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Pre-Budget perspectives 2020.
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Introduction

The Irish economy is expected to continue to record strong growth in 2019 and into 2020. The European Commission in its 2019 Summer Economic Statement has forecasted growth in all Member States' economies this year and next but growth will be significantly stronger in some areas (e.g. Central and Eastern Europe, Malta, and Ireland) than in others (e.g. Italy and Germany). The economic forecast released for Ireland on 10 July 2019 notes that Ireland's domestic economy maintained its momentum in the first half of 2019, with unemployment levels falling to 5% in Q1, a level last seen in pre-recession figures.

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The Commission predicts Irish GDP growth at 6.7% in 2018, declining to 4% and 3.4% in 2019 and 2020 respectively. Against the backdrop of this forecast outlined by the Commission, the Summer Economic Statement outlines a number of key risks with respect to 2019 and future performance. In particular, Ireland's trade and investment figures remain volatile and heavily influenced by the activities of multinationals. The high share of pharmaceuticals and ICT services makes Irish exports less sensitive to changes in overall global demand. Nevertheless, the positive net export contribution to GDP growth is forecast to decrease over the forecast horizon in line with the expected weakening of external demand in key export markets.

The economic outlook remains clouded by uncertainty, particularly relating to the terms of the UK's withdrawal from the EU and changes in the international taxation environment. In the absence of major negative external shocks, the risk of overheating could increase in the near term. The tight labour market and diminishing spare capacity point to an economy possibly operating above its potential. The use of volatile and potentially short-lived foreign-company sourced corporation tax receipts to stimulate domestic demand would also fuel overheating.

Current domestic climate

Similarly, the Irish Government's Summer Economic Statement, released in June 2019, is reflective of both the positive economic outlook for the near term and also the key challenges likely to be faced by a no deal Brexit, a risk of overheating in the domestic economy, deterioration in international trade policy and vulnerabilities in the corporate tax revenue.

Budget 2020 will therefore likely focus on the key principles underpinning the Government's economic strategy:

- Steady and sustainable improvements in living standards;
- Ensuring sustainable fiscal policy; and
- Budgetary strategy that protects domestic living standards irrespective of the Brexit outcome.

In line with prior recommendations, the Government should continue to enhance Ireland's international tax strategy and look to increase Ireland's attractiveness as a key EU location for investment post Brexit. Budget 2020 should provide for measures designed to place Ireland in a strong competitive position with regard to the attraction of key talent going forward.

The Corporate Tax Roadmap – one year on

Ireland's Corporation Tax Roadmap was published on 5 September 2018, identifying a programme of action for the implementation of various changes to Ireland's corporation tax regime. Following the introduction of revised Exit Tax rules and Controlled Foreign Company ("CFC") rules in Finance Act 2018, Finance Bill 2019 will continue to make further changes to the corporate tax regime in line with our obligations under the EU Anti-Tax Avoidance Directive ("ATAD").

Notable changes to the domestic corporate tax regime will be the inclusion of anti-hybrid rules from 1 January 2020 which aim to effectively deny tax benefits obtained in cases where there is a mismatch in the classification or treatment of an instrument or entity type between different jurisdictions. Due to the complexity of the new rules, consultation on same has been ongoing with the Department of Finance since January 2019, with the latest feedback consultation period running to 6 September 2019. Deloitte will continue to engage with the Government in the lead up to the Budget and Finance Bill 2019 to provide our input on the implementation of these new anti-hybrid rules. Further consultation is expected on reverse hybrid type arrangements, with a view to incorporation into Irish law from 1 January 2022.

Finance Bill 2019 will likely also see the introduction of revised Transfer Pricing rules into Irish law, to align our standards with the revised 2017 OECD Guidelines. Extensive consultation has been carried on by the Department with relevant stakeholders on the imminent changes to the Transfer Pricing regime in Ireland, the fruits of which we would expect to see as part of the Budget process.

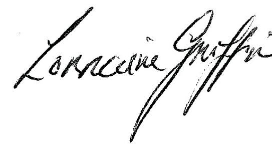
2019 – A year of consultations

2019 has seen a large number of public consultations in the sphere of corporate tax changes, ATAD implementation, Transfer Pricing, incentives for Small and Medium sized businesses and the Research and Development ("R&D") tax credit.

The consultation process on these key topics has reflected a need amongst stakeholders for Ireland to remain competitive in terms of its tax and talent strategy. Ireland is in a unique position to develop a strong corporate sector in the wake of Brexit, particularly in the funds and financial sector space. However, such strategic positioning must be necessarily supported by a competitive income tax regime and a continued investment in housing, infrastructure and education. A significant challenge identified by stakeholders as part of Ireland's ability to compete internationally for investment has focused on the need for a coordinated, comprehensive strategy to attract and retain key talent in Ireland. Certain amendments to the treatment of share based compensation as well as schemes designed to improve the attractiveness of assignee programmes in Ireland have formed a key part of stakeholder interaction with the Government in the pre-Budget process.

Our view going forward

The uncertainty created by Brexit, coupled with imminent changes to the tax landscape, means that consultation with stakeholders has and will continue to be vital to Ireland's continued economic success. We have already seen a number of in depth consultations held in the realm of taxation matters, and expect to see even more in the coming months and years. Budget 2020 should aim to strategically position Ireland to take full advantage of unique opportunities presented by future uncertainties, while at the same time ensuring a stable and attractive environment for investment going forward.



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Ireland Inc. and Foreign Direct Investment

As expected, developments in the international tax landscape have continued steadfastly over the last year. These developments range from the continued ratification and entry into force in many jurisdictions of the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS ("MLI") to ongoing implementation of additional changes arising from the OECD's Base Erosion and Profit Shifting ("BEPS") project and various EU Directives. We have also seen reform continue at a national level, which includes entry into force in a number of jurisdictions of a digital services tax, despite ongoing discussions at OECD level. In addition, various regulations have been published in the US as the implementation of US tax reform continues.

From an Irish context, the implementation of certain regimes outlined in Ireland's Corporation Tax Roadmap ("the Roadmap"), which was published by Finance Minister, Mr. Paschal Donohoe, on 5 September 2018, took place over the last year. Ireland's updated Exit Tax provisions took effect from 10 October 2018, a Controlled Foreign Company ("CFC") regime became effective in Ireland from 1 January 2019, with the MLI becoming effective in Ireland from 1 May 2019.

These changes are some of the first of many expected to our Irish taxation legislation in the coming years. With the deadline looming for implementing into Irish taxation legislation of additional changes arising from OECD and EU proposals, it is with no surprise that changes in the area of international tax are expected in Budget 2020.

With this in mind, the Department of Finance launched a number of consultations over the last year, most notably the consultation on interest deductibility and anti-hybrid provisions and a consultation on Ireland's transfer pricing provisions. Such consultations assist in providing clarity and certainty for taxpayers in terms of ongoing tax developments, factors that are critical for investment decisions.

Ireland's corporation tax regime has played a significant role in attracting foreign direct investment ("FDI") to Ireland. Given the importance of FDI to the Irish economy it is vital therefore that the Government ensures Ireland responds to the international tax developments in a way that is not only compatible with the developments but in a way that protects and enhances Ireland's competitiveness as a location for FDI. This will be key in terms of any developments announced as part of Budget 2020.

FDI competitor locations have continued to introduce changes to their national tax regimes, like lower corporation tax rates. Along with changes to other key factors relevant to investment decisions such as access to a highly skilled labour force, cost competitiveness and sufficient infrastructure, it is with no surprise that the FDI landscape has become a lot more competitive in recent years. It is vital that the Government therefore reaffirm their commitment to the 12.5% corporate tax rate as part of Budget 2020.

ATAD, BEPS and Brexit

The EU's Anti-Tax Avoidance Directives ("ATAD") require domestic law changes effective from 1 January 2020 in relation to certain hybrid mismatches. This covers the situation where one jurisdiction sees an instrument or entity different to the way we see it here such that it results in a tax advantage. For example where a group gets a double deduction for an expense or where a group gets a deduction for an expense but the corresponding income is not taxed anywhere. Following the aforementioned consultation earlier in the year, which dealt with hybrid mismatches, the Department of Finance has recently issued an updated feedback paper in relation to the implementation of these changes. The closing date for submitting a response in relation to same is 6 September 2019 and we certainly expect to see more on this in Budget 2020.

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The EU's Mandatory Disclosure Regime is expected to be addressed in Budget 2020. The EU Tax Intermediaries Directive ("the Directive") was published in the Official Journal of the European Union and became effective from 25 June 2018. The Directive requires EU Member States to enact domestic legislation to require taxpayers/intermediaries to disclose certain "reportable cross border arrangements" to their local tax authority. The Directive also provides that these details can then be shared by that tax authority with their European counterparts. The Directive must be enacted into Irish domestic law by 31 December 2019 but due to its retroactivity, the Directive is relevant immediately. Therefore, details of disclosable arrangements taking place from 25 June 2018 need to be maintained between now and August 2020 so they can be disclosed to the tax authorities at that time.

The ATAD also requires the introduction of an ATAD-compliant interest limitation rule. The general implementation date for this was 1 January 2019. However, based on the ATAD provisions, Member States that have national targeted rules that are equally effective as Article 4 of the ATAD could be granted a transitional period for implementation until 1 January 2024 or until such time that it becomes a minimum standard, if earlier.

The Irish Government were of the view that our existing rules in relation to interest deductibility were equally as effective as those in the ATAD and therefore filed a notification with the European Commission ("EC") in this regard. The Roadmap acknowledged that initial responses from the EC was that it has indicated a stringent ratio-based approach is required to have equally effective rules, which Ireland does not have. In the absence of a formal response from the EC during 2018, the interest limitation rules did not take effect in Ireland from 1 January 2019.

However, the EC have recently served formal notice on Ireland with regards the implementation of the interest limitation rules. Ireland have two months to act and if not the EC may issue a reasoned opinion outlining its case and could in turn decide to bring a case before the European courts.

While the Government continue to engage with the EC, at present it is not entirely clear if the interest limitation rules will be implemented in Ireland prior to 1 January 2024 and potentially effective from 1 January 2020. However, it is clear that we should hear more in relation to this sooner rather than later. Such rules could limit the corporation tax deduction allowed for "net borrowing costs" to 30% of the company's EBITDA. However, companies have potential to get a deduction in excess of 30% where the overall group EBITDA ratio is higher.

While the Roadmap had signaled the launch of a consultation in relation to a move to a territorial regime, the papers published by the Tax Strategy Group in July stated that any decision in relation to such implementation would be postponed until there was greater certainty on the international tax landscape. Therefore we are not expecting to see any consultation this year or any changes in Budget 2020.

Given the original intended date of departure of the UK from the European Union ("EU") in March 2019, the Government issued a Bill referred to as the Brexit Omnibus Bill in February 2019 in anticipation of a no deal Brexit. With the extension of the date for the UK to leave the EU to 31 October 2019 and given the outcome of the UK's withdrawal still unclear, the introduction of this Bill remains uncertain. As the 31 October deadline is fast approaching, we expect that the potential measures the Government might take in response to Brexit should become a lot clearer in the coming weeks.

Transfer Pricing

Ireland's Department of Finance conducted a public consultation into updating Ireland's transfer pricing regime to align with the most recent OECD guidance as contained in the 2017 OECD Transfer Pricing Guidelines. The consultation period ended in April 2019. In the recently published (18 July 2019) Tax Strategy Group Papers for Budget 2020 by Department of Finance, they have confirmed that a feedback statement on the upcoming transfer pricing changes will be published during the summer. It is expected that Budget 2020 will contain provisions to significantly update Ireland's domestic transfer pricing laws from 1 January 2020.

Changes that are likely to be included in the forthcoming Finance Bill include:

- Updating Ireland's domestic transfer pricing law to align with the 2017 OECD Transfer Pricing Guidelines, which include critical changes on how profits should be recognized, particularly non-routine profits. In the past, the allocation of profits followed contractual legal relationships. Under the revised guidelines, the actual conduct of the parties and personnel who manage and control key functions and risks take priority over contractual allocations of functions and risks for profit allocation purposes.
- New two-tier transfer pricing documentation in the form of a Master File and Local File will be required.

- Removal of the "grandfathering" exemption where certain related party transactions entered into before 1 July 2010 could fall outside Ireland's transfer pricing regime to the extent the terms and conditions of such arrangements were not subsequently altered. From 1 January 2020, it is likely that all such transactions will be required to be priced at arm's length.
- Extension of domestic transfer pricing rules to non-trading and capital transactions.
- Extension of transfer pricing rules to small and medium sized groups. At present, certain small and medium sized groups fall outside Ireland's transfer pricing regime. Irish Revenue are considering replacing this EU based exemption with a transaction based threshold applicable for Master File and Local File preparation, similar to other jurisdictions.

The forthcoming changes represent the most fundamental changes in Ireland's transfer pricing laws since 2011 and will have a significant impact on our existing Irish tax regime. Hence, it is key that taxpayers have an opportunity to consider and review their Irish operations to determine the potential impact of these changes on their business and asses readiness to deal with any changes in a timely manner.

Our view

While it is with no surprise that changes in the area of international tax are expected in Budget 2020, in light of the ongoing and recent consultations we hope that the Department of Finance will take on board the comments provided in response to the consultations so that Ireland is not put at a competitive disadvantage and the legislation together with any related guidelines provide clarity on the scope of any new rules. Certainty is vital for companies as they make investment decisions. We hope that there are no surprises in Budget 2020 such as the immediate introduction of the revised Exit Tax rules on Budget Day last year.

Given the recent correspondence from the EC, clarity in relation to Ireland's status and response to the EC regarding implementation of the interest limitation rules would be helpful as part of Budget 2020, if not in advance of Budget 2020.

As the international tax landscape continues to change and with the uncertainly Brexit presents, in our view it is imperative that Budget 2020 seeks to ensure that the future of FDI in Ireland remains bright. It will be important that the Irish Government not only addresses tax in doing so but also addresses the wider aspects of Ireland's offering and in particular in relation to housing and education.

Our prediction

Amendments to our tax legislation are imminent due to the deadlines for implementing changes such as the anti-hybrid mismatch provisions and the EU Mandatory Disclosure Regime. Furthermore, the reform of the transfer pricing rules will possibly be the most significant change for most Irish corporates. While we welcome the Government's commitment to proactive consultation regarding proposed new taxation measures, given the significance and complexity of many of the changes expected and the short timeframe for implementing same, it will be important that the Irish Government does so in a manner that is clear, unambiguous and provides certainty for taxpayers.

The European Agenda

The EU's Anti-Tax Avoidance Directive ("ATAD") continues to be legislated for in Ireland. In particular, this year's Finance Bill is expected to focus on a number of critical areas of change to our domestic law.

In line with the Corporation Tax Roadmap issued by the Irish Government in September 2018, Finance Bill 2019 will see the introduction of Irish anti-hybrid legislation for the first time as required by the Directive. The anti-hybrid provisions are aimed at preventing taxpayers from engaging in cross border arbitrage through differences in the characterization of certain instruments or entities for tax purposes. Where a hybrid mismatch arises, it can result in a "double deduction" mismatch outcome whereby an expense is deducted twice or a "deduction without inclusion" mismatch where there is no tax charge for a payment in one jurisdiction that is deductible in the hands of the payer in another jurisdiction. The new rules are intended to address such mismatches and effectively correct them either through a denial of the deduction or the application of a tax charge.

Understandably, such new rules are complex in nature and will represent a critical change to existing Irish tax law. Public consultations on the matter have identified the complexity and highly technical nature of such rules, but also the need for new rules to be no more restrictive than those required by the Directive.

The rules are intended to apply to transactions between associated entities, where a mismatch outcome has arisen due to a difference in the characterisation of either the payment, the entity in question or the instrument in question.

In particular, the Department of Finance's feedback statement as drafted suggests that Ireland may be leaning towards adopting a stringent set of rules with regard to hybrid mismatches. Based on current feedback from the Department, such new rules would likely require Irish taxpayers to have a level of knowledge as to foreign tax systems to determine whether a hybrid mismatch has been neutralised by provisions "similar" to Irish domestic law. In our view, and in order to maintain tax competitiveness, Ireland should not agree to non-mandatory or more onerous provisions than that required by the Directive.

Where certain conditions are met the Department's feedback statement provides for rules to allow the carry forward of previously denied deductions. While such a carry forward is welcome and in line with the wording of the Directive, we are of the view that current wording outlined by the Department may be insufficient to ensure conditions for the applications of reliefs (such as group relief for current year trading losses or non-trade charges) are met when carried forward. It must be recalled that the feedback statement cannot outline the full legislative basis for hybrids and therefore this may have already been considered but in the absence of same, in our view, additional consideration is required to provide for an effective mechanism to carry forward previously denied deductions.

In addition, the Department of Finance's feedback statement suggests that the anti-hybrid rules will essentially codify how an entity is treated for tax purposes by being "transparent", for instance similar to a partnership, or "opaque" like a body corporate. Further clarity is required in this regard to ensure that this codification takes account of existing precedent in this area.

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As noted in this document, the Directive requires the introduction of an ATAD compliant interest limitation rule. Should such interest limitation rules be introduced as part of Finance Bill 2019, we would suggest additional Revenue guidance supplement such law to ensure that clarity applies to its implementation and impact.

Lastly, and as discussed elsewhere in this document, the EU Mandatory Disclosure Regime ("DAC6") is expected to be introduced in Finance Bill 2019. This disclosure regime requires tax practitioners, intermediaries and certain taxpayers to report certain cross border arrangements where specific hallmarks are met. Such rules must be introduced into Irish law by 31 December 2019, and will cover a broader range of transactions than those outlined in our current domestic disclosure rules.

Our view

The continued implementation of the above directive will introduce substantial change to Irish tax law, particularly with respect to anti hybrid legislation. In our view, the anti-hybrid rules carry with them a risk to Ireland's tax competitiveness where they go beyond the requirements of the ATAD.

Our prediction

It is hoped that revisions to the anti-hybrid rules will take account of comments submitted to the Department given the need to maintain Ireland's ability to compete for investment on the world stage. ATAD implementation matters will continue to dominate the tax agenda going forward, together with an increased focus on tax transparency through the introduction of EU Mandatory Disclosure rules.

Tax and Entrepreneurship

Calls for changes to existing tax reliefs and the introduction of new reliefs for entrepreneurs are not new. There is no doubt that the continuing uncertainty in relation to Brexit will have a significant impact on Irish indigenous businesses and entrepreneurs. Although recent public consultations covering areas such as Entrepreneur Relief, Employment and Investment Incentive Relief ("EIIS") and Transfer Pricing (in the context of SMEs) signal that the Government is considering the impact of reliefs for entrepreneurs, further action is necessary.

Entrepreneur Relief / Capital Gains Tax ("CGT")

Ireland's CGT Entrepreneur Relief is frequently compared to the more beneficial UK equivalent. Under the UK regime, a 10% CGT rate applies on gains up to £10 million whereas under the Irish regime the lower rate only applies on gains of up to €1 million in a lifetime. Reducing this differential could have a positive impact on helping attract entrepreneurs in a post-Brexit world.

The extension of the entrepreneur relief to dividends, whereby a preferential tax rate (10%) would apply to dividends, would also provide an incentive for entrepreneurs to retain ownership and continue working to expand and grow the business rather than divesting their shares in order to realise their investment.

Where entrepreneurs choose to divest all or some their business, it is common that some of the disposal proceeds will be dependent on future events (e.g. earnings targets). However, CGT typically applies upfront meaning the entrepreneur pays the tax before they receive the proceeds. This can inhibit the entrepreneur's ability to reinvest. Matching the taxing point with the actual time of receipt of earn-out consideration would help address this situation.

EIIS

Significant administrative changes to the EIIS scheme were introduced last year, which were designed to simplify and increase the efficiency of the scheme. The changes were broadly positive but further changes could be made to enhance the attractiveness and competitiveness of this scheme. One simple change, such as granting full tax relief in the year in which the investment is made, would bring the Irish regime more in line with the UK equivalent.

Transfer Pricing

We expect this year's Finance Bill to include changes to Ireland's transfer pricing rules. Compliance with full transfer pricing documentation requirements can be costly and time consuming for many SME groups, particularly those with domestic only transactions. Recent European case law has found that the exclusion of domestic only transactions from the scope of transfer pricing rules is not, in principle, contrary to the freedom of establishment.

The extension of transfer pricing to domestic transactions will also create a range of issues for many indigenous groups given the difference in tax rates that applies to trading and non-trading transactions. Accordingly, the exclusion of domestic only transactions from any future extension of Ireland's transfer pricing rules would be welcomed.

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Our view

Updates to existing and the introduction of new tax measures are needed to support entrepreneurs during this time of economic growth and uncertainty. In particular, further enhancements should be made to EIIS and CGT Entrepreneur Relief. As the deadline for the UK to leave the EU draws closer, it is more important than ever that our tax system encourages entrepreneurship and incentivises entrepreneurs to continue to invest and expand Irish businesses. Any legislative amendments to remove the SME exemption from the scope of our transfer pricing rules would be unwelcome. Many EU countries have adopted similar SME exemptions.

Our prediction

CGT Entrepreneur Relief is currently subject to an external review and it is unlikely that changes will be made to the scheme pending the outcome of that review. As there were significant changes made to the EIIS scheme last year, any further changes this year would likely be minimal. A positive and simple change would be the introduction of full tax relief in the year in which the investment is made. A practical solution to address the taxation of earn-out consideration for entrepreneurs would also be a welcome and easily implemented measure. We expect transfer pricing rules will be changed. However, excluding domestic only transactions from the scope of the new rules would reduce the time and cost burden on for those groups.

Individuals

With unemployment at an all-time low since 2004, (reports of 4.2% of the available labour market seeking employment) and a labour market closing in on 2.3 million individuals, it can be said with confidence that Ireland's economy is looking stronger than ever with estimated growth in GDP set at 3.9%. However, fuelled with whispers of an economy which is "overheating" and an anxious Government nervously bracing for a hard Brexit, one cannot help but sense that a prudent fiscal policy for individual tax payers will be announced in October.

It is imperative that a budget policy be implemented which will capitalise on our economic growth and strength, rather than a reactionary, curtailed policy. Now is the time protect our indigenous sector and to encourage entrepreneurs to continue be innovative and creative, and to reward them for their contribution to our nation's success story.

Alas, you would be forgiven for being unable to find the reward in the effective rate of tax which successful self-employed individuals are suffering. Our tax code purports to be built upon achieving equity and fairness among taxpayers. Can one possibly say that there is fairness in the disparity between the taxes paid by self-employed individuals earning similar amounts of income to their counterparts who are employed and effectively paying 3% less in taxes? We continue to call on the Government to review this policy initiative and to keep the spirit of entrepreneurship front of mind. The Earned Income tax credit for self-employed individuals is currently €1,350. In the pursuit of fairness, this credit should match the PAYE credit available to employees of €1,650 and the 3% differential should be abolished.

In a similar vein, it is necessary for the Government to completely overhaul the very restrictive Entrepreneur's Relief which is currently in place. The relief could go further to incentivise our entrepreneurs while in turn accelerating the rate of return in respect of capital gains tax receipts. The Government could focus on a range of conditions to make the relief more attractive such as increasing the €1 million life-time limit or focussing on the interaction of the relief with retirement relief. The Government needs to deliver on a budget which continues to shine the light on Ireland as a prime location for investment. Our headline corporate tax rate is overshadowed by a punitive income tax regime which does little to incentivise foreign nationals or indeed to bring home those who have emigrated over the past decade. The Department of Finance figures show that 84% of the total income tax and USC is paid by the top 27% of earners (those earning over €50,000).

It is hard to justify the 52% (55% in the case of self-employed individuals) top rate of tax and the attributable tax bands which draws the individual tax payer into the higher tax bracket earlier than individuals in other EU jurisdictions. Ireland cannot boast of a public services offering which matches the calibre of its European counterparts which enforce a higher top rate of tax. In such jurisdictions, for the most part, there is a direct correlation between the rate of income tax applicable and the quality of the public services provided such as health, education and infrastructure.

With respect to USC, while the Government's medium term goal is to ultimately phase out USC, it is unlikely that such measures will happen in the short term. USC accounted for €2.7 billion of the total tax take received by the Exchequer in 2018. A more likely position would be that the rate of USC payable by low earners would be reduced or the entry threshold to come within the 0.5% band and 2% band would be increased.

Looking to our gift and inheritance tax regime, we expect that the Government will increase the Group A lifetime threshold as it continues to deliver on its promise to restore the €500,000 lifetime threshold. Furthermore, we would highlight the importance of preserving the integrity of agricultural relief and business

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relief without limiting the availability of the reliefs. Such reliefs have been invaluable to family businesses across the country and have contributed towards the continuation of family businesses over multiple generations. We would also call on the government to preserve the annual gift exemption of €3,000.

While, we expect little to no changes with respect to our capital gains tax regime in Ireland, with rates as high of 33%, there is plenty of opportunity to make revisions to the regime which would instil a greater level activity in the capital markets. IBEC have reported that private investment in the capital markets is expected to yield €100 billion in 2020 compared to €8.5 billion invested by the public sector. Reduced CGT rates could serve to further improve these investment figures as investors would more readily dispose of their assets.

In considering the merits of the introduction of wealth taxes into Ireland, the Tax Strategy Group observed that the yields arising from the creation of such a tax may not be additional to the existing forms of wealth tax already in place in the country vis-a-vis capital gains tax and capital acquisitions tax.

Our view

One acknowledges that a sensible strategy is to prepare for the uncertainties which are interwoven with Brexit, however the continued success of the country is very much dependent on ensuring that the standards of living enjoyed by our labour market are upheld. In order to protect our economy from Brexit, which undoubtedly is the greatest uncertainty facing this generation, it is imperative that Ireland secures a strong indigenous sector. A renewed CGT tax code would fuel the appetite of individuals to re-invest and contribute to the private capital projects. In turn, a stronger indigenous sector places the economy in a safer environment without solely relying on Ireland's FDI model and corporation tax receipts which has been the trend of late.

With respect to the self-employed, this Government has an opportunity to incentivise individuals while yielding a good return to the Exchequer. In terms of upholding our standards of domestic living, this budget needs to focus on keeping older workers within the employment net, while attracting foreign nationals and emigrants. In order to sustain or increase labour market participation, a more favourable income tax regime is an absolute requirement.

Our prediction

Not too much movement in the way of tax incentives or the improvement of current tax reliefs. We predict a reduction in USC rates applicable to low earners, the deficit to the Exchequer being set off by a reduction in PAYE credits available to high earners.

We envisage a slight increase in the Group A threshold as the Government seeks to deliver on its promise of reaching a €500,000 lifetime exemption for gifts from parents to children.

Indirect Tax

VAT is fundamentally a European tax governed by overarching EU Directives and Regulations. Although it is the second largest contributor to our tax revenue in truth we have limited discretion in using it as a fiscal lever or as an economic stimulus. We can't fundamentally change how the tax is applied but we do, within certain limits, have discretion to change the overall rate of VAT or indeed charge lower rates on specific types of good or service. We saw this with the reduced 9% rate that applied to the Hotel and Restaurant Sector for several years. This was designed to stimulate demand at a time when the sector was struggling. When the economy is buoyant it is rare for commentators to call for a cut in VAT rates but as we face into a range of economic head winds, now might be the time to use our discretion to support the economy and to continue to attract investment.

One area where we could introduce measures is in the provision of residential accommodation. Our shortage of residential accommodation either to buy or to let is well documented. The continued provision of affordable housing meets not only a pressing social need but is essential to position Ireland as a location for foreign investment. As Brexit moves into view decisions will continue to be made as to where to establish an EU hub. Having a functioning property sector that allows the attraction and retention of staff is an important decision in where to locate. Unlike many other Member States, Ireland taxes the development and sale of residential accommodation which is liable at the 13.5% rate. In the UK the construction of new dwellings is not subject to VAT, the sale of new dwellings is not subject to VAT and the refurbishment or conversion of older buildings is only subject to VAT at 5%. Although it may not be within the Government's gift to secure zero rating for the construction, conversion or sale of dwellings we would call on the government to reduce the rate to 9%. VAT costs have a direct impact on the rate of return on investment/ IRR and with institutional investors having a greater role to play in the provision of certain asset classes, a less costly VAT regime should stimulate supply and alleviate some of the blockage currently being experienced.

There is a risk that the Government will introduce measures to apply the 23% VAT rate to all food supplements. Food is basically zero rated with a number of exceptions largely covering confectionery type items, soft drinks and alcohol. The food landscape has changed dramatically since the VAT Act was drafted and there are now a range of food products and supplements that are widely consumed that did not exist several years ago. These range from super food powders to energy tablets to meal replacement plans. We think it would be wrong to standard rate these products. They make up an important part of many peoples diets. For many they are now an essential and routine form of sustenance and should continue to benefit from the zero rate.

There will likely be a number of technical changes to bring Irish law into line with recent changes in EU law. These changes concern cross border trade in goods and whilst they are of real significance to businesses that trade cross border in goods, their fiscal impact is unlikely to be marked.

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Our view

We believe now is the time to be bold in relation to VAT. Higher VAT rates across Europe are a legacy of the last economic crisis. However maintaining the status quo is not always the best answer and we would welcome a targeted reduction of the VAT rate in relation to the construction and provision of residential property.

Our prediction

Given the uncertainty over Brexit and the constraints on our discretion in relation to VAT we do not envisage that there will be significant VAT changes. There will likely be technical changes and some Brexit enabling measures. The most impactful change may be the levying of VAT on food supplements however we hope that this particular temptation is resisted.

Financial Services

Budget 2020 is a significant budgetary process from an Ireland Inc. perspective. The decisions made by Government on the introduction of a raft of new tax measures, brought about by the OECD BEPS project as well as the EU Anti-Tax Avoidance Directive ("EU ATAD"), will have a significant impact on all Irish corporate taxpayers and Financial Services ("FS") companies will not be immune to these changes.

Budget 2019 saw the introduction of Controlled Foreign Company ("CFC") rules and an Exit Tax, the latter introduced somewhat earlier than anticipated. Arguably Budget 2020 could introduce even more significant tax changes – specifically in the areas of anti-hybrid rules and, potentially, changes to the rules governing the tax deductibility of interest.

While the Department of Finance has issued a Feedback Statement following the public consultation in the area of anti-hybrid rules there has yet to be, at the time of writing, an announcement as to the timing of the implementation of the interest limitation rules. As a reminder, Ireland's position was that the existing rules governing the deductibility of interest for tax purposes were equally effective to the rules proposed under the EU ATAD. Where this was the case the EU ATAD provided for a derogation from the requirement to introduce the rules effective 1 January 2019, allowing a Member State to postpone such introduction to 2024. However as Ireland does not operate a fixed ratio based approach to limiting interest deductibility it appears, to date at least, it has proven difficult to substantiate this position to a level deemed acceptable by the EU. The result has been the issue of a formal notice from the EU to Ireland requesting that the interest limitation rules be introduced in accordance with the ATAD. It remains unclear exactly what options this leaves the Department of Finance however the formal notice has clearly increased pressure on the government to introduce the rules sooner rather than later.

While many traditional FS companies, such as banks, regulated funds or insurance companies, may benefit from some form of exemptions from the interest limitation rules, the impact on the wider FS industry may still be profound. In particular the impact on securitisation vehicles will need to be carefully considered. Vehicles who may not have interest income or income considered "economically equivalent" to interest may be at risk of increased taxation. This could impact such vehicles holding equity investments or assets on lease.

As noted above, the Department of Finance released its Feedback Statement on anti-hybrid rules. The complexity of such rules cannot be underestimated. The Feedback Statement recognises that anti-hybrid rules should target specific tax avoidance type structures as opposed to third party, arm's length transactions and so the focus may primarily be on transactions between associated persons and between head office and permanent establishments. In an FS context, it would be important that the taxation of investors into Irish securitisation vehicles is appropriately considered. For example clarification on the timing of when a payment under a financial instrument would be considered "included" would be important. Similarly for capital markets transactions a "knowledge based" test as to the treatment of the payments under, for example, listed financial instruments out of the State would be welcome. In many instances it may not be reasonable to expect knowledge of the tax treatment of ultimate investors. There are existing precedents for similar tests in current legislation.

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Our view

With the looming spectre of BEPS 2.0 on the horizon, Budget 2020 is the time in which Ireland should be looking to increase its competiveness across the international FS industry. Brexit uncertainty remains but it is vital that Ireland is positioned to attract further business from the UK – this need not be in the form of tax initiatives targeted at FS companies but rather the usual budgetary suspects, namely enhancements to the SARP regime, specific measures in the areas of housing, education and international schools, and public infrastructure investment in line with the Project Ireland 2040 capital plan.

We must be aware of what the jurisdictions we compete with for investment are doing, what initiatives they are introducing and how they implement the various international tax changes so as to avoid a loss of competitiveness. Consideration should be given to enhancing the KDB and existing R&D tax credit regime to continue to attract FinTech companies to Ireland and to benefit those already operating here. Targeted initiatives such as accelerated capital allowances for robotics would be welcome.

Our prediction

From an FS perspective the focus will likely be on the introduction of anti-hybrid rules. Last year the budgetary focus was on CFC rules and this year there is sure to be a focus on the anti-hybrid rules set to be introduced. As my colleague Deirdre Power noted in our Pre Budget 2019 review, with the volume and complexity of legislation that the authorities need to draft, they won't want to be distracted by anything else. The same restrictive conditions are likely to be a factor in Budget 2020. As such, unfortunately I am not anticipating anything innovative in this year's budget from an FS perspective. At the very least we should have certainty as to when the interest limitation rules are to be introduced. Unfortunately if it is introduced in Budget 2020 it is likely to be legislation drafted in a very short period of time – rushed legislation is invariably bad legislation. Most importantly it would also leave very little time for taxpayers to consider the impact to their business and to take remedial actions as needed.

Real Estate

As we move through 2019, the key real estate talking point remains the ongoing crisis in the housing market.

We believe that any measures announced in Budget 2020 should support the viability of housing delivery to ensure an increase in the supply of all tenures; owner-occupation, rental and social, to facilitate housing that is accessible to all, that is affordable and sustainable.

Over the last few years and now in the final run up to Brexit, we have seen the detrimental effect that uncertainty can have on markets and for business. While we can be assured that Government is determined and will take all possible steps to alleviate the negative economic impacts, uncertainty around when and what form Brexit will take is having serious implications for businesses. The same can be said for the property market about uncertainty, and the same level of determination from Government is needed to allow the market to respond and contribute to solving the Housing crisis. This certainty is particularly important for investment decisions given the long lead-in time for development. Viability remains a challenge in many locations, and this is a challenge to providing homes at an affordable price. We believe that the Minister should announce in his Budget speech the long-term commitment to policies which support housing delivery.

Our view

The main driver of demand in Dublin in particular, at present, is large scale institutional buyers who own rental residential units ("PRS") throughout Europe and the world and these buyers see the market as evolving with reasonable yields on rental units. There have been rumours that a higher rate of stamp duty might be targeted at such buyers. If this were to happen, most experts believe it would deter investment and given all are agreed that the main level of activity we are seeing is in this sector, then one "to do" is not to change stamp rates for the foreseeable future.

In terms of viability, the cost of both land and building are making a lot of schemes unviable. Whilst a VAT decrease has been tabled in the past, it hasn't been well received. However, changes will have to happen as it will take many years for the market to deliver the housing needed without some form of assistance through the tax system.

There are many smaller landlords in Ireland who in past years became landlords almost by default. Once prices began to correct, many of these landlords have sold up with a view to paying back debt and have exited the market. High personal tax rates don't make it easy to remain so many have to consider exiting to minimise risk. The statistics show a significant shift in this cohort of landlord. We need to encourage such investors back to the market and a lower rate of tax should be considered to do this. The reality is that the fund investors and the Real Estate Investment Trusts ("REIT's") have an effective 20% rate so why not match that for those in the population who can afford to help rebuild and rehouse our fellow citizens. It would be a fair measure.

In terms of skills and labour, full employment makes it even more difficult to deliver the housing needed. A suggestion would be to introduce tax measures to encourage more apprenticeships and perhaps a short-term measure of funding of vocational or third-level courses in a property-related discipline to facilitate lower fees/greater grants for students undertaking these courses to address the critical shortfall in skills. There is a shortage of tradesmen and other professionals that we need to correct.

Another consideration would be the Introduction of a returning home moving expenses allowance (to partly offset costs of moving home) for Irish nationals returning to Ireland and working in a construction industry sector where there is a skills shortage.

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Our prediction

Given representations by various industry bodies over the past couple of years , a limited amount of intervention has happened so given the demands this year it would be surprising to see significant changes. A final to do would be to announce in advance of the Budget 2020, the retention of the Help-to-Buy scheme which has successfully helped first time buyers invest in their future. This needs to be extended as it is working successfully.

Global Mobility, Immigration and Employment

Share-based remuneration

The introduction of the Key Employee Engagement Programme ("KEEP") was heralded as a welcome move to incentivise Small & Medium-Sized Enterprises ("SMEs") to retain and reward staff in a tax efficient manner. KEEP was intended to bring Ireland into line with a number of other jurisdictions in order to assist SMEs in competing with publicly quoted companies who have the ability to use share-based remuneration to attract talent. However, KEEP in its current design has unfortunately failed to provide SMEs with an easy-to-implement and cost effective way to offer shares to employees. We understand the take-up has been very low to date and the Department of Finance launched a consultation process in 2019 to see how KEEP could be improved.

As part of our consultation submission to the Dept. of Finance, we had a number of recommendations that included dealing with safe harbour for share valuations, bringing more companies into the regime and addressing technical blockers around organisational structure and restrictions on eligible employees.

PAYE modernisation

Real time payroll reporting came into effect on 1 January 2019. This was the most significant change in the PAYE regime since it was first introduced and presents challenges to Irish employers to capture and report payroll data on a real-time basis. Companies now need to ensure their processes are equipped to deal with the new regime or else they face potentially very large penalties for not doing so. There were significant revenue raising targets set as part of Budget 2019, so it is clear that the new regime provides Revenue with greater visibility over payroll on cash payments and benefits.

Mobile employees

In light of the potential opportunities/risks arising out of Brexit it is vital that Ireland is well positioned to attract companies who are considering relocating out of the UK to another EU jurisdiction. Our marginal rate of 52% is one of the highest in the EU and puts us at a competitive disadvantage compared to other countries competing for this inward investment.

The Special Assignee Relief Programme ("SARP") is a valuable initiative aimed at encouraging skilled personnel to relocate to Ireland by granting an exemption from income tax for 30% of earnings between a €75,000 threshold and a €1m cap. Given the relief is due to expire in 2020, a separate public consultation was initiated by the Department of Finance as part of its obligations to review the scheme and how it operates. As part of that submission, we made a number of recommendations. For example, there is currently an obligation on employers to certify within 90 days of the assignees arrival that the employee is a 'relevant employee' for the purposes of the relief. This is an unnecessary obligation considering a tax return may not need to be filed for over 18 months depending on the date of arrival. This administrative burden has resulted in certain individuals being denied the relief for the duration of their assignment due to administrative delays or oversights.

Attracting foreign workers in a full employment environment is essential in order to drive domestic economic growth. Irish companies can and should leverage the experience and expertise of overseas counterparts to benefit their business locally. Revenue's most recent guidance (April 2018) on temporary assignees working in Ireland has significant negative implications for overseas personnel who regularly travel to Ireland for business meetings or short-term projects. The current guidance means that there is potentially a payroll obligation for individuals who spend minimal days in Ireland each year or at the very least an increased administrative burden on companies to track the movements of these individuals in order to apply for a dispensation from payroll withholding.

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Our view

The marginal rate of tax should be reduced from its current level of 52% and the entry to the higher rate of tax should be increased. At the very least a roadmap should be put in place to demonstrate to workers when this burden will be reduced.

The KEEP legislation needs to be amended to achieve the stated aim of helping Irish SMEs to recruit and retain appropriately skilled workers. The UK equivalent share scheme, the Enterprise Management Incentive, does not cap the value of the share options granted by reference to the employee's annual emoluments and it would be a step in the right direction to remove this restriction. We would also welcome the introduction of a mechanism to agree the valuation of a company with Revenue for KEEP purposes in line with the UK regime. A further enhancement would be to allow the option period to be included for the holding period requirements of the CGT Entrepreneur relief. Furthermore the extension of the KEEP scheme to employers who do not meet the SME thresholds would greatly enhance Ireland's competitiveness in the global war for talent.

Post the introduction of PAYE Modernisation, it would be useful for employers to be provided with certainty around the scale of penalties that may apply for relatively minor errors in the operation of payroll.

A reinstatement of the long-standing practice of treating not more than 30 workdays as being incidental and exempt from payroll withholding would provide much needed certainty to companies and would enhance Ireland's attractiveness for businesses considering locating here as a result of Brexit and other global economic conditions.

The obligation for employers to certify within 90 days of arrival that an employee is eligible to claim SARP should be instead aligned with existing reporting requirements e.g. the income tax reporting deadline. There should be no adverse implications in terms of Departmental oversight of the impact of the incentive as the certification process merely provides details of the number of individuals seeking to avail of the scheme rather than the associated tax cost.

Our prediction

We predict that there will be significant amendments to the KEEP scheme to encourage uptake by employees of Irish private companies. However, unfortunately we do not expect to see an extension of the regime beyond the SME sector.

We expect that employers will see an increase in Revenue interaction in terms of compliance checks and onsite visits in 2020 as real time payroll reporting is embedded. The past number of Budgets have set revenue raising targets in the region of €50m and we expect something similar again in Budget 2020. We are hopeful that Revenue will provide greater clarity around the penalty regime for minor payroll errors.

We predict that there will be announcements relating to SARP and its importance to the Irish tax regime in terms of attracting FDI to Ireland. We also expect there will be some clarity around the burdensome business traveller rules for mobile employees in advance of additional restrictions coming into effect in 2020. However, there will be no fundamental changes to the income tax regime, particularly in light of Brexit uncertainty and the associated cost of making any substantial changes.

We remain hopeful that there will be some practical changes introduced to reduce the administrative burdens for employers, but given experience over the past few years, this is more in hope than expectation.

Taxing Technology

Technology has forever changed the world we live in. We are online all day long. Our phones and social media footprint have become reflections of our personalities, our interests, and our identities. Business has more data than it knows what do with. The amount of data we generate every day is astounding. Over the last two years alone 90% of the data in the world was generated.

Tax professionals and Revenue feel this too. We see evidence of Revenue continuing to invest in technology and data analytics. Buried within the budget documents issued last year was a report from the Revenue Commissioners "Evaluation of Budget 2017 Compliance Measures". Within that contained a very interesting set of numbers on the estimated yield from ICT enhancements with Revenue.

Of the €492 million yielded from Revenue audits in 2017, they noted that "most, if not all, of these interventions make at least some use of data or analytics. An assessment of the projects undertaken in 2017 suggests that €164 million yield arose from projects with very direct usage of, or heavily influenced by, ICT systems and data analytics or advanced analytics". Indeed in last year's budget, Revenue estimated a yield of €50 million from PAYE modernisation alone. The trend towards technology is clear to see. Tax has never had so much attention, whether it is from the CFO, the Board, customers, Governments or other stakeholders. Tax authority audits are starting to ask for large amounts of data. This requires management to look at all data in detail in advance of the tax authority receiving it, resulting in a significant increase on management time invested.

Tax departments today often face significant resource constraints, requiring an increased focus on efficiency and effective use of technology to streamline their compliance and reporting processes. Overreliance on spreadsheets, outdated technology, and a lack of integration between tax and finance systems can hamper a tax departments' ability to obtain and analyse the data needed for timely and accurate tax compliance and reporting. Technology has impacted on a grander scale too. It has transformed business models, and tax laws have been under intense scrutiny particularly within the traditional technology sector.

The efforts at OECD level to examine how we tax technology is at one level understandable, but arguably flawed and, at best, complex. Because my view is that nearly every business is a technology business, or if it's not now, it will be disrupted by it. It is not possible to ring-fence "tech companies" like they are a standalone thing. We see the convergence and influence of technology across all sectors, creating new economies like Fintech, Medtech, Agritech. Blockchain, a deep technology that was initially poorly understood, is now being used by high end designer handbag companies to prove the veracity of their goods.

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Our view

Tax is a social contract. We pay tax in return for government services, and to support those in most need. Where tax revenues are eroded, where innovation dwindles, where employment decreases, that contract is disrupted. We must guard our tax base appropriately.

We do not advocate that Ireland should make any unilateral moves against technology enabled business. Our view is that we should work within the OECD framework to achieve international consensus given the complex global way in which companies operate.

Irish based companies will have enough to grapple with. We expect changes to transfer pricing, interest limitation rules, CFC, hybrids and DAC 6 over the next few years. Let's not layer on anything else – these are fundamental changes to our tax laws and the economic impact of these measures will need to be carefully considered in the years ahead. We should remember that tax has been part of our economic policy for decades and has allowed us to prosper and grow – a competitive open transparent regime is crucially important for foreign direct investment flows. Our stable 12.5% rate has been the cornerstone of our economic policy – and should remain so. We should continue to enhance our R&D tax credit regime to encourage a truly innovation led ecosystem.

Our prediction

In the budget, I expect to see increased allocations of funds to the Revenue Commissioners to continue to invest in technology. But this needs to be matched by people resources within Revenue to help Irish tax payers navigate this new tax world and to ensure that Ireland protects its tax base and tax revenues appropriately. Increased resources will be required in transfer pricing, MAP claims, APAs etc.

I expect a strong commitment to the 12.5% rate and that Ireland will work with the OECD towards unanimous consensus on taxation rather than advocate unilateral measures.

At a macro level, we expect to see increasing trends around tax technology automation tools, robotics and AI as the tax world collides and eventually integrates with technology.

Finally, with all the technology in the world, as a society we need to have our basic human needs met. So I hope to see some fresh radical thinking towards increasing our housing supply to support our expanding economy.

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