared gains from crypto-asset activity. That said, it is reasonable to assume that crypto-related activity is on Revenue's radar, particularly in light of growing international cooperation through frameworks such as the OECD's Crypto-Asset Reporting Framework (CARF) and DAC8, which is the forthcoming EU Directive set to expand automatic exchange of information to include crypto-asset service providers from 2026.

In contrast, HMRC has taken a notably proactive approach to ensuring compliance in relation to crypto-asset taxation. It maintains a dedicated webpage encouraging individuals to make a voluntary disclosure of any unpaid tax arising from income or gains related to crypto-assets.[12] Back in 2019 HMRC contacted three major crypto exchanges operating in the UK (Coinbase, eToro and CEX.IO) requesting customer information to identify UK-based traders.[13] More recently, in 2024, HMRC issued "nudge letters" to crypto investors whose tax affairs may be incomplete or inaccurate.[14] Reflecting this increasing focus, it also introduced a dedicated section for reporting crypto-asset disposals in the 2024/2025 self-assessment tax return. HMRC's recent enforcement activity may offer a glimpse of

11 See: https://www.thetimes.com/uk/scotland/article/boarding-school-is-first-in-uk-to-accept-bitcoin-for-fees-kgbpwhg9s.

12 HMRC, "Tell HMRC About Unpaid Tax on Cryptoassets" (15 January 2025).

13 Accountancy Age, "HMRC Seeks Data from Crypto Exchanges to Combat Tax Evaders" (7 August 2019), https://www.accountancyage.com/2019/08/07/hmrc-seeks-data-from-crypto-exchanges-to-combat-tax-evaders/.

14 Chartered Institute of Taxation, "Crypto Investors Urged to Review Tax Obligations as HMRC Sends 'Nudge' Letters" (2022), https://www.tax.org.uk/crypto-investors-urged-to-review-tax-obligations-as-hmrc-sends-nudge-letters.

what Irish taxpayers can expect from Revenue in the coming years.

In 2022 the European Parliament's Committee on Economic and Monetary Affairs released a non-binding resolution[15] suggesting that blockchain is an important tool that could be used by tax authorities to "facilitate efficient tax collection" and could "limit corruption…creating opportunities for better and more fairly designed tax systems to tax both mobile taxpayers and assets". Although blockchain presents challenges for tax authorities, its adoption and use could offer significant benefits.

Future Developments and Policy Direction

The OECD's CARF, published in 2022,[16] establishes a global standard for the automatic exchange of tax information on crypto-assets. Designed to address the tax transparency challenges posed by digital assets, the CARF requires crypto-asset service providers, including exchanges, brokers and wallet providers, to report user transaction information to tax authorities. In March 2023 the G20 endorsed the swift implementation of the CARF, and more than 40 jurisdictions, including Ireland, have committed to begin exchanging information under the framework by 2027.

The CARF operates in tandem with the updated Common Reporting Standard (CRS) and complements the EU's DAC8 Directive, which will apply similar obligations within the EU from 2026, mandating automatic exchange of tax information by crypto-asset service providers.

Running parallel to these tax-focused frameworks is the EU's Markets in Crypto-Assets Regulation (MiCA), which establishes a harmonised legal framework for crypto-asset issuance and service provision across the EU. MiCA introduces requirements around licensing, governance, consumer protection and disclosure for entities involved in crypto-assets. It entered into force in June 2023, with key provisions (including those on stablecoins and crypto-asset service providers) becoming applicable in stages from June and December 2024.

Together, CARF, DAC8 and MiCA represent a significant step toward aligning tax compliance, financial regulation and investor protection in the evolving digital asset landscape.

Conclusion

Blockchain and tokenisation are no longer niche innovations. They are reshaping how assets are created, exchanged and monetised across global markets. Irish tax guidance provides a foundation, but it remains high level and, in many respects, untested. As crypto-asset adoption accelerates and the technology matures, international law makers are attempting to keep pace with developments such as MiCA, DAC8 and CARF. One thing is certain: increased regulation and Revenue scrutiny are on the horizon. Taxpayers and advisers must be proactive, ensuring that compliance is underpinned by robust analysis, accurate record keeping and a strong understanding of the evolving tax landscape surrounding digital assets.

15 European Parliament, "Report on the Impact of New Technologies on Taxation: Crypto and Blockchain (2022/2015(INI))", Report A9-0204/2022 (2022).

16 Organisation for Economic Co-operation and Development, *Crypto-Asset Reporting Framework and Amendments to the Common Reporting Standard* (Paris: OECD, 2022).

Conor Kennedy
Barrister-at-Law, EY Law Ireland

Tax-Geared Penalties and the Appeal Process: Time for Reform?

Introduction

The Revenue Commissioners' right to publish the names of tax defaulters is contingent on the quantum of tax penalty imposed. A challenge to the legality or appropriateness of the penalty requires the intervention of a court. As justice must be administered in public, the shield of anonymity is lost, as the entitlement to impose a penalty must be first challenged. Consequently, there is no effective legal remedy to contest what many consider to be the severest of Revenue sanctions.

A recent decision from the European Court of Human Rights and the possible unconstitutionality of the obligation to publish details of tax defaulters brings into focus the legality of a provision that names and shames a person in the absence of the ability to challenge, on an anonymous basis, a Revenue-imposed penalty that ultimately leads to publication.

This article considers the statutory mechanism of the penalty provisions the consequent obligation of the Revenue Commissioners (Revenue) to publish tax defaulters, and also highlights the potential shortcomings of the current position and proposes a possible solution.

Revenue Penalties

Tax-geared penalties are based on a sliding scale and depend on the seriousness of default, the extent and timing of taxpayer disclosures and the level of cooperation provided during a Revenue intervention. Failure to notify and regularise a tax deficiency by an uncooperative taxpayer gives rise to default penalties of 100%, 40% and 20% for deliberate behaviour, careless behaviour with significant consequences and careless behaviour without significant consequences, respectively. The interpretation of these terms can be subjective.

Where a penalty has been imposed that is not accepted by the taxpayer, a Revenue official "shall" issue a notice of opinion to the taxpayer specifying the circumstances of the penalty and the amount thereof (s1077B TCA 1997). A notice will also issue if there is a failure to pay a previously agreed penalty. The taxpayer has 30 days to pay the penalty; otherwise, an application may be made to a relevant court to determine a person's liability. Therefore the "opinion of the Revenue officer that a person is liable to a penalty is the first step in the statutory procedure which ultimately leads to a determination by the court of competent jurisdiction" (*Howley v Lohan* [2024] IECA 236, para. 18).

A relevant court that has decided that a person is liable to a penalty will also make an order as to the recovery of the penalty as if it is an amount of tax (*Howley*, para. 4).

There is no statutory definition of "deliberate" or "deliberately". Deliberate is an adjective that attaches a requirement of intentionality to the action that it describes, namely, "behaviour". Despite the absence of a statutory definition, Revenue, in its Code of Practice for Revenue Compliance Interventions (2022), describes the failure to keep proper records, provision of false information, concealment of bank accounts and serious failings to operate fiduciary taxes as indicative of deliberate behaviour (para. 4.6.1).

There is a statutory definition of "carelessly", and it applies where there is a "failure to take reasonable care" (s1077F(1) TCA 1997). Revenue's Code expands that meaning to situations where "a taxpayer of ordinary skill and knowledge, properly advised, would have foreseen as a reasonable probability or likelihood, the prospect that an act (or omission), would cause a tax underpayment, having regard to all of the circumstances" (para. 4.6.2). In essence, this is the standard definition of negligence. Furthermore, a genuine and principled difference of opinion on tax matters that is neither careless nor negligent cannot be discounted.

The High Court in *Joseph Tobin v Eileen Foley* [2011] IEHC 432 considered whether Ms Foley was liable to a penalty for having negligently submitted an incorrect capital gains tax return (para. 2). In considering the concept of negligence in s1053 TCA 1997, the precursor to s1077F, Peart J made the following observation (para. 30):

> "Negligence is a term which implies more culpability than mere carelessness or oversight...Negligence in the context of this legislation means that a person having a duty to make a tax return truthfully and honestly fails to make all appropriate inquiries in order to ensure that the details contained in the return were complete, accurate and truthful. A person completing such a return must be expected to make appropriate enquiries if she herself does not have the necessary facts and information in order to complete the return. If she has to rely on others for information, she is under an obligation to ensure as far as reasonably possible that the information given is correct and truthful."

In *Thomas McNamara v the Revenue Commissioners* [2023] IEHC 15 Barr J at paragraph 98 made specific reference to the decision of the Special Commissioners in *AB (A firm) v Revenue and Customs Commissioners* [2007] STC (SCD) 99, in which it was confirmed that negligent conduct amounts to more than "taking a different view from Revenue" (para. 105). It is the symmetry between "carelessly" and "negligence" that gives *McNamara* direct relevance.

As noted in *McNamara* (para. 99), a distinction is drawn:

> "between circumstances where the accountant is merely a functionary, who makes a return on behalf of his client; and a situation, where there is a complex question of tax law involved and upon which the taxpayer takes the advice of an accountant/tax adviser. In the former case, the taxpayer remains liable for the erroneous return. In the latter case, he may be able to avoid a finding of negligence, where he has relied on the advice given by the tax adviser."

A return can be prepared and submitted by either the chargeable person or an authorised agent. If the return is prepared and filed by an agent, it is considered to have been completed and filed by the chargeable person (s959L TCA 1997). Although prudent taxpayers assign the responsibility for such compliance obligations to their accountants and tax advisers, the Code, as confirmed by settled law (*McNamara*), attributes any errors or defaults in the return made by the agent directly to the taxpayer. Therefore, while a taxpayer may act prudently by appointing an agent, any mistakes made by an agent in the completion of a tax return are deemed to be made by the taxpayer.

However, *McNamara* suggests that a taxpayer relying on expert advice for non-routine tax matters acts otherwise than negligently.

Publication

Revenue is required to publish the names, addresses and occupations of persons who have been convicted of tax offences by a court or where Revenue has refrained from initiating court proceedings by agreeing to accept a settlement that includes, tax, interest and penalties (s1086A(2) TCA 1997). Statutory exclusions from publication apply where:

- the penalty does not exceed 15% of the amount of additional tax due,
- the settlement does not exceed €50,000 of the additional tax due or
- a qualifying disclosure has been accepted by Revenue (s1086A(8) TCA 1997).

The seminal case on the lawfulness of publication of tax defaulters is *B. Doe, R. Doe v The Revenue Commissioners* [2008] IEHC 5, in which it was held that there was not a constitutionally based right to taxpayer confidentiality and that any entitlement that a non-compliant taxpayer has to confidentiality is confined to a statutory entitlement (para. 4.3). However, in circumstances where there is a challenge to the lawfulness or merit of a decision to publish based on the rules of negligence, *Doe* can be distinguished as in that case, despite agreeing a settlement with Revenue that included penalties (para. 2.12), the taxpayer unsuccessfully argued that the publication provisions were "badly worded" and "ought to be construed against Revenue as a taxation statute" (para. 2.9).

Recently, in *Barth O'Neill v The Revenue Commissioners* [2024] IEHC 337, the High Court considered the issue of the right to erasure contained in Article 17 of the General Data Protection Regulation, regarding a right to be forgotten. The court, influenced by *B. Doe*, refused the application for an in-camera hearing or anonymisation, concluding that the substantive judicial review proceedings should be conducted fully in public (para. 64).

Right to Your Good Name

Article 40.3.2 of the Constitution mandates the State to protect from unjust attack and "in case of injustice done, vindicate the life, person, good name...of every citizen".

In *In Re Haughey* [1971] IR 217 Ó Dálaigh CJ observed that

> "Article 40, s.3 of the Constitution is a guarantee to the citizen of basic fairness of procedures. The Constitution guarantees such fairness, and it is the duty of the Court to underline that the words of Article 40, s. 3, are not political shibboleths but provide a positive protection for the citizen and his good name."

This right, however, is not absolute and must be balanced against other fundamental rights, such as the right to freedom of expression (Article 40.6.1.i) or, indeed, in accordance with the law. Although the publication of the names of tax defaulters adversely impacts the reputation and good name of a person, it is arguable that such a measure could be justified as it serves the public interest by promoting transparency and deterring tax evasion.

Furthermore, the Defamation Act 2009 consolidated various common law principles into a statutory framework and seeks to balance freedom of expression with the protection of reputation.

European Court of Human Rights

In the Case of *L.B. v Hungary* (Application no. 36345/16) the European Court of Huma Rights (ECHR) ruled that the publication of a taxpayer's personal data, including his name and address, on a list of major tax debtors violated their right to respect for private life under Article 8 of the European Convention on Human Rights. It was argued that the "public shaming list was a modern form of pillory, was extremely humiliating and caused huge distress" (para. 61), a view shared, no doubt, by many who have appeared on a tax defaulters' list.

The court found that the publication of personal data constituted an interference with his right to respect for private life under Article 8. While acknowledging the legitimate aims of enhancing tax compliance, the court held that Hungary failed to demonstrate that the impugned provisions struck a fair balance between the competing individual and public interests (para. 139).

In an interview with *The Irish Times* on 16 April 2023 the then Tánaiste, Micheál Martin TD, confirmed that the Government will be studying the ruling to establish if it has implications for Ireland. However, Revenue continues to publish tax defaulters, as the giving effect to the ECHR in our domestic law is subject to the provisions of the Constitution and, therefore, it does not have direct effect (*O'Neill v Revenue* [2024] IEHC 337 at para. 52).

Right of Appeal: Penalty Provisions

The Department of Finance in the "Corporation Tax: Tax Strategy Group (TSG) – 20/03" (September 2020) paper reviewed the right of appeal against a surcharge, noting that it "is a type of penalty that applies where tax returns are not submitted on time. It takes the form of the inclusion of an additional amount (the surcharge) in the tax assessment to which the return relates" (para. 103). The TSG concluded that it was appropriate to ensure that there are sufficient safeguards for the taxpayer to enable a specific right of appeal against the imposition of a surcharge (para. 109) where a return was filed late and where there is a dispute regarding whether a person has deliberately or carelessly delivered an incorrect return of income. Those recommendations were approved by the Oireachtas and implemented by s58(2)(b) Finance Act 2020 through the insertion of sub-section (1A) in s959AF TCA 1997.

As noted above, there is no statutory right to appeal to the Tax Appeals Commission a tax-geared penalty imposed by s1077F TCA 1997. Instead, disputes over penalties leading to the mandatory obligation to publish must be challenged in a court. Court challenges to Revenue's decision to impose a penalty are unfair, particularly where there is a legitimate basis to contest the lawfulness of a penalty that leads to publication. They can also undermine the fairness of the legal process, as individuals may feel pressured to accept penalties without contesting them.

Consequently, the imposition of a severe sanction – publication as a tax defaulter – without adequate safeguards lacks due process and fair procedures and is contrary to the protections guaranteed by the Constitution.

Limited Powers and Functions of a Judicial Nature

The Supreme Court in its judgment in *Zalewski v Workplace Relations Commission* [2021] IESC 24 held that the powers exercised by adjudication officers of the Workplace Relations Commission constituted an administration of justice but were "saved" under the provisions of Article 37 of the Constitution, which permits the performance of "limited functions and powers of a judicial nature" by non-judicial bodies authorised by law. In a significant judgment, with three judges dissenting, the majority ameliorated the previous test for the administration of justice in *McDonald v Bord na gCon* [1965] IR 217 to a more flexible approach, recognising the enormous increase in the administrative work of executive power, thereby permitting the functioning of a modern society[1]. O'Donnell CJ, speaking on behalf of the majority in his consideration of administrative bodies, made six references to Revenue as an indicative body that had decision-making capabilities that "may be of enormous, even ruinous, impact on a person or a company" (para. 114).

Adapting a flexible approach to Article 37 has led to debate among commentators and academics about whether administrative bodies can perform limited judicial functions. It has been argued that the adjudicative role that Revenue performs affects the legal rights and obligations of taxpayers, a characteristic of a judicial function, with a right of appeal ultimately to the courts, thereby ensuring judicial oversight. Furthermore, Revenue's powers are defined and limited by legislation, ensuring that its functions are exercised within the bounds of the law. As confirmed in *Zalewski*, such powers "must comply with the fundamental components of independence, impartiality, dispassionate application of the law, openness, and, above all, fairness, which are understood to be the essence of the administration of justice" (para. 138).

In the absence of any checks or balances permitting a challenge to the imposition of a tax-geared penalty and the associated right to publish as a tax defaulter, the shield of anonymity is lost, as the legitimacy of the penalty must be first contested in open court. Therefore, the process of challenging with a view to avoiding adverse publicity is defeated.

Conclusion

That the "ignominy of being…labelled 'tax dodger', even if incorrectly so, is something that stays with one for life and it is a topic that the media/public are fixated with and would have lasting consequences on my right to earn a living" (*O'Neill v Revenue* [2024], para. 14) resonates with many taxpayers. Although the Revenue-imposed financial penalties are unpalatable for many taxpayers, publication as a tax defaulter is the most severe. The possibility of damage to reputation or brand prompts many taxpayers to settle disputes not only for the financial penalties but many are prepared to pay a premium to avoid publication.

Although taxpayers can feel aggrieved by the severity of Revenue-imposed penalties, the intervention of a court to consider the lawfulness or, indeed, the appropriateness of the sanction is more disconcerting. The public nature of court proceedings also denies taxpayers the ability to remain anonymous, leading to no effective opportunity to contest the legitimacy of Revenue's decision to publish.

It is the author's view that the decision of a Revenue official to impose a penalty that gives rise to publication is an exercise of a judicial function of a limited nature and is a power without appropriate protection for taxpayers. This unfettered power, which lacks fairness, is contrary to the administration of justice as envisaged by O'Donnell CJ in *Zalewski*.

There should be no Constitutional or statutory impediment to prevent the Tax Appeals Commission considering appeals that impose penalties as it can hear appeals relating to the imposition of a penalty surcharge. The Tax Appeals Commission can also summon a witness and impose penalties for failing to attend a

1 Code of Practice for Revenue Compliance Interventions (2022), p. 32.

hearing (s949AU TCA 1997). Penalties can also be imposed for the giving of false evidence (s949AD, Oath, and s1066, Perjury, TCA 1997). In both cases the intervention of a court is required to enforce and collect those penalties.

Furthermore, the recently enacted Competition (Amendment) Act 2022 specifically permits ministerially appointed Adjudication Officers who have been nominated by the Competition and Consumer Protection Commission to conduct hearings, summon witnesses and impose fines, subject to High Court consideration and confirmation. There are also other non-judicial bodies that have the authority to impose fines, such as the Central Bank of Ireland.[2] It is only the enforcement and collection of those penalties that require the intervention of the courts.[3]

Therefore, to overcome the unfairness of challenging Revenue penalties and the associated right to publish before a judge in open court, it is proposed that there should be a right of appeal to the Tax Appeals Commission, whereby the lawfulness and proportionality of a tax-geared penalty and the associated obligation to publish can be considered on a case-by-case basis.

Over time, a body of decisions would become available whereby the principles of negligence/carelessness relating to behaviour considered to be deliberate or having significant consequences will evolve that will be of assistance not only to all taxpayers, tax practitioners and Revenue but also to the Tax Appeals Commission itself. Thereafter a procedure of due process and fair procedures will exist that permits the right to challenge a decision of Revenue to publish a taxpayer as a tax defaulter.

The author wishes to acknowledge the contribution of his colleague Frank O’Neill to the writing of this article.

2 Central Bank Act 1942, s33AQ and s33AW.

3 Barry Doherty, “Are We There Yet? Administrative Financial Sanctions under the Competition (Amendment) Act 2022”, *Irish Journal of European Law*, 25/25 (2023), pp 23–62.

Jonathan Sheahan
Managing Director, Compass Private Wealth

Tax Considerations When Investing in Regulated Securities in Ireland

Introduction

For Irish-resident individual investors there are a range of structural options available when allocating capital to listed investments from a personal taxation perspective. This article discusses the pros and cons of each to assist investors, and their professional advisers, in making the most appropriate decision and is structured as follows:

- structural options when investing,
- tax compliance and reporting,
- seven tax-planning considerations and
- three conclusions.

In my experience the choice of investment strategy is often led by perceived superior returns from one type of investment structure or fund manager. However, when it comes to building a diversified investment portfolio using liquid markets, I have come to the conclusion that no one particular investment structure or management style will outperform any other. As long as the asset allocation percentages are the same, I have not seen any evidence that shows a sustained, consistent outperformance of any type of investment institution or portfolio structure over another. Therefore, for the purposes of this article, I am ignoring performance differences as I believe that these has become homogenised. The article is written primarily from an investment management perspective, with an overlap into tax.

Structural Options

Firstly, let us look at the structural options that an investor has when deploying personal capital to listed, regulated markets. We will look at:

- security types,
- the two distinct tax treatments,
- types of provider and
- choice of service level.

Security types

This article discusses the two main types of securities available to investors when allocating capital to regulated, listed investments:

- individual investment securities (such as shares), subject to capital gains tax (CGT) on disposal and income tax on dividends, and
- open-ended funds, subject to 41% exit tax on gains and income, if the domicile of the fund is Ireland or a "good offshore" jurisdiction.

There are other types of investments, such as "bad offshore" funds and illiquid syndicated property deals, but they will not be covered in this article. Pension funds, approved retirement funds (ARFs) and charity accounts do not incur tax and will not be considered either, nor will corporate entities (e.g. holding companies and investment companies).

Two distinct tax treatments

This article covers two distinct types of tax treatment for listed regulated securities.

Capital gains tax

Investors in CGT-liable securities are subject to CGT on gains and marginal rate income tax on income. The rate of CGT is currently 33%, and the higher rate of income tax is 40% (20% for standard rate taxpayers) plus universal social charge (USC) and PRSI (if relevant). All individual equities and certain investment companies are subject to CGT.

Exit tax

Collective funds, or open-ended funds, are subject to exit tax at 41% chargeable on both income and gains. This 41% rate is currently under review, and it may be reduced in future years.

There is also an eight-year deemed disposal, whereby if the investor does not sell for eight years, there is an obligation to pay 41% tax on the running profit. Investment returns roll up tax-free within the fund until the 41% exit tax event.

These funds may be domestic Irish funds or "good offshore" funds in other jurisdictions. The tax treatment of domestic funds and good offshore funds is generally the same, although there are different reporting and filing requirements, as outlined below. There is no loss relief on these funds, i.e. losses in one fund cannot be offset against gains in another fund.

Summary of differences

	CGT-liable securities	Open-ended funds (including domestic and "good offshore")
Best examples	Shares in publicly listed companies Individual bonds (other than Irish Government bonds)	Domestic insurance company funds Listed Luxembourg SICAV funds
Tax on sale	33%	41%
Tax on income	Marginal rate income tax + USC + PRSI (if applicable)	41% on income
Ongoing taxes?	Income tax is payable on income each year, and CGT on any gains on sales, potentially twice per year. No deemed disposal after eight years if held for eight years.	For accumulating share classes there is no ongoing filing requirement. Investors are deemed to have sold their interest each eight years and pay 41% tax on the profit.
Tax on purchase/ entry	There may be stamp duty on individual stocks, e.g. stamp duty of 1% and 0.5% applies to the purchase of individual Irish and UK shares, respectively.	There is a 1% Government levy on any investment in a domestic life company fund. Investing directly in a non-life company fund in Ireland does not incur any initial taxes.

Types of provider

"Provider" in this article refers simply to the investment company/fund manager/insurance company through which the investor purchases an investment security. It does not refer to an intermediary advisory firm. We will consider two main types of provider:

- a stockbroking firm, which provides an open architecture and can facilitate the purchase of any type of security; and
- a life company or direct fund manager that is located and regulated in Ireland.

(There are other types of providers in Ireland and overseas, but for the purpose of this paper we will focus only on the above two.) The choice between investing via a stockbroking firm or via a fund manager/life company has never been clear-cut, as there are a number of factors that will determine the best option.

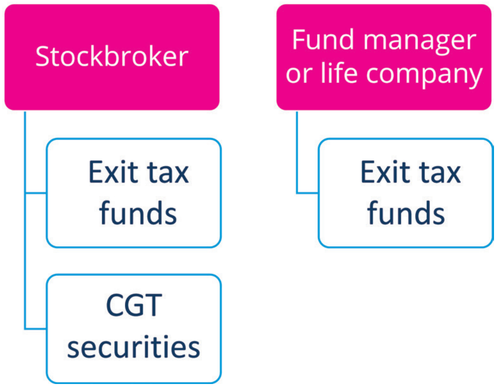
Stockbrokers

Stockbroking accounts offer platform-type access to a range of investment securities. Therefore, any type of investment security can generally be purchased on a stockbroking platform, i.e. either open-ended funds or individual companies.

Life company/direct fund manager

With this structure, generally only open-ended funds, subject to 41% exit tax, can be purchased. Some life companies provide the facility to trade in CGT-liable securities (such as shares) within an umbrella policy, but we will ignore this for the purpose of this article as it is not common.

Summary snapshot



Choice of service level

Investors have a choice of service levels, regardless of the types of securities they purchase and the type of provider they use. There are three distinct types of services:

- discretionary,
- advisory and
- execution-only.

Stockbrokers offer all three types of service. The most common actively managed stockbroking portfolio nowadays is within a discretionary model, whereby the investment firm picks each individual security in the portfolio without having to consult the client every time.

Advisory is less common nowadays owing to increased regulation. However, an investor can choose advisory or execution-only if they wish to have more hands-on involvement.

Investing directly in funds is generally done on an execution-only basis (with the fund manager) but potentially on an advisory basis with an intermediary firm.

Tax Compliance and Reporting

We will now touch on the ongoing tax filing requirements for investors across the various structures they choose, but please note that this is for guidance only.

Generally, running complex investment portfolios via a stockbroker, with a mix of different security types and with significant changes on an ongoing basis, can be highly complex. The direct fund route is far simpler and more straightforward for investors in terms of tax filing. The activity in the "umbrella" fund is not taxable for the individual investor, so the level of ongoing filing and returns is significantly less.

Disclosing purchases

Stockbroking platform

All purchases of offshore funds must be disclosed in your annual tax return. Investors must enter the name of the fund, the purchase value and date, and the address of where the fund is domiciled, e.g. Luxembourg. This information can be very hard to acquire, and stockbroking firms do not always provide it in a timely manner.

When purchasing individual shares, the investor must disclose the total value of shares bought each year in the chargeable assets section of the ROS form(s). It is easier than disclosing funds, but the data still needs to be entered.

Fund manager and life company

There is no need for clients to file a return for purchasing Irish funds or investing in life company policies.

Paying the tax on income received

Stockbroker – income received

With a stockbroking firm, tax must be paid by the investor each year on all income received under self-assessment. There are different types of income, as individual equities and bonds will pay dividends and coupons, respectively (subject to marginal rate income tax), and funds will pay distributions, which are subject to 41% tax.

Dividend withholding tax (DWT) is withheld on a number of international equities, and often this may only be partly offset against Irish income tax.

Certain stockbrokers may provide a summarised tax statement for investors to assist them and their accountant/tax adviser in compiling the return, but the quality of these documents can vary.

It can be very difficult to ascertain exactly what tax is payable as it will depend on whether the income came from an individual equity or a fund.

Direct fund manager: income received

When income is received from an investment policy with an insurance company and certain domestic fund managers, 41% exit tax may be deducted at source on the proportional profit. This is significantly more straightforward for the investor.

Some fund managers do not deduct that tax at source, and investors must self-assess and include details in their personal tax return.

In my experience, because of the gross-roll-up nature of funds, most investors choose not to take income by investing in an accumulation share class.

Paying the tax on gains

Stockbroker gains on CGT securities

With any investment security subject to CGT, 33% tax must be paid on any gains, unless, of course, the investor has CGT losses to use against the gains. CGT returns must be filed twice per year:

- 15 December for gains made from 1 January to 30 November and
- 31 January for gains made in the month of December.

Note that if an investor has more than one stockbroker portfolio containing similar types of shares, this can complicate the CGT filing. Revenue does not distinguish between platforms, so one must be careful to ensure that the same share is not traded on more than one platform, as it distorts the "first in, first out" CGT filing system.

Stockbroker gains on non-CGT securities

When a stockbroking portfolio contains any security that is not subject to CGT, the 41% tax on profits from a sale must be paid by the investor under self-assessment. Furthermore, even if the investor does not sell the offshore fund after eight years, they must manually calculate the eight-year gain and self-assess for the return.

This is extremely onerous, as individual investors and/or their agents need to be 100% clear on:

- identifying the investment security as an offshore fund,
- knowing the year of purchase,
- calculating the exact profit and
- filling the return on ROS.

In terms of the eight-year deemed disposal rule, in our experience stockbrokers may not have the systems and processes in place to notify clients automatically that they have had their eight years of ownership and that tax is due to be paid on the profit.

It is incumbent on the investor to "self-assess" for the 41% tax after eight years. This is a huge burden and responsibility on the client and their tax adviser.

Life company/fund manager – gains on profits

With an insurance company and most domestic fund managers the prevailing rate of exit tax (41%) is deducted at source on sale or after eight years. This saves the investor from having to file the return themselves. It is a very simple calculation, as there is generally one entry point and one exit point.

In other cases, and with some fund direct fund investments, it is up to the investor to self-assess and pay the tax after eight years.

Tax- Considerations

Below are a range of factors that need to be taken into account by investors when choosing a structure.

Offsetting losses against gains

One main perceived advantage of a pure CGT portfolio is that crystallised losses from any CGT-liable security can be offset against gains on CGT assets. So, even though nobody likes to have lost money on an investment, having a CGT loss carried forward is a useful "asset", and this CGT loss can be shared between married couples.

Be aware that, with discretionary CGT portfolios, investors often go down this route as they believe that they will have the unfettered freedom to crystallise losses by selling certain shares at various times. However, in our experience, this needs to be explicitly agreed with the stockbroker before setting up the account, as the stockbroker may not be in a position to crystallise losses for just one investor. This is because many CGT portfolios are run on a fixed-model basis by stockbrokers and because the service level is discretionary (rather than advisory) and therefore there may be compliance issues with accepting investor instructions.

One must also be mindful that, in a discretionary stockbroking portfolio, for it to have CGT assets only, the portfolio would have to be populated only with equities and property assets, and therefore it may be higher risk than what the investor wants.

With funds, either domestic funds or offshore funds, losses in one fund structure cannot be offset against gains in another fund structure. This is a big, obvious disadvantage of buying a series of individual funds on a platform.

However, many fund managers (such as life companies) offer an umbrella structure, where one can invest in a number of different funds within that umbrella structure and the losses and gains in that account/policy can be offset against each other, as the investor is taxed only at the umbrella policy level.

US federal estate tax

On the death of the investor who held US equities, there may be a 40% US federal estate tax on the value of US-listed shares above USD 60,000. As the US stock market accounts for more than 65% of the MSCI World Index of developed markets, it is inevitable that diversified stockbroking portfolios managed in Ireland will have a significant exposure to US-domiciled securities. The risk of federal estate tax s a relevant consideration where a portfolio of shares is held through a stockbroker.

Fees and charges

Stockbroking firms may add an another "layer" of fees on to a portfolio. This is discussed in more detail in the Conclusion section, below.

With direct fund investments, investors buy in to the euro share class directly and benefit from economies of scale in terms of the transactional charges within the fund.

Investment portfolios via a stockbroker are held on an individual account basis and can be subject to more costs, such as:

- foreign exchange costs – one can expect the majority of the holdings to be in a non-euro currency (e.g. US dollar), and this brings an additional cost when buying and selling non-euro securities; and
- transaction costs and commissions on purchases.

Investing in bonds

Although individual equities can easily be purchased in a CGT-liable manner by simply buying shares directly through a stockbroking platform, it is not as straightforward with bonds.

Given the nature of bonds as an asset class, most will agree that when allocating capital to bonds it is far more efficient to do so in a collective fund, rather than by buying a series of individual government or corporate bonds.

Therefore, a CGT portfolio may be suitable only for equities and property-type securities.

How big a deal is the eight-year deemed encashment for funds?

Many people believe that the eight-year deemed encashment is a big issue. Ideally, it would not exist; however, investors need to remember the following:

- The alternative is to invest in CGT-liable securities. However, the vast majority of shares will pay dividends every year, and income tax at the marginal rate (including PRSI and USC) must be paid on these dividends annually. This is obviously a tax cost and a compliance cost each year to the investor.
- Funds subject to the eight-year deemed disposal rule are subject to the "gross roll-up" system for the eight-year period, and taxes do not have to be filed and paid annually.
- Rarely would I see shares in a portfolio being held for more than eight years with no sales. Discretionary portfolio managers, by their nature, will have activity and will be buying and selling on an ongoing basis.

Tax deductibility of fees

In my experience, when discussions are had about the tax-efficiency of investment portfolios, the tax-efficiency of fees is rarely discussed, and this is extremely important. First, let me set out the main fees that an investor may be subject to in any one of the structures or services:

- annual management fees to a stockbroker – these are professional fees and are subject to 23% VAT,
- the internal management fee of the collective funds,
- commissions on buying and selling securities,
- foreign exchange charges and
- other transactional costs.

Stockbroker fees: not tax-deductible, and VATable

Generally, the annual management fee that a stockbroker charges has two key disadvantages:

- it is not tax-deductible by the investor and
- VAT of 23% may be levied on it, which is irrecoverable for individual, non-business investors.

When an investor is directly invested in a life company policy or in a direct fund, the annual fees will come out of the policy/fund at source. Therefore, these fees are tax-deductible in that they reduce the future 41% due on gains. Furthermore, VAT is not chargeable on annual fees within a life company policy or a fund. Because of the tax-deductibility of the annual fees for a policy/fund and because they are not subject to VAT, there is a huge tax advantage. Therefore, in terms of incurring fees, it is far more tax-efficient for an investor to invest directly in a fund, rather than be advised by a stockbroker at a portfolio level.

Commissions: bad reputation but more tax efficient

Commissions incurred by an investor have a negative connotation. However, purely from a tax perspective, they are a tax-efficient way of incurring fees:

- Commissions are not subject to VAT.
- Commissions on purchasing a security add to the "base cost" for future tax on profit calculations.
- Commissions on selling a security come off the sales value for calculating gains.

This is not to say that investors should be actively looking to pay more fees by incurring commissions, but it is, nevertheless, worth pointing out that this should be considered in the context of tax-efficient investments.

Hassle and cost of ongoing tax filing

For investors who already complete detailed tax returns (directly or via their accountant) and are confident in, and familiar with, tax filing, the open-architecture investment portfolio with a stockbroker may be absolutely fine, as the incremental cost and time of filing returns on an investment portfolio may not be huge.

However, for somebody who does not complete tax returns on an ongoing basis and/or does not have an accountant to file them, the direct fund structure is far simpler and would save significant amounts of tax compliance fees on an annual basis.

Tax on death

Investors need to be mindful of how assets are taxed on their death. In relation to any asset that is subject to CGT, there is no CGT tax charge on death. The proceeds are, however, subject to capital acquisitions tax (CAT) at the prevailing rates, unless, of course, the assets are inherited by the surviving spouse/civil partner.

In relation to exit tax funds, there is a 41% tax chargeable on the market value of the assets above the initial base cost, taking allowance/credit for any previous eight-year tax that would have been paid. There is, however, a credit for this 41% tax against any CAT suffered by the beneficiary. Tax planning is important here to avoid double taxation.

Conclusions: What's Right for the Investor?

Direct umbrella fund investment is the most tax efficient for a diversified portfolio

In the vast majority of cases investing directly in a fund structure is, in my opinion, the most tax-efficient way to invest funds in the market. The main reason for this is the tax-deductibility of fees within the fund structure and the fact that they are not subject to VAT. Let us assume that a stockbroker and a direct fund both charge 1.00% p.a. as a headline rate:

- There is 23% VAT on the stockbroking annual fee.
- The 1% p.a. fee paid to the fund is tax-deductible as it is incurred within the fund, whereas the 1.23% paid to the stockbroker is a non-tax-deductible cost.

There is an obvious, huge disparity between these two fee structures.

Furthermore, there is a cost saving from not having to file returns up to three times per year.

Even though the 41% tax rate is higher than 33% CGT, it is often lower than the inevitable income tax rate on dividends.

As outlined in this article, the eight-year deemed disposal is not as much of an issue as one may not hold shares for more than eight years anyway.

The pros and cons of a CGT portfolio

Having significant CGT losses carried forward may lend itself to setting up an investment portfolio of CGT-liable securities. However, be mindful of the following:

- The portfolio will generally be **limited to equities and listed property REITS**. Getting exposure to bonds and alternatives is difficult in a CGT-liable manner, as stockbrokers prefer to buy collective bond funds, which are subject to 41% exit tax. A mixed portfolio of CGT-liable assets and 41% funds can cause confusion.
- Investors need to be aware of the **tax implications of having more than $60,000 in US securities**. On death, the US Government is entitled to withhold 40% tax on the value of any listed, US-domiciled shares over $60,000.
- If you are engaging a stockbroker to manage a CGT-liable portfolio, you need to be **100% crystal-clear of the tax mandate and that only CGT-securities can be purchased**. There are a number of investment securities that may not be clearly defined as CGT or exit tax in the stockbroker reports, so you will want to avoid those types of securities to minimise uncertainty. As noted above, generally only riskier asset classes such as equities and property are subject to CGT, so for portfolio diversification a discretionary manager may have collective funds (e.g. for bonds) within the account. This is dangerous as it distorts reporting and creates uncertainty.
- You should ensure that you are **not committed to a rigid "CGT model"** whereby you are effectively being treated the same as every other investor in the model. You would want to have the flexibility each year to sell some shares (e.g. to crystallise a CGT loss), but sometimes a centralised CGT model will not accommodate bespoke requests such as that.

- As touched on in this article, **the annual management fee and the VAT on it are not tax-deductible,** which is a huge and underrated disadvantage to this type of model.
- If one buys shares directly on an execution-only basis, it can actually be very tax-efficient if the costs incurred are limited to commission on purchase and sale. As noted above, commissions are not subject to VAT, and they increase the base cost and reduce the sales proceeds for CGT purposes. However, one has to be mindful that there may be no professional investment advice and a lack of portfolio diversification if an investor is picking their own stocks.

What is the most tax-inefficient portfolio?

Actively managed **stockbroking portfolios, with a mix of collective funds, ETFs and shares, are by far the most tax-inefficient investment account** for an investor for the following reasons:

- **Two layers of fees**: With this model, investors pay a stockbroker one layer of annual fees and a second layer of annual fees for any collective funds. Although this is not a tax issue, as such, it merits being pointed out.
- As mentioned above, the **VAT on the stockbroker annual management fee is not tax-deductible**, making it 23% more expensive than paying a fund directly. Furthermore, the **annual management fee is not tax-deductible**, unlike the internal management fee of a fund, which, by its nature, is tax-deductible in that it reduces the future 41% exit tax.
- From a tax filing perspective, **investors potentially have to file three times per year**, i.e. CGT in December, CGT in January and income tax.
- A consolidated tax report from a stockbroker with numerous different types of securities can be mind-boggling and confusing, even for accountants filing the returns.

Disclaimer: Please note that Compass Private Wealth does not advise on taxation. This document is for guidance purposes only and cannot be relied on as financial or tax advice. Errors and omissions excepted. This article ignores a significant amount of investment structures and tax treatments and is intended for general reading only.

Tara Duggan
Tax Technical Author, Irish Tax Institute

Breaking Ground on Principal Private Residence Relief: Irish Implications of *HMRC v G Lee and another*

Introduction

In *HMRC v G Lee and another* [2023] UKUT 242 (TCC) ("the *Lee* case") the provisions of the UK equivalent of s604 TCA 1997 (s222 Taxation of Capital Gains Act 1992) were considered by the Upper Tribunal in the context of residential land undergoing redevelopment. The facts relate to a house that has been lived in since completion of construction but where the land on which the house was built has been owned for longer than the existence of that house. The interpretation adopted by the Upper Tribunal (upholding the decision of the First-tier Tribunal in *G Lee and anor v HMRC* [2022] UKFTT 175 (TC)) suggests a different approach from Irish Revenue's published guidance on the topic. (The Upper Tribunal decision was also considered by Stephen Ruane and Patrick Lawless in "Direct Cases: Decisions from the UK and European Courts", *Irish Tax Review*, Issue No. 4, 2023).

Irish Legislation

The relief available on the disposal of a principal private residence (PPR) is set out in s604(2) TCA 1997:

> *"This section shall apply to a gain accruing to an individual on the disposal of or of an interest in –*
> *(a) a dwelling house which is or has been occupied by the individual as his or her only or main residence, or*
> *(b) land which the individual has for his or her own occupation and enjoyment with that residence as its garden or grounds up to an area (exclusive of the site of the dwelling house) not exceeding one acre;*
> *but, where part of the land occupied with a residence is and part is not within this subsection, then, that part shall be taken to be within this subsection which, if the remainder were separately occupied, would be the most suitable for occupation and enjoyment with the residence."*

This section firmly limits the availability of PPR relief to situations involving a dwelling house, and further references in the section relate, as you would expect, to the dwelling house.

Section 604(3) TCA 1997 outlines the relief:

> *"The gain shall not be a chargeable gain if the dwelling house or the part of a dwelling house has been occupied by the individual as his or her only or main residence throughout the period of ownership or throughout the period of ownership except for all or any part of the last 12 months of that period."*

Under s604(4) TCA 1997 the rules are detailed for relief where the dwelling house was not occupied as a principal private residence throughout the period of ownership. It provides that pro rata relief will apply. The exempt part of the gain is the proportion that the period of occupation (during the period of ownership) bears to the period of ownership, represented as follows:

$$\text{Gain} \times \frac{\text{The length of time the dwelling house was occupied as a main residence}}{\text{The length of the period of ownership}} = \text{Exempt gain}$$

Both s604(3) and s604(4) TCA 1997 refer to "the period of ownership", but the term is not defined. Revenue's view on the interpretation of this phrase is set out below, followed by an analysis of the Upper Tribunal's interpretation in the *Lee* case and a consideration of the possible impact of those findings in an Irish context.

Revenue Tax and Duty Manual

Revenue's Tax and Duty Manual (TDM) Part 19-07-03, paragraph 3.9, sets out guidance on situations where land is acquired for building a PPR (the TDM was last reviewed in August 2020 is stated to be currently subject to review so may not reflect the up-to-date position). It notes that where an individual acquires land and has a house built on it, if the house is completed within a year of the date of acquisition and occupied as his or her only main residence on completion, the period from the date of the acquisition of the land to the physical occupation of the house may be regarded as part of the period of occupation as main residence for exemption purposes.

It goes on to state that where the interval between the acquisition of the land and the occupation of the house exceeds the limit of 12 months, a prescribed computation method is provided to apportion the gain between the land and house by reference to their respective acquisition costs. This method is illustrated by the following example (TDM Part 19-07-03, paragraph 3.25, example 8):

> In June 2000, an individual bought a piece of freehold land of less than one acre for €200,000. In June 2003, construction begins thereon of a house for the landowner's occupation. This is completed at a cost of €240,000 and occupied in

June 2004. The house and the land are sold in June 2019, for €1,000,000 and as the house is the owner's main residence from June 2004, the whole of the gain on the house itself is exempt. The chargeable gain on the land is calculated as follows:

		€	€
Proceeds			1,000,000
Cost of land	€200,000 x 1.144 =	228,800	
Cost of house (Building started 2003, no indexation applies)		240,000	468,800
Gain			531,200
Gain apportioned to land	€228,800 x €531,200 = €468,800		259,254
Period of ownership, since start of construction of house	June '03 to June '19 =		16 years
Period of ownership of land	June '00 to June '19 =		19 years
The result is:			
Gain			259,254
Exempt fraction	€259,254 x 16 = 19		218,319
Chargeable gain			40,935

The TDM suggests that this method has the effect of charging the pre-construction gain on the land only.

It seems clear that Revenue's interpretation of "the period of ownership" refers to the acquisition of the underlying land rather than the dwelling house constructed on the land. Revenue's TDM perhaps gives an implicit acknowledgement that this reading of the legislation does not align with the purpose of the relief in practical situations where land is acquired to construct a house. To reflect fully the intended purpose of the relief Revenue applies concessionary treatment to their interpretation of the legislative provisions. If an interpretation of the legislation congruent with the purpose of the relief is applied, as suggested below, then no such concessionary treatment is required.

The Lee Case

The facts of the *Lee* case are that Gerald Lee and Sarah Lee ("the appellants") jointly purchased 8 Nuns Walk, comprising a residential property and land, for £1.679m in October 2010. Between October 2010 and March 2013 the original property was demolished and a replacement house was constructed. The appellants occupied the new house from March 2013 until May 2014, when it was sold for £5.995m.

The appellants filed their tax returns on the basis that the whole of the gain was covered by PPR relief by reference to "the period of ownership" commencing at the time the newly constructed dwelling was completed, in March 2013. HMRC challenged the calculation, contending that "the period of ownership" referred to the period of ownership of the underlying land, commencing on the date of acquisition in October 2010.

The First-tier Tribunal determined, and the Upper Tribunal upheld, that the appellants' interpretation was correct. Given the surrounding statutory context, "the period of ownership" could relate only to the ownership of the dwelling house, as there was no concept of ownership of anything else in the statutory provision. The positions put forward by both parties to the appeal are set out below.

Building cannot be a separate asset to land

HMRC submitted that because ownership of "land" includes buildings thereon, it is not possible to isolate ownership of the building (the dwelling house) from ownership of the underlying land on which it stands. As the land and buildings are a single asset, the period of ownership relates to the date of acquisition of the land. The asset was the land, and the dwelling house simply qualified, or partly qualified, the land asset being disposed of for relief.

In support of their position HMRC cited the decision in *Henke v Revenue & Customs Commissioners* [2006] STC (SCD) 561, where the Special Commissioners found, in a similar case, that the "period of ownership" indeed started when the land was purchased. This decision was based on the fact that a single asset was owned throughout the period and that it would be an anomaly and contrary to the wishes of Parliament to allow full relief on the whole asset based on living in a dwelling house for only part of the period of ownership of the land.

The appellants argued that the asset was the dwelling house and it existed only once construction was complete. They referred to the decision in *Higgins v HMRC* [2019] EWCA Civ. 1860, where Mr Higgins had exchanged contracts "off plan" for the purchase of an apartment in a tower block. When contracts were exchanged in 2006 the apartment was just a space in a tower, and it did not come into existence until late 2009 on completion. The Court of Appeal determined that "period of ownership" began on completion, not on exchange, as it was hard to see how "period of ownership" could arise before late 2009, when the apartment came into existence. However, the Court of Appeal distinguished the situation from where a plot of land is purchased on which a house will be built because the plot of land will already exist. The appellant suggested that this decision lends support to the argument that "period of ownership" is unlikely to start before the asset in question exists, notwithstanding the differentiation between land and space in a tower.

The Upper Tribunal determined that the appellants' interpretation did not involve separate interests in the land and the dwelling house and that this is not what the PPR provision entails. The fact that the definition of "land" includes a dwelling house on that land does not operate in reverse to mean that "dwelling house" should be read to include land. An interest in a dwelling house includes the ground on which it stands; however, there can be an interest in a dwelling house only when a dwelling house exists. Consequently, the period of ownership refers to the period of ownership of the dwelling house.

One asset

HMRC outlined that one asset was bought and the same asset was sold. The allowable expenditure includes the cost of acquisition of the land, with enhancement expenditure for the cost of construction of the dwelling house. The natural reading of the legislation in these circumstances is that "period of ownership" refers to the period of ownership of that one asset. The UK equivalent of s604(1)(a) TCA 1997 was referenced, which deals with where the individual has had different interests in the property at different times; however, the Upper Tribunal determined that this was of relevance only where, for example, leasehold and freehold interests were owned at different times.

The appellants pointed to other examples where conditions have been satisfied for a short period of time to effect the whole of the gain on an asset, even if the period of ownership was longer than the period of time for which the conditions have been satisfied – for example, retirement relief, revised entrepreneur relief and s626B TCA 1997 in an Irish context.

The Upper Tribunal decided that PPR relief operates separately to the legislation that governs calculation of the gain and that it is conceptually possible to operate the legislation as suggested by the appellants.

Purpose of the relief

Both parties suggested that their reading of the legislation is what Parliament had intended.

The appellants said that the purpose is to enable the proceeds of the sale of a residence to be invested in a new residence. They submitted that this purpose is better achieved by their interpretation because in the case where land is owned without a property on it, and does not appreciate in value, and a house is then built on it, which results in a gain, there is no logic in reducing the exempt amount of the gain simply because the land has been owned for a period of time before the was built.

HMRC argued that the appellants' interpretation could give rise to consequences unintended by the legislature, whereby, for example, an inexpensive shack is constructed on valuable land and occupied briefly before sale. The Upper Tribunal rejected HMRC's reasoning and decided that the suggested tax-avoidance schemes were not sufficient to constrain the natural meaning of the legislation.

HMRC submitted that the purpose of the legislation is to avoid double relief, so that someone cannot have PPR relief more than once in the same period, and to avoid PPR relief's accruing in relation to a period of gain that preceded the building of the house that was lived in.

The Upper Tribunal considered that the facts of this case were unlikely to have been considered when the legislation was drafted. However, it was decided that on a straightforward textual analysis the appellants' interpretation is the correct one. It was noted by the Upper Tribunal that the appellants' interpretation did not produce absurd or anomalous results and it allows the relief to capture the commonly arising situation where the dwelling house is not occupied by a taxpayer for the entire duration of its ownership.

The appellants were successful in calculating the chargeable gain based on "the period of ownership" being the length of time of the house's existence and the total length of occupation being the same (all but for four days).

Impact of the Lee Case in an Irish Context

Principal private residence relief applies to the length of time for which the dwelling house was occupied as a main residence proportional to the length of time of ownership. As outlined above, there is no definition of "the period of ownership" in s604 TCA 1997.

Before we consider the potential application of the *Lee* case, it is useful to touch briefly on the Irish approach to statutory construction of tax provisions, as these rules provide the context in which the meaning of the term will be determined by an Irish court.[1] First, if the words of the statutory provision are plain and their meaning is self-evident, then, save for compelling reasons to be found within the act as a whole, the ordinary, basic and natural meaning of the words should prevail. Second, context is critical, both immediate and proximate, within the Act as a whole and, in some circumstances, perhaps even further than that. However, the words used in the statute have primacy, and even plain words should not be divorced from the context in which they are used.

It seems settled that the expression "the period of ownership" should take its normal meaning and that normal meaning is to be gleaned from the proximate sections. The ordinary meaning of "the period of ownership" is the period of time for which the taxpayer has owned the asset, and the asset considered by s604 TCA 1997 is a dwelling house. Would it strain the meaning of asset beyond its use in the provision to consider that asset refers

1 The relevant principles are summarised in *Perrigo Pharma International DAC v McNamara and Ors* [2020] IEHC 552 at paragraph 74, as described by McKechnie J in the Supreme Court in *Dunnes Stores v The Revenue Commissioners* [2019] IESC 50 at paragraphs 63 to 72 and affirmed in *Bookfinders v The Revenue Commissioners* [2020] IESC 60. Also, *Heather Hill Management Company CLG v An Bord Pleanála* [2022] IEHC 43; [2022] ILRM 313 at paragraphs 115–116.

to land and not the dwelling house? The UK Upper Tribunal in *Lee* felt that it would and that "the period of ownership" should not include anything other than the period of ownership of the house disposed of.

Although "the period of ownership" is not a defined term in s604 TCA 1997, one special circumstance for determining "the period of ownership" is considered in s604(1)(a) TCA 1997. This applies where the taxpayer has had different interests in the property at different times. The section outlines that, in such circumstances, the period of ownership is deemed to commence from the date of acquisition of an interest, which acquisition gives rise to expenditure's being deductible in a CGT computation. This deals with the situation where a person has successive interests – for example, a leasehold interest and then a freehold interest – but it does not provide any assistance in interpreting "the period of ownership".

The provisions of s604(3) and s604(4) TCA 1997 firmly link the PPR exemption to situations involving a dwelling house, and further references in the proximate sections of s604 TCA 1997 relate, as you would expect, to the dwelling house. Land is referenced in the section only in the context of occupation and enjoyment of the dwelling house. Although the asset disposed of is the land, relief is available on a dwelling house.

Conclusion

If the plain meaning and the legislative context outlined above are taken into account, it is suggested that "the period of ownership" in s604 TCA 1997 relates to the dwelling house and not to the underlying land. So long as the conditions of s604 TCA 1997 are met, the relief applies to the gain, notwithstanding the fact that the economic gain may have arisen when the conditions were not met, i.e. before the construction of the dwelling house.

This does not align with Revenue's interpretation in its Tax and Duty Manual; however, if an Irish court were to be persuaded by this approach, then it is not possible to own a dwelling house that does not exist. Accordingly, the period of ownership would relate solely to the period since the dwelling house was constructed and not to when the land was acquired, so it must commence on the date of completion of the dwelling house. Until the provision has been interpreted by the Irish courts, Revenue's published guidance interprets "the period of ownership" as the date of acquisition of the underlying land rather than the dwelling house constructed thereon.

News & Moves

Claire Davey appointed as Partner of Employment Tax Advisory Services at Crowe

Crowe Ireland has announced the appointment of **Claire Davey** (CTA) as Partner to lead its Employment Tax Advisory Services, encompassing employment tax, global mobility and reward services.

With over 20 years of experience, Davey brings deep technical expertise and a strong track record of delivering complex tax solutions for clients across all sectors. She specialises in complex employment tax matters, global mobility solutions, and innovative reward structures. She has extensive experience working with multinational corporations, indigenous Irish businesses and public sector organisations. Claire is a Fellow of Chartered Accountants Ireland and a Chartered Tax Adviser.

Rachel Murphy Promoted to Tax Partner at Dains Ireland

Dublin, Ireland – Dains Ireland is pleased to announce the promotion of **Rachel Murphy** (CTA) to Tax Partner, recognising her outstanding contribution to the firm and her unwavering commitment to delivering insightful, client-focused tax advice.

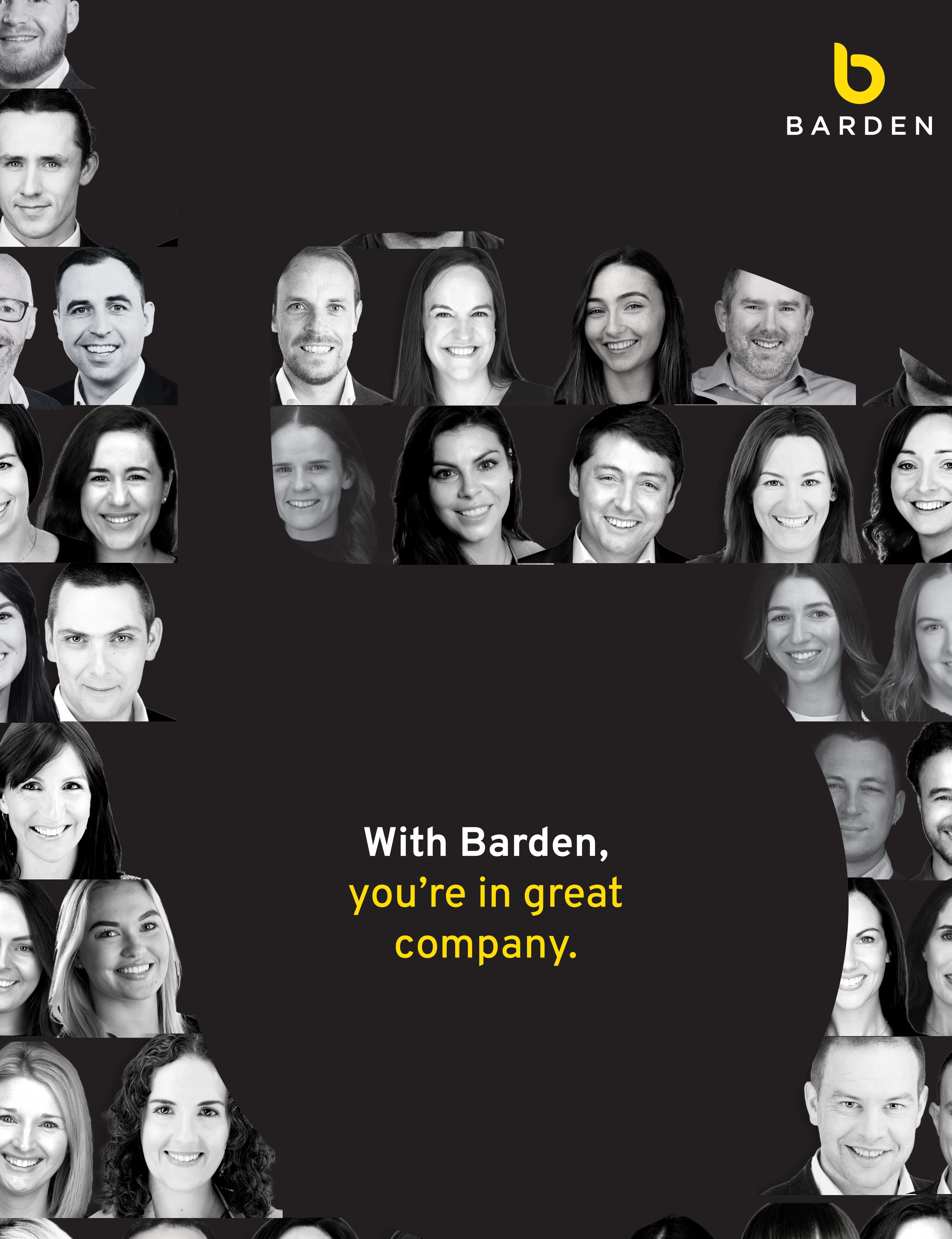
Since joining the firm five years ago, Rachel has played a key role in strengthening Dains Ireland's tax advisory offering. She is widely respected for her commercial acumen, technical expertise and ability to build trusted, long-term relationships with clients, supporting them through complex challenges with clarity, care and confidence. Rachel is a Fellow of the Institute of Chartered Accountants in Ireland and is a Chartered Tax Adviser.

Her promotion follows the firm's recent rebrand from McInerney Saunders to Dains Ireland in early 2025, building on two years of successful collaboration within the Dains Group. The rebrand reflects the firm's continued growth and alignment with a broader network of expertise across the UK and Ireland.

McKeogh Gallagher Ryan, a Xeinadin Company, is delighted to announce the promotion of Anne Hogan to Partner

Anne Hogan (CTA) is originally from Ruan now living in Kilkishen, Co Clare. She is a First-Class Honours Law and Accounting graduate from the University of Limerick, a Chartered Tax Adviser and a Chartered Accountant. She has been with the firm since it was established in 2012.

Anne has over 25 years' experience working in taxation. She is an excellent generalist with expertise across all tax heads but has deep specialisms in succession planning, mergers and acquisitions and property transactions. She is the firm's Subject Matter Expert in the area of EIIS investment with over 15 years' experience in both structuring and fundraising in this technically complex area.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