



Ireland launches public consultation on updating domestic transfer pricing regime

Global Transfer Pricing Alert 2019-005

The Irish Department of Finance on 18 February launched a [public consultation](#) in advance of potential amendments to Ireland's transfer pricing regime from 2020. The consultation follows the Corporation Tax Roadmap issued in October 2018, which acknowledged the need to update Ireland's domestic transfer pricing regime to align with the most recent OECD guidance and practice.

Public Consultation Details

The consultation period runs from 18 February 2019 to 2 April 2019 and interested parties are invited to respond to specific questions raised in the public consultation document pertaining to certain areas that may be legislated for later in this calendar year.

Feedback is requested on a number of areas involving the transition of the current domestic transfer pricing law to align to the 2017 OECD Transfer Pricing Guidelines, including:

- 1.** Incorporation of the OECD 2017 transfer pricing guidelines into Irish legislation – what issues arise from adopting the latest guidelines into law?
- 2.** Removal of grandfathering arrangements – issues that may arise from the removal of the current exemption of certain pre-July 2010 transactions from the scope of the arm's length principle from 1 January 2020.

3. Extending transfer pricing rules to small and medium-sized (SME) groups – specific issues that arise for that category of taxpayers if the current exemption is removed from 1 January 2020, including the level of documentation that should be maintained by such groups and measures that can be taken to mitigate the compliance burden of SMEs.

4. Extending transfer pricing rules to non-trading transactions – specific issues that arise from the extension of transfer pricing rules to non-trading income and how such matters can be resolved.

5. Extending transfer pricing rules to capital transactions – consideration whether the current market value rules in place are sufficient and, on that basis, whether there is a requirement to extend transfer pricing rules to such transactions.

6. Transfer pricing documentation – issues that arise from the introduction of the two-tier master file/local file documentation package from 1 January 2020, and whether there are any circumstances in which reduced documentation requirements could apply.

7. Transfer pricing rules and Irish branches – areas for consideration arising from the potential introduction of the OECD Authorised Approach (AOA) to attribute profits to Irish branches, including what documentation requirements should apply, any alternative approaches that may apply, and industry-specific considerations that need to be borne in mind, such as those in the financial sector.

For a more detailed discussion of the corporate tax roadmap, see our [Global Transfer Pricing Alert 2018-027](#).

Comments

The public consultation document indicates that the likely commencement date of the proposed changes to most of the areas would be 1 January 2020. Interestingly, the document does not explicitly specify a commencement date for some areas, such as the extension of transfer pricing rules to non-trading and capital transactions, and inclusion of the AOA into domestic law.

Over the coming months and in advance of the Autumn 2019 Finance Bill, we are likely to get more clarity with regard to the changes in law envisaged. Due to the short time frame to implementation of the proposed changes into domestic law, taxpayers should prioritize a review of their current operating models and transfer pricing policies to ascertain if they are sufficiently robust and take any necessary remedial actions as soon as possible.

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