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TMT Tax Talks

The latest tax updates to the Technology, Media & Telecommunications industry

October 2023

Welcome to the latest **edition of TMT Tax Talks**, the latest tax updates bespoke to the Technology, Media & Telecommunications industry, with a key focus on:

- Irish Tax Updates;
- Global Tax Updates;
- Events & Industry News.

From a domestic tax perspective, this edition will focus on:

- Budget 2024 insights,
- DAC 7 updates,
- Feedback statement on outbound payments,
- The Deloitte response to the Irish Department of Finance consultation on Pillar II;
- The Department of Finance Public Consultation on the introduction of a participation exemption.

On a global front, we provide an overview of:

- EU Commission Package updates;
- OECD Pillar II implementation updates;

This edition spotlights an extremely relevant topic on Enhanced Reporting Requirements, updates in VAT and employment taxes as well as a quick reference section for all recent events and industry news and webinars.

If you have any questions relating to the topics discussed, please reach out to myself anohalloran@deloitte.ie or your regular Deloitte Ireland contact.

Anthony O'Halloran
Partner, International Tax
TMT Tax Lead

Irish Taxation Updates

Budget 2024 – Updates

Budget 2024 will be announced on Tuesday, 10 October 2023. As the Budget approaches and its announcement draws nearer, you can access all our information and updates in respect of same via our central hub Our Budget 2024 website.

Earlier this summer we published our pre-budget recommendations, which featured on the previous edition of TMT newsletter. We identified a number of trends in the current global tax and economic landscape, and advised that Budget 2024 should focus on sustainable growth in key areas such as knowledge and innovation focussed industries and rapidly growing indigenous businesses.

Daryl Hanberry and Kim Doyle published our latest pre-budget insights in The Irish Times, and you can read them by following the link here. It is noted within that "*the Summer Economic Statement revealed that the total budgetary package will be €6.4 billion of which some €1.1 billion is earmarked for tax measures*". There are also indications that we are likely to see the Minister for Finance prioritize balance between "*delivering the infrastructure and public services that our society needs*" while also avoiding "*adding to the price pressures in our economy*".

On budget day itself, we will be active on social media channel X (formerly known as Twitter) throughout the day as the budget is announced to keep you updated in real time.

Our Budget calculator will also be updated and made available on our website for use later on Budget Day.

DAC 7 updates and feedback statement on outbound payments

DAC 7

- Council Directive 2011/16/EU (DAC) provides for the automatic exchange of information between the tax administrations of EU Member States. The DAC was amended by Council Directive (EU) 2021/514 (DAC 7) in 2021 to extend the scope of the existing DAC provisions.

- As you may be aware, Irish Revenue had confirmed that the Irish DAC 7 registration portal was due to open on 1 October 2023. However, Irish Revenue DAC 7 Working Group has announced that the opening date has now been moved to **1 November 2023**.

- At the time of writing, the deadline for registering with Irish Revenue for DAC 7 purposes remains as 30 November 2023, irrespective of the change in date to the opening of the registration portal.

Feedback payment on outbound payments

- As mentioned in our previous edition, the Irish Department of Finance recently published proposed legislation to apply to certain outbound payments as part of the Feedback Statement "New Taxation Measures to apply to Outbound Payments". The new measures aim to prevent double non-taxation applying to outbound payments to jurisdictions on the EU list of non-cooperative jurisdictions, no-tax and zero-tax jurisdictions with effect from **1 January 2024**.

- The feedback statement was published on 7 July 2023, and Deloitte's response can be read here.

- New measures are set to apply to dividend, interest and royalty payments between connected entities (i.e. those having control or "definite influence" over each other. Anti-avoidance measures have also been included in proposed legislation.

- Further developments are expected as part of Finance Bill 2024, which is due to be released on 19 October 2023.

Deloitte response to the second Feedback Statement on Pillar Two Implementation

On 21st August 2023, Deloitte Ireland submitted a response to Pillar Two Implementation Second Feedback Statement to the Department of Finance. To read our full response submission, click here.

This feedback statement is very comprehensive but some of the key themes cover:

- Proposed legislation on the CbCR transitional Undertaxed Profits Rule (UTPR) and Qualified Domestic Top-up Tax (QDTT/QDMTT) safe harbours,
- Legislation to follow the QDMTT safe harbour rules,
- Comments on QDTT and references to "generally accepted accounting practice",
- Credibility of QDTT,
- Pillar Two elections,
- Mechanism for collection of taxes.

This was the last Pillar Two consultation before the Budget and the publication of the Finance Bill later in October. In view of the complexity of this project and the limited time available to meet the transposition deadline, legislative drafting work continued during the consultation period. The Department of Finance will now consider the responses to this Feedback Statement and may invite key stakeholders to meet with them and with Revenue.

The deadline for EU Member States, including Ireland, to transpose the EU Directive into national legislation is **31 December 2023**. We will follow the developments in this space from the Budget announcement through to the signing of the Finance Bill later this year.

Public Consultation on the introduction of a participation exemption

The Minister for Finance, Michael McGrath T.D., has published a Roadmap for the Introduction of a Participation Exemption to Irish Corporation Tax, including a technical consultation to inform ongoing design work on 12 September.

The roadmap sets out a timeline for the introduction of a participation exemption for dividends, and the next steps towards the planned introduction of a participation exemption for foreign branch profits in the Autumn 2024 Finance Bill. The consultation contains 61 questions on the dividend participation exemption (structural considerations, consequential impact, anti-avoidance rules, and other issues) and the foreign branch exemption.

Related material is included below.

- Public Consultation on the introduction of a participation exemption(s) to the Irish corporation tax system: gov.ie - Public Consultation on the introduction of a participation exemption(s) to the Irish corporation tax system (www.gov.ie)

Consultation Deadlines and How to Respond

The consultation period will run from 14 September 2023 to 13 December 2023. Any submissions received after this date may not be considered.

Deloitte Ireland are currently in the process of preparing a response, please reach out should you wish to discuss our response.

As you will no doubt be aware, this is the second public consultation on a move to participation exemption. Please see our response to this initial public consultation here.

VAT – Irish Updates

Upcoming deadline for renewal of VAT 56 Authorisations – 31 October 2023

A business who derives 75% or more of its turnover from the intra-community supply or export of goods from Ireland may apply for a VAT 56 Authorisation. This allows businesses the cash flow benefit of acquiring "qualifying goods and services" (excluding non-deductible items) at the zero rate of VAT.

The application for this authorisation must be submitted through Revenue and is typically granted for a period of one to three years. If the certificate is not renewed before the renewal deadline, VAT should be charged as normal by the taxpayer's suppliers.

This authorisation may be relevant and beneficial for your organisation. In addition, where your customers hold such authorisations, you need be mindful of their expiration date to ensure that you do not inadvertently zero-rate a supply to them after same.

Irish Budget 2024

Each year, the Irish Department of Finance publishes a package ("the budget") which outlines the main taxation changes and other public expenditure items for the upcoming year. The budget is generally announced in October of every year.

In the lead up to the official announcement of the budget measures, various bodies, including Deloitte, provide recommendations to the Department of Finance for consideration for the upcoming budget. As part of Deloitte Ireland's submission in advance of the Budget 2024, the following Indirect Tax initiatives were recommended:

- Reduction of the current standard rate of VAT from 23% to 21%.
- Increase of the current VAT registration thresholds from €37,500 to €50,000 for businesses that supply services only, and from €75,000 to €100,000 for businesses that supply goods only and for businesses that supply both goods and services.
- Increase the VAT threshold for the cash-receipts basis of accounting (currently €2M).
- The introduction of a scheme similar to the Section 56 authorisation for renewable energy projects which provides for a zero rating of inputs until the project is operational (i.e. generating revenues).
- Reducing the VAT rate in connection with residential property development (currently 13.5%).
- Creation of a tax warehousing scheme for VAT liabilities whereby the VAT liabilities would fall due when the housing development is fully completed and sold.

Employment Tax Updates

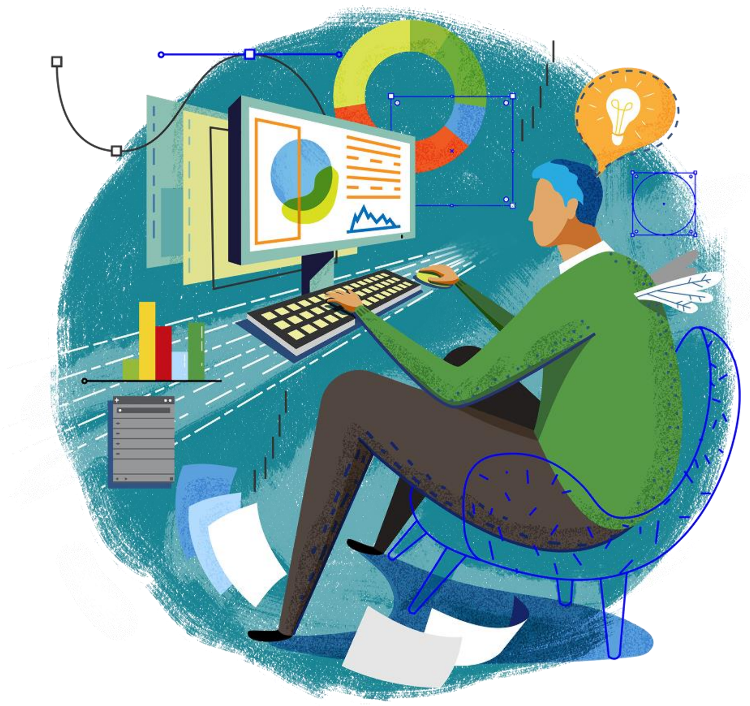
Irish employment carried on outside the state

Revenue updated their guidance relating to a non-resident employee who carries out some duties in Ireland and some duties abroad under an Irish Employment contract.

Previous guidance allowed employers to operate payroll withholding based on the portion of income relating to Irish duties only, without Revenue approval.

The recent update requires employers to obtain prior authorisation in writing from Revenue and in the absence of same Irish payroll withholding must be operated on the employees entire remuneration.

This update is particularly relevant for employers who allow employees to live abroad and commute to Ireland for a number of days per week or allow individuals to work remotely from outside Ireland on an ongoing basis with a set number of visits to Ireland per annum.



Global Updates

EU Commission package updates

On 12 September the European Commission ("EC") adopted a key package of initiatives (3 initiatives: BEFIT, Transfer Pricing and SME relief) to reduce tax compliance cost for cross-border businesses.

BEFIT

- The BEFIT proposal aims to reduce compliance costs for large businesses operating in more than one EU member state and would facilitate national tax authorities in determining the taxes that are due.
- The Commission estimates that the BEFIT proposal could reduce tax compliance costs by up to 65% for in-scope businesses.
- The key rules proposed are as follows:
  - Companies that are members of the same group will calculate their tax base in accordance with a common set of tax rules.
  - The tax bases of all members of the group will be aggregated into one single tax base.
  - Each member of the group will have a percentage of the aggregated tax base. This percentage will be based on the average of the taxable results in the previous three fiscal years.
- For more information, please read here.

Transfer Pricing

- On 12 September 2023, the European Commission ("the Commission") published a "Proposal for a council directive on transfer pricing" to harmonize rules within the EU as part of its Business in Europe: Framework for Income Taxation (BEFIT) package.
- The proposal would incorporate the arm's length principle and key transfer pricing rules into the EU legal framework.
- It is intended to clarify the role and status of the OECD TP guidelines across the EU and would create the possibility of establishing common binding rules on specific aspects of transfer pricing.
- For more information, please read here.

SME Relief

- Within the SME Relief Package , the Commission aims to provide short-term relief, boost long-term SME competitiveness and resilience, and foster a fair and SME-friendly business environment. It includes:
  - a proposal for a late payment Regulation,
  - a proposal for a Directive on tax simplification for SMEs,
  - a set of measures to make things easier for SMEs, improve access to finance and skilled workforce, and to support SMEs throughout their business lifecycle.
- If the proposed directive is adopted in its proposed form, it would need to be transposed into domestic legislation by 31 December 2025 and to apply as from 1 January 2026.
- For more information, please read here.

To get more information on the status of implementation in each member state regarding several directives from the European Union, please see here.

Snapshot of domestic territory Pillar Two updates

Luxembourg

On 4 August 2023, the Luxembourg Chamber of Deputies published draft legislation implementing the EU Pillar Two directive. The rules of the directive are designed to ensure that multinational and domestic groups with annual consolidated revenue of at least EUR 750 million pay taxes at an effective rate of at least 15% on profits derived in each jurisdiction where they operate.

Based on the explanatory statement of the council of government, the draft legislation closely reflects the EU's Pillar Two directive, which is based on the Pillar Two model rules of the OECD/G20 Inclusive Framework on BEPS ("OECD inclusive framework"). The Pillar Two directive contains certain adjustments from the OECD model rules to ensure conformity with primary EU law (notably the inclusion of domestic groups in the scope of the rules).

Read more here.

Czech Republic

The Czech Republic has approved draft legislation to transpose into its domestic law an EU directive implementing a global minimum top-up taxation framework. If approved by the Czech Parliament and signed by the president, the bill would take effect on December 31. The draft legislation reflects the provisions in Council Directive (EU) 2022/2523, which are largely in line with the global anti-base-erosion (GLOBE) model rules under pillar 2 of the OECD's reform plan. According to the Czech MOF, the draft legislation would introduce an IIR and UTPR. The bill also calls for a compensatory tax, which appears to be equivalent to a domestic minimum top-up tax. See attached publication for more.

You can read more here.

Germany

On 16 August 2023, the German government approved draft legislation on the domestic implementation of Council directive (EU) 2022/2523 on ensuring a global minimum level of taxation for multinational enterprise (MNE) groups and large-scale domestic groups (the "Pillar Two directive"). The approved version was published on the Ministry of Finance (MOF) website on 17 August 2023.

The first discussion draft on the domestic implementation of the Pillar Two directive was published on 20 March 2023. After comments were provided by several business groups and the OECD administrative guidance was published in February, a second discussion draft on the domestic implementation of the Pillar Two directive was published by the MOF on 10 July 2023. The approved version of the Pillar Two draft implementation law takes into account the additional comments from business groups but did not incorporate the OECD administrative guidance published in July.

You can read more here.

Snapshot of domestic territory Pillar Two updates

Finland

The government has opened a public consultation on the draft bill (the Minimum Taxation Act) to implement the Pillar Two Directive (Minimum Taxation Directive (2022/2523)) into Finnish legislation. The draft bill, which aligns with the Directive and the GloBE model rules, would introduce a supplementary domestic tax in the form of a "Qualified Domestic Minimum Top-up Tax", as well as an "Income Inclusion Rule" (IIR) and an "Undertaxed Payments Rule" (UTPR). The draft bill, once approved, is expected to enter into force on 1 January 2024, having effect for fiscal years commencing on or after 31 December 2023.

Italy

On 11 September 2023, the Italian Ministry of Economy and Finance published a draft legislative decree on the domestic implementation of Council Directive (EU) 2022/2523 on ensuring a global minimum level of taxation for multinational enterprise groups and large-scale domestic groups in the EU ("EU Pillar Two directive"). The directive is required to be implemented by each EU member state by 31 December 2023 so that certain provisions may be applicable to fiscal years beginning on or after 31 December 2023. The Italian legislation has been published in draft form on the Ministry of Economy and Finance's website for public consultation (from 11 September to 1 October 2023) and is part of a broader tax reform formally enacted in mid-August 2023 (Law No. 111/2023) that aims to reduce tax burdens, fight and prevent tax avoidance, and introduce measures that would increase Italy's global competitiveness, in line with EU rules and OECD recommendations.

Read the full article here.

United Kingdom

On 27 September 2023, HMRC published additional **updated draft legislation**, for technical consultation, relating to the UK's implementation of the G20/OECD Inclusive Framework's Pillar Two Model Rules. The additional draft legislation includes amendments intended to reflect the latest agreed administrative guidance issued by the G20/OECD Inclusive Framework in July 2023, for example on further agreed safe harbours, the treatment of tax credits, and transitional simplified jurisdictional reporting rules for Pillar Two information returns. For further background on these agreed Inclusive Framework measures, see our **alert from July 2023**. HMRC are inviting any comments on the UK legislative amendments by 25 October 2023.

France

The government has presented the Finance Bill for 2024 (the Bill).The National Assembly has received the Bill, and discussions on it are scheduled to commence on 17 October 2023.

In terms of corporate taxation, the most significant measures proposed in the Bill are the transposition of the Minimum Taxation Directive (2022/2523) (Directive) and the introduction of a new tax credit for certain "green" industries.

VAT Updates

Global e-invoicing updates

France

The French Tax Authority (DGFIP) had announced the intention to mandate countrywide e-invoicing and e-reporting from 1 July 2024. On the 28th July 2023**,** it was announced that the e-invoicing and e-reporting mandate would be postponed to give the necessary time for the success of the reform. The new date will be announced as part of the Finance Bill for 2024.

Belgium

Belgium has reinstated its plans for e-invoicing (which it paused earlier this year), now intending to become mandatory for all Belgian taxpayers from 1 January 2026. While e-reporting is not currently included in the agreement, it is expected to be enforced at a later point. As a next step, Belgium will need to obtain derogation approval from the European Commission to initiate the implementation of its mandate (which we expect to be granted).

Germany

The German authorities published a roadmap for e-invoicing which foresees mandatory domestic B2B e-invoicing from 1 January 2025, for all German established legal entities businesses. The German Federal Ministry of Finance published the Growth Opportunity Draft Act (“Wachstumschancengesetz”), which confirms the following:

- The rules on mandatory e-invoicing for domestic B2B supplies will enter into force on 1 January 2025. However, to address the administrative burden of the implementation, the authorities are granting a transition period until 1 January 2026 – in other words, paper invoices and paperless invoices not meeting the standard CEN 16931 can still be issued until 31 December 2025 for supplies carried out in 2025.
- During 2026 and 2027, all invoices must be issued electronically, and the EDI procedure can be used for supplies made in those years.
- As from 2028, all e-invoices will have to comply with the EU standard CEN 16391 (except for small-value invoices and travel tickets).

The deliberations on this draft are still ongoing. The Act is expected to be adopted by the end of 2023.

Employment Taxes

Uruguay: Tax incentives to technicians and professionals from IT sector

Recently, a Law has been approved in Parliament to promote the establishment in Uruguay of technicians and professionals from the Information Technology (IT) sector who are currently living abroad.

The main characteristics of this tax benefit are:

Technicians and professionals in the IT sector have the option of paying non-residents income tax instead of residents tax. They also have the option of not making Uruguayan social security contributions. To access this option, several conditions must be verified simultaneously:

- Being a foreigner or national, who has not verified tax residence in the country in the 5 years prior to transfer to national territory.
- Carry out full-time activity in national territory (at least 244 days of effective physical presence in Uruguay for each calendar year).
- Express in writing their desire not to contribute to the social security system in Uruguay.
- Obtain all the income from work in the national territory, exclusively as employee, for the provision of services in the areas of biotechnology and bioinformatics, software development and related services.

The option may be carried out only once, and will be applicable for 5 consecutive years (including the year of the option).

If, after exercising the option, the employment is terminated, he or she will continue to have the right to apply the option within the aforementioned period, provided that the conditions continue to be verified, and no more than 1 year passes between termination and new employment relationship.

The option will apply to labour contracts initiated until 2/28/2025.

Enhanced Reporting Requirements

Enhanced Reporting Requirements

Our spotlight article for this edition is on Enhanced Reporting Requirements.

Overview

From 1 January 2024, employers will be required to report details of certain tax-free payments or benefits made or provided to employees or directors. This is subject to a commencement order. The new rules will require employers to notify Revenue **on or before** the following tax-free items are provided to employees:

- *Travel and subsistence*
- *Small benefit exemption*
- *Remote working allowance*

This requirement only relates to **payments to employees** such as reimbursement of business travel costs. Travel and subsistence expenditure incurred on a corporate credit card or through a central booking system are not currently within scope.

Revenue engagement

Revenue are working with a service user group to prepare technological solutions to facilitate the new reporting requirement. At this stage, it is important that you engage with your software provider to confirm if they are already involved in the service group or whether you need to create your own reporting solution.

Revenue will also be holding information webinars in the coming months. You should keep an eye on your ROS Inbox as all Revenue correspondence relating to ERR are being issued here.

Things to consider

1. Are your tax, payroll & HR functions aware of the new ERR requirements?

2. Are your current reimbursement policies & procedures aligned with the new requirements?

3. Does your expense data capture sufficient information to subcategorise the relevant reporting requirements?

4. Are your finance, expense & payroll systems capable of providing a report in a format suitable for importation into payroll or to Revenue's upload facility?

We are hosting an Enhanced Reporting Requirement Webinar with Revenue on 18th October between 11am and 12pm. Please reach out to Roisin Gilmore at rgilmore@deloitte.ie if you would like to register.

Travel & subsistence

- Vouched travel
- Unvouched travel
- Vouched subsistence
- Unvouched subsistence
- Eat on site allowance
- Emergency travel

Remote working allowance

- Number of days remote working
- Amount paid

Small benefit exemption

- Date
- Value

Next steps

- Understand the impact of the reporting for your company
- Identify the relevant data sources & how to extract from your systems
- Establish a sustainable reporting operating model with consideration for:
  - Process
  - People
  - Data
  - Technology
- Establish a communication & awareness plan for impacted stakeholders & employees

Events & Industry News

Recent and Upcoming News & Events

Deloitte Pre Budget Submission: Read the full report and our core recommendations

Deloitte Pre-Budget Insights: Read the article published in The Irish Times

Tax Transformation Trends 2023: Read the full report here and access our LindedIn discussion.

Enhanced Reporting Requirement Webinar with Revenue: Webinar hosted on 18th October between 11am and 12pm. Please register here.

LinkedIn Activity: Posts and discussions surrounding the upcoming budget.

- **LinkedIn:** Recently published Tax Transformation survey.
- **LinkedIn:** Budget Post 1 – Shane Wallace
- **LinkedIn:** Budget Post 2 – Billy Burke
- **LinkedIn:** Budget Post 3 - David Shanahan
- **LinkedIn:** Budget Post 4 - Karen Frawley

Please reach out to one of the team below or your regular contact if you would like to discuss any of these topics in greater detail.

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