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Deloitte Budget 2025 Submission

Innovate Ireland: Simple Taxes, Thriving Businesses, Sustainable Future

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Introduction

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The Irish economic growth story has achieved substantial improvements in living standards for the Irish people and has been based on solid economic and tax policy in order to attract Foreign Direct Investment ("FDI") and cultivate a domestic business environment where investment can thrive. In our submission we are calling for a redoubling of efforts to support Domestic Direct Investment ("DDI"). Despite a number of macro economic and geopolitical shocks, the Irish economy has shown remarkable resilience. While GDP growth has now shifted onto a slower growth path in line with current medium-term growth projections, other indicators still remain positive. Inflation is expected to ease even further over the next two years, reaching around 2%, in line with recommendations by the Central European Bank. Insolvency rates of domestic firms have increased modestly. Households have remained broadly resilient to higher interest rates and the impact of an increased cost-of-living. the labour market remains in good shape, with Irish unemployment rates remaining near a record low of 4%. This resilience is reflected in the most recent exchequer returns in May which showed buoyant receipts across the main tax heads, up 6% in 2024 compared to the same period last year.

However, there are significant challenges ahead including further changes to the global international taxation regime, more competition from other countries in attracting FDI and the need to address systemic infrastructural blockers to growth that currently exist. The fiscal concentration risk around a small number of taxpayers is of particular focus where the top 10 corporations accounted for almost 60% of corporate tax receipts and around 8% of taxpayers accounted for 54% of income tax/USC. The success in attracting FDI to Ireland means that multinational firms drive around 80% of corporate tax receipts and 30% of income tax receipts.

Our submission outlines the next steps Ireland needs to take in order to improve its value proposition both for attracting FDI but also in refocusing our efforts on helping domestic companies and creating an environment for those businesses to thrive. The tax policy measures outlined in this submission are designed to fortify Ireland against future shocks while seizing the opportunities of a dynamic global landscape.

1. Firstly, we need to simplify our tax regime and question whether we can continue to place additional administration burdens on companies operating in Ireland. For example, Revenue now issues more guidance notes and eBriefs annually than there are working days of the year. Our system should not be so complicated to necessitate such a frequency.

2. Secondly, we need policy that focuses on diversifying our economy. With a relatively low, narrow, and concentrated revenue base, there is also a need to diversify our tax revenues.

   - We need to sustain FDI through practical enhancements to our Knowledge Development Box, Digital Games Tax Credit and Research & Development tax credit regime.
   - But we also need to redouble our efforts to develop our Domestic Direct Investment ("DDI"). Central to this is providing an infrastructure where Irish based companies can be created, scaled, and compete throughout the world. We are calling for DDI initiatives such as tax efficient financing measures for SMEs and practical amendments to the Angel Investor Relief to be put in place and the removal of barriers to growth such as the lifetime limit on Entrepreneur Relief.
   - A focus on how we can make Ireland better for Irish publicly listed companies should also be a priority if we want to retain the current generation of successful Irish businesses and create the next generation of Irish success stories.
   - In the year of the Olympics, we are also calling on specific legislative amendments to use the tax system to support our athletes in being successful in Paris 2024 and beyond.

3. Finally, we need to address climate change and make the tax system more helpful for those who are trying to do their bit for the environment, for those who are researching solutions to the difficult climate questions and for those building infrastructure to take advantage of our wind and water natural resources. We are asking government to consider a new decarbonisation credit and digitalisation credit which reflects the reality that businesses are working to keep up to speed with mega trends including decarbonisation and digitalisation, either by researching, developing and delivering the products to address the impact of these trends or by implementing relevant technologies in the business.

The formulation of Budget 2025 is a pivotal moment, presenting both challenges and opportunities in an increasingly shock-prone world. In an era characterised by continuous economic volatility, geopolitical tensions, and environmental uncertainties, it is imperative that Ireland's tax policy is not only resilient but also forward-looking. Our pre-Budget 2025 submission 'Innovate Ireland: Simple Taxes, Thriving Businesses, Sustainable Future' outlines strategic tax measures designed to address these challenges while capitalising on opportunities to enhance economic stability, growth, competitiveness, and equity. Through prudent and innovative tax measures outlined in this submission, Budget 2025 should help steer Ireland towards a resilient, growing and sustainable future.

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Overview

1. Carbon Conscious, Tax Advantageous: Incentivising Decarbonisation

While a substantial effort has been made in Ireland to meet the committed reductions in greenhouse gas emissions through various tax policies, the Environmental Protection Agency ("EPA") has indicated that Ireland is not on track to meet its national greenhouse gas targets. Furthermore, an objective for Ireland to reach an 80% share of renewable electricity generation by 2030 will also be quite challenging to meet. Therefore, we urgently need to address this issue, not by just ensuring that we are not lagging behind other Member States, but by aiming to become one of the leaders on decarbonisation and green transition.

From a tax policy perspective, this means that many existing tax measures, incentives and reliefs should be reviewed and enhanced. New tax incentives and reliefs should be introduced, together with other measures which are outside the scope of this submission, to provide for a best-in-class environment in which sustainable finance can grow and thrive.

Developing Green and Clean Tax Reform, preceded by an in-depth comparative review of existing tax measures globally, should become one of the key priorities for the Government in advance of Budget 2025. While it is true that the decarbonisation may affect the State's revenue stream and require a substantial medium-to-long term financial investment in green capital, the cost of inaction would, however, be more substantial.

Our recommendations to move Ireland to becoming a leading decarbonised economy focus on:

- **Decarbonisation tax credit:** Introduce a new qualifying refundable decarbonisation tax credit with a repurposed science test and a focus on costs incurred in seeking to reduce carbon emissions.
- **Relief for investment in renewable energy generation:** Re-introduce relief to encourage corporate shareholders to invest in renewable energy projects, allowing the relief to be used to shelter income or gains taxed at the higher rates of tax.
- **Extend the participation exemption** to the sale of companies that host early-stage renewable energy projects.
- **Pre-trading expenses:** Update rules to ensure that all vouched pre–trading expenditure in relation to renewable energy projects is deductible or at the very least expenditure in a 7-year window is deductible.
- **Grid connection costs:** Clarify the tax treatment of such costs.
- **RCT:** Allow an initial 0% rate of withholding tax to companies backed by promoters with appropriate tax compliance records and to start up companies operating in the carbon mitigation space.
- **Decommissioning/rehabilitation costs:** Introduce a tax relief for decommissioning/rehabilitation costs related to renewable projects.
- **Solar investment vehicle:** Introduce a solar energy fund tax regime to encourage investment in solar energy and to reduce the cost barriers to entry.
- **Incentivising green spending and transition** through measures such as super deduction of capital expenditure incurred; a qualified refundable tax credit with respect to such expenditure; super deduction or accelerated capital allowances.
- **Tax measures to facilitate transition from "*brown*" to "*green*" employment:** For example, extend Tuition Fee relief for qualifying courses which will lead to upskilling of workers in areas related to decarbonisation.
- **Emission Allowances:** Consideration should be given to broadening the definition of "emission allowances" to include other expenditure incurred on various forms of emission allowances with a view to achieving carbon emissions targets.

2. Irish Ingenuity, Global Opportunity: Tax Reform for Domestic and International Success

To grow and diversify while supporting a sustainable tax base, Ireland needs solid dual investment; Domestic Direct Investment ("DDI") and successful foreign direct investment ("FDI"). SMEs are the backbone of the domestic economy, according to the latest available data published by CSO in 2024, SMEs accounted for 99.8% of all enterprises and 7 in every 10 workers in Ireland were employed in SMEs. Two-fifths (41.5%) of total turnover and 34.8% of Gross Value Added (GVA) was attributed to these enterprises. These figures perfectly demonstrate the vital role SMEs play on this island, acting as the "engine room" of the Irish economy.

While there are numerous forces which already drive a successful entrepreneurial landscape in Ireland, such as a skilled workforce, digitalisation, and technological advances, critical to all of these forces is our tax system, which should act in a coherent manner to promote greater domestic investment. It is imperative from an entrepreneurial perspective that our tax system promotes and incentivises innovation, encourages longevity and scaling up and does not punish failure.

Among the measures we recommend supporting homegrown success are:

- **Capital Gains Tax (CGT) Retirement Relief:** Extend the age limits and increase the thresholds.
- **Stamp Duty:** Introduce a Stamp Duty relief on the transfer of commercial properties to encourage lifetime transfers of business property to the next generation.
- **KEEP/SARP:** Further enhancements to KEEP and SARP reliefs are needed to enable SMEs to attract and retain talent.
- **Angel Investor Relief:** Reduce the conditions to qualify and simplify the relief.
- **Tax rate on certain dividends:** Introduce a 20% income tax rate on dividends (with related Dividend Withholding Tax amendments), subject to a €100,000 per annum limit once the business has been in existence for five years.
- **Tapering Relief:** CGT tapering relief should be introduced for individuals making certain investments.
- **Rollover Relief:** 100% rollover relief should be provided for entrepreneurs that exit the business and who re-invest 75% or more of the sales proceeds in shares in another trading company, the disposal of which would be within the CGT charge.
- **Tax-Efficient Financing Arrangement:** A loan finance arrangement should be commenced whereby individuals can lend money to SMEs and, provided certain safeguards are in place, for example, market interest rates are applied, then, the individual will be taxed on the coupon received at the standard rate of income tax (i.e., 20%) as opposed to the marginal rate of income tax (i.e., up to 55%).
- **Entrepreneur Relief:** Review the lifetime limit and nature of Entrepreneur Relief.
- **Digitalisation:** Introduce tax incentives and reliefs to support businesses in their digital transition and transformation.
- **Stamp Duty:** Consideration should be given to reducing the stamp duty rate on share transactions in Ireland.

3. Innovate, Grow, Thrive: Redefining Corporate Tax for a Future of Success

The Irish corporate tax landscape has been influenced significantly by global tax reform and international tax developments in recent years. This is evident by the volume of new tax legislation introduced in the Irish tax code on the back of the OECD Base Erosion and Profit Shifting project ("BEPS") and the EU Anti-Tax Avoidance Directives. The emphasis of both has been on anti-avoidance and tackling aggressive tax planning. Alongside all of this, Ireland's policy has focused on attracting and retaining foreign direct investment ("FDI"). The Irish 12.5% corporation tax rate has been a key factor to the success of our FDI economy. But it has not been the only factor. The wider offering for businesses looking to invest in Ireland extends beyond tax including an English-speaking population, an educated workforce, membership of the EU and favourable business conditions, all contribute.

The OECD's Pillar Two rules under their BEPS 2.0 project which introduced a new 15% minimum effective tax rate has already had a big impact in countries across the world, including Ireland. These changes erode the attractiveness of corporation tax rates globally and will cast Ireland's 12.5% rate in a different light so we must look to new ways Irish tax policy can enhance our offering while also simplifying our tax code. Ireland must remain a competitive location in which to invest and grow businesses.

Ireland has the capacity to meet the needs of Research and Development (R&D) investors and offers the ideal commercial, political and social environment in which to carry out successful and profitable R&D activities. We believe now is the time to conduct in-depth comparative research on effective personal and corporate R&D incentives and reliefs. Qualifying R&D activities should be expanded to include AI, Blockchain, Data Analytics and also Carbon Neutrality. Outsourcing of research and development to third parties is particularly common in certain industries such as the food, pharmaceutical and biotech sectors and can be of particular importance to the SME sector. The current limits on outsourced R&D activities that qualifies for the R&D tax credit must be removed, this will not only bring Ireland in line with other jurisdictions but will also ensure that Ireland has a best-in-class R&D tax credit regime.

Our key recommendations to ensure that Ireland's corporate tax policy provides for a future of success include:

- **Interest deductibility rules:** Section 247 TCA 1997 should be repealed and replaced with new interest deductibility rules that are principle based.
- **Digitalisation tax credit:** In alignment with the EU's Digital Europe Programme, introduce a new qualifying refundable digitisation credit, which will be closely aligned to the existing R&D tax credit, but with a different science test.
- **R&D tax credit:** Allow for related party expenditure where the Irish entity is the principal IP holder and is bearing all the economic risk and future benefits associated with the R&D spend.
- **R&D qualifying expenditure:** Expand Qualifying R&D activities to include AI, blockchain, data analytics and carbon neutrality.
- **Enhanced R&D tax credit for safe AI expenditure:** Introduce an enhanced R&D tax credit in excess of 30% ("qualified refundable tax credits" for Pillar Two) for certain categories of expenditure related to reliably safe development, implementation and use of AI.
- **Expenditure on research and development:** Amend the definition to include rental costs and other relevant overheads.
- **Digital Games Tax Credit:** Increase the rate to 38% and make specific amendments to the legislation to ensure that the incentive is practically available to the way the digital gaming ecosystem works.
- **Knowledge Development box:** Address the restriction on the regime by the Pillar Two rules and amend the regime to ignite the attractiveness of the incentive for qualifying companies.

4. Lifting the Burden, Fuelling Ambition: Personal Tax Reform to reward workers

With the reduced importance of the corporate tax rate in attracting FDI and fostering domestic innovation, the role of personal tax policy becomes more important. Labour supply, and in particular increases in labour force participation, has been a significant feature of Irish economic growth in recent decades. Income tax (including USC) continues to be the largest revenue stream funding public services in Ireland (38% in 2023). It is vital that we have a personal income tax system which is progressive and has a broad base to support economic growth and grow personal income tax revenues into the future. Our high personal tax rates and the cost of doing business, remain a disincentive to businesses locating in Ireland, to employees taking on additional work and to foreign based talent (including Ireland's diaspora) relocating or returning to Ireland. The increasing cost of doing business in Ireland has been signalled as the single most significant challenge for business leaders.

A substantial income tax and USC reform which would broaden the tax base and make the personal tax regime attractive for workers and businesses is vitally important in a highly mobile and competitive world and during a time of demographic transition. In addition to implementing short-term personal tax reform, a Personal Tax Roadmap should also be put in place to demonstrate to workers when and how the personal tax burden will be reduced over the medium-to-long term.

Our key recommendations to reward workers include:

- **Tax rate and bands:** Increase the Standard Rate Cut off Point ("SRCOP") from €42,000 to €50,000. The top combined rate of 52%-55% should be reduced to 50%. This would include a reduction in the higher tax rate of 40%.
- **Special Assignee Relief Programme (SARP):** Review and enhance the SARP regime in order to attract foreign senior executives to Ireland in the face of strong competition from other EU jurisdictions.
- **Foreign Earnings Deduction (FED):** Review and enhance FED (i.e., extending FED to all countries; extending the annual maximum relief to €100,000; removal of the sunset provision; extending the relief to USC/PRSI; extending it to the self-employed sector etc.).
- **Small benefit exemption:** Remove the limit on the number of benefits and focus on the maximum value instead (€1,000 per year collectively).
- **Remote working reliefs:** Extend the relief to a broader range of remote related costs, introduce a Remote Working Tax Credit; and recognise the home office as a place of work.
- **Return to employment:** Enhance existing measures to incentivise and encourage people to take up return to and remain in employment, with particular focus at individuals at risk of poverty.
- **PRSI/USC:** Consider merging income tax and the USC to simplify the income tax code.
- **Tax credits and reliefs:** Reintroduce or enhance reliefs such as bin and service charges relief; travel and subsistence relief for temporary assignees; child-related tax reliefs; health expenses and flexi TaxSaver commuter ticket.

For Ireland, 2024 is a significant year in the world of sport. Not only were all eyes on Ireland when Dublin hosted one of the biggest tournaments in soccer with the Europa League Final in May, but following the European Athletic Championships, all eyes will be on Paris for the 2024 Olympic Games where we will be hopeful of success in a variety of events. Deloitte are a Worldwide Olympic and Paralympic Partner and also an Official Partner to Team Ireland and the Olympic Federation of Ireland. We are of the view that Irish tax policy must recognise these athletes and support them in their endeavours. Given the different approach to athlete remuneration compared with their professional counterparts in rugby and other sports, we believe the government should consider specific legislation to remove carding grants and similar from the scope of Irish income tax and to expand the sportspersons relief to include appearance fees and sponsorship. We also call for legislative amendments to provide protection to the athletes such that their access to social welfare (including State pension entitlements) supports are not impacted due to their time committed to represent Ireland at the Olympic Games.

5. Sustainable Futures: Delivering homes for people and businesses

Adequate tax measures addressing housing supply and demand are critically important for Ireland due to several reasons.

- Firstly, housing affordability remains a pressing issue, with prices continuing to rise and limited supply causing hardships for many citizens. Effective tax policies can incentivise the construction of affordable housing and discourage speculative investment, thereby stabilising prices and increasing accessibility.
- Moreover, housing plays a pivotal role in Ireland's economic stability. A well-functioning housing market supports labour mobility, attracting skilled workers and facilitating economic growth. Conversely, a shortage of affordable housing can lead to talent drain and hinder productivity.
- Furthermore, housing taxation directly impacts government revenue and expenditure. Property taxes, stamp duties, and capital gains taxes generate significant income for public services and infrastructure development. Properly calibrated tax policies ensure a fair distribution of the tax burden while funding essential services.
- Lastly, housing taxation intersects with social and environmental goals. Tax incentives for energy-efficient buildings and sustainable development contribute to Ireland's climate action targets. Additionally, measures like vacant property taxes discourage hoarding of housing stock, promoting efficient use of resources. In essence, adequate tax measures related to housing are indispensable for Ireland's economic prosperity, social equity, and environmental sustainability.

However, the housing crisis continues to be one of the biggest challenges facing people across the country today, affecting our competitiveness, talent retention and sustainable long-term exchequer returns.

Among our recommendations are four key proposals to deliver homes for people and businesses:

- **Real estate and housing roadmap:** Consider developing a Roadmap on real estate and housing.
- **Landlords:** Further reforms and the introduction of a standard tax rate for rental income. For all landlords, the rules for deductible expenditure should be aligned with the rules for trading profits.
- **Reducing tax input costs on residential property:** Reduce the VAT rate and other tax input costs applicable in connection with residential development to address viability challenge.
- **Tax incentives to re-purpose the property from non-residential to residential:** Introduce a full refund from stamp duty where sites or developed property designated for non-residential use are subsequently repurposed and made available for residential use. Further tax incentives should be considered for developers or investors to stimulate this re-purposing on a timely basis to address the housing shortage.

6. From Taxation to Transformation: Policies that Encourages Saving and Investment

Society continues to face several transitions and transformations in the coming years around demographic change, decarbonisation, digitalisation, and deglobalisation ("4 Ds"). The annual budgetary cycle cannot be divorced from these longer-term trends, which look set to transform the Irish economy in the years ahead. They need to be reflected in Irish fiscal policies including tax policy going froward to mitigate their impact, avail of related opportunities and maintain competitiveness and sustainability of exchequer returns to provide for public services.

To facilitate prosperity, competitiveness and protect our economy, while also accounting for the implications of mega-trends, volatility of the corporation tax receipts and uncertainty around the implication of Pillar Two 15% minimum effective corporation tax rate, the Government needs to review and enhance policies on investments and savings to protect our future.

Our key recommendations include:

- **Future Ireland Fund and Infrastructure, Climate and Nature Fund:** Policy should focus on growing these funds.
- **Investment products:** Review the tax treatment and simplify into two categories; Investment Funds & Life Assurance based investment products and other investments including deposit interest.
- **Retail Investment:** Introduce incentives for retail investments in domestic SMEs, startup, and scaling enterprises.

7. From Complexity to Clarity: simplifying the tax system

Certainty and simplicity in navigating tax rules are critical to business and investors. In the past, the Irish government has used the certainty and stability of Ireland's regime to attract FDI. Ireland has on occasion diverged from this approach in recent years and needs to return to this philosophy before our reputation for certainty and simplicity is no longer recognised by the business community. This also involves minimising unexpected changes so that long term investment decisions can be made.

We welcome the Roadmap for the introduction of a participation exemption to the Irish corporation tax system in Finance Bill 2024, the feedback statement on the participation exemption for foreign dividends and the establishment of the dedicated working group to ensure ongoing stakeholder engagement on this important matter. Our overall position remains that a move to a full territorial regime (substantial shareholding exemption, participation exemption for distributions, and a foreign branch exemption) will be a positive change to the Irish tax code and will only enhance Ireland's attractiveness as a location for companies. Adopting such a regime will bring Ireland more in line with other EU Member States and the Pillar Two rules.

It is crucial that in making changes to tax law, the Department of Finance continues to consult with stakeholders. Transparency and consultation with stakeholders and the public generally is key in dealing with implementation of new laws and amending of existing law. Throughout the implementation of the BEPS measures, and more recently the proposed draft related to the participation exemption for foreign dividends and distributions, Ireland has sought feedback from stakeholders and issued roadmaps. This has facilitated a thorough and transparent process and led to implementation of law, which although may be subject to amendment for technical matters has a level of certainty of application. We understand that the intention is to continue to engage in consultation on various tax matters and we welcome this.

We commend the establishment and ongoing work of the 'TALC Sub-Committee on Simplification and Modernisation of Business Reliefs for SMEs', this is an important forum where stakeholder can work together to identify opportunities to simplify and modernise the administration of business supports.

Simplification of the tax system underlies all the comments and recommendations we make in this submission. In addition to the comments, we make elsewhere in this submission, we recommend that tax policy focuses on:

- **Double Tax Relief measures:** Review and simplify Schedule 24 TCA 1997.
- **R&D administration:** Introduce a pre-approval process for first time R&D tax credit claims.
- **Corporate tax administration:** Review of the corporation tax return (Form CT1).
- **Tax legislation:** Irish tax legislation should be reviewed with a view to simplification.

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1. Carbon Conscious, Tax Advantageous: Incentivising Decarbonisation

Contact

Cathal Noone

Decarbonisation: Greener and Cleaner Ireland

Ireland is now facing a global crisis that means our scenic environment is under threat, and its future can no longer be taken for granted. The UN Secretary-General has recently said, "*Climate change is here. It is terrifying and it is just the beginning. The era of global warming has ended; the era of global boiling has arrived. For the entire planet, it is a disaster*."[1] Climate change and the need to decarbonise is now recognised as one of the most critical policy challenges faced by the world collectively and each Member State.[2] We firmly believe that with good policies, however, we can address the impact of climate change and decarbonisation, extending the Irish title as the "Emerald Isle" to its status as one of the leading decarbonised economies.

Ireland's geographical position is conducive to the production of renewable electricity from sources such as onshore wind, offshore wind, solar and wave/tidal. The latest *Offshore Renewable Energy Development Plan II: Strategic Environmental Assessment Report* notes that *"Ireland has one of the best offshore renewable energy resources in the world and with a maritime area of approximately 490,000 square kilometres or, in the region of seven times the size of the country's landmass, the future opportunity for Ireland to develop this is immense. As a result of Ireland's location at the Atlantic edge of the European Union (EU), Ireland has more offshore energy potential than most other countries in Europe, with an early estimate of long-term potential of at least 70 GW of ocean energy opportunity (wind, wave and tidal) within 100 km of the coastline".*[3] This not only gives Ireland an opportunity to be compliance with Fit55 targets, to be self-sufficient in energy terms but also creates opportunity for export. Having surplus energy also creates other opportunities such as the production of renewable fuels such as green hydrogen.

[1] United Nations, "Secretary-General's opening remarks at press conference on climate," 27 July 2023.

[2] United Nations, *Committee of Experts on International Cooperation in Tax Matters, Twenty-eight session, Taxation of extractive industries; Energy transition*, 19 March 2024, p. 4.

[3] Department of Environment, Climate and Communications and, Sustainable Energy Authority of Ireland (SEAI), *Offshore Renewable Energy Development Plan II: Strategic Environmental Assessment Report – Scoping Report*, 19 April 2022, p. 7.

It has been estimated by the IMF, that Ireland will need to invest €20bn annually (or 5% of GDP) for the next ten years in climate-related infrastructures and mitigation measures to achieve its targeted emissions reduction. Creating surplus green energy which can be exported or used to produce other renewable fuels could be significant in offsetting the cost of that investment. Further to that, it is important that the investment in green infrastructure and technology is stimulated and that the associated tax rules are certain and clear. In particular, commenting on the Sustainable Finance Roadmap issued in October 2021 as part of the "Ireland for Finance" strategy, the then Minister of State at the Department of Finance Sean Fleming noted that private finance must play its part in meeting investment needs, with the Irish financial services sector being a key enabler.[4]

Global mega-trends, which include decarbonisation, are on the way and, according to the National Economic Dialogue ("NED") 2023 report, they *"will have a profound impact on the Irish economy, society, well-being and other areas"* and therefore, *"the annual budgetary cycle cannot be divorced from these longer-term trends, which look set to transform the Irish economy in the years ahead…."* [5] It was also noted at the latest NED 2024 that "*taxation policy can also play a central role in incentivising or nudging the behavioural change necessary to reduce GHG emissions and produce additional environmental benefits. Environmentally positive taxation policy, operating in conjunction with other measures, can also provide an important policy lever for advancing climate action and assisting to achieve carbon budgets and SECs.… Ensuring the optimal mix of supports, regulation and taxation is in place is a vital consideration for Government. "*[6] Therefore, decarbonising economic activity in all spheres should be one of the key parts of the tax policy response.

As legislated for under the Climate Action and Low Carbon Development (Amendment) Act 2021, Ireland needs to achieve a 51% reduction in overall greenhouse gas emissions by 2030 compared to 2018 levels, and to reach net zero emissions by 2050.[7] And while a substantial effort has already been made in Ireland through various tax policies, including tax policies, in its latest assessment of Ireland's latest draft National Energy and Climate Plans ("NECPs"),[8] the Commission outlined a number of shortcomings that needed to be addressed before being finalised in 2024, indicating, *inter alia* that 1) Ireland is not on track to meet its national greenhouse gas target of -42% in 2030 compared to 2005 levels; 2) the draft sets an objective for Ireland to reach an 80% share of renewable electricity generation by 2030, driven by auctions under the Renewable Electricity Support Scheme, but it does not sufficiently elaborate on how revised EU energy and climate targets would be met.[9] Publications by the CCAC[10] and the Environmental Protection Agency ("EPA")[11] have raised concerns that Ireland will not meet its SEC or Carbon Budget targets for 2021 to 2025 or for 2026 to 2030, unless urgent action is taken and emissions begin to fall much more rapidly.

Therefore, we urgently need to address this issue now, not by just ensuring that we are not lagging other Member States, but by aiming to become one of the leaders on decarbonisation and green transition, considering that we already on the right path to greener and cleaner Ireland.

We appreciate that in facilitating the transition to carbon-neutrality, the Government may have to face important trade-offs, including the need to ensure an energy supply that is cheap, reliable, and clean. We agree with the NED 2024 briefing paper' conclusion on decarbonisation that in practical terms, Ireland will need to urgently and substantially accelerate emission reductions across all sectors of the economy.[12]

To achieve this, the Government needs to maximise opportunities and minimise challenges, thereby expanding the green economy and shrinking the brown economy. From a tax policy perspective, it means that many existing tax measures, incentives and reliefs (both "carrots and sticks") should be reviewed and enhanced and new tax incentives and reliefs should be introduced, together with other measures which are outside the scope of this submission, to provide for best-in-class

[4] International Sustainable Finance Centre of Excellence, *Ireland's Sustainable Finance Roadmap*, 11 October 2021.
[5] Department of Finance, *National Economic Dialogue 2023 – The economy in 2030: enabling a sustainable future for all*, p. 2.
[6] Department of Finance, *National Economic Dialogue 2024, Climate Actions and the Green Transition: Helping to Build a Resilient Irish Economy*, 27 May 2024, p.4.
[7] Irish Statue Book, *Climate Action and Low Carbon Development (Amendment) Act 2021*, 2021
[8] Department of Environment, *Ireland's National Energy and Climate Plan 2021-2030*, 14 September 2021.
[9] European Commission, *The Environment: Ireland's Green Deal*, 24 April 2024.
[10] Climate Change Advisory Council, *Annual Report 2023*, 21 July 2023.
[11] EPA, *Ireland's Provisional Greenhouse Gas Emissions 1990 - 2023*, July 2023.
[12] Department of Finance, *National Economic Dialogue 2024, Climate Actions and the Green Transition,* p.4.

environment in which sustainable finance can grow and thrive; to address shortcomings outlined by the Commission and to achieve our national targets by the next 2030 deadline.

Developing and implementing a Green and Clean Tax Reform should become one of the key priorities for the Government. And while it is true that the decarbonisation may affect the State's revenue stream[13] and require a substantial and a medium-to-long term financial investment in green capital (in addition to the establishment of the Climate Fund), the cost of inaction would, however, be more substantial.[14]

Below, we identified several tax measures which may help Ireland to become a leading decarbonised economy.

Decarbonisation tax credit

Our existing R&D regime has a key role in driving innovation, productivity, and competitiveness which are essential for Ireland's position in the global economy. The R&D tax credit is a fundamental tax policy tool both for fostering innovation and growth in indigenous companies and encouraging global capital to be invest in our economy.

Inspired by this credit and its success, and to ensure that Ireland will meet its carbon reduction targets by 2023 and beyond as part of the EU's Green Deal strategies and to accelerate the decarbonisation process, we recommend that the Government, using the framework of the R&D credit with minor adaptations, introduce a new stand-alone decarbonisation tax credit for expenditure incurred by businesses in seeking to lower carbon emissions. Such a refundable tax credit should be aligned with the Pillar Two definition of a "qualified refundable tax credit". The existing R&D tax credit is focused on scientific advancements and innovation, and the new decarbonisation tax credit will not replace it, as instead of achieving innovation and scientific advancement, it will be focused on lowering carbon emissions.

As outlined earlier in our submission, global mega-trends, which include decarbonisation, are on the way and, according to the latest National Economic Dialogue report (2023), and the Chef Economist of the Department of Finance (2024)[15], they *" will have a profound impact on the Irish economy, society, well-being and other areas"* and therefore, *"the annual budgetary cycle cannot be divorced from these longer-term trends, which look set to transform the Irish economy in the years ahead…. "* [16] Specifically on decarbonisation, the NED 2023 report cautions that *"at a global level, decades of procrastination and 'stop-start' policy responses mean that the window of opportunity to limit the economic, natural environment and social fall-out is closing rapidly; to put it another way, the risk of a tipping-point involving irreversible damage is increasingly high."*[17] Therefore, decarbonising economic activity should be one of the key parts of the tax policy response in Budget 2025.

The R&D tax credit has two tests: the accounting test (that the expenditure claimed as being laid out on qualifying research and development activities is correctly so claimed) and the science test (that the activities under review are consistent with the statutory definition of research and development activities). We would recommend re-using the accounting test for the new decarbonisation tax credit but replace the science test with the new decarbonisation test. The amount of the credit could be fixed, or gradual increasing in line with the level of successful decarbonisation, the effect of which could be shown compared to a pre established baseline, and subject to clearly defined bands. Furthermore, in line with R&D rules, businesses should also be supported where they seek to achieve decarbonisation but proven to be unsuccessful. In other words, there should be no minimum decarbonisation requirement to get the credit, even seeking to achieve decarbonisation should be sufficient, provided all other conditions are satisfied.

[13] Department of Finance, *Climate Action and Tax: Tax Strategy Group – 23/07*, July 2023.
[14] Department of Finance, *National Economic Dialogue 2023 – The economy in 2030*, pp. 5-6.
[15] McCarthy, John, Department of Finance, ""Mega-trends" – building economic and fiscal resilience," presented at University College Cork, 24 January 2024.
[16] Department of Finance, *National Economic Dialogue 2023 – The economy in 2030*, p. 2.
[17] *Ibid.,* p.4.

Qualifying Criteria

Regarding the qualifying criteria, we would recommend that it is aligned with the R&D criteria, namely:

A company may qualify for the decarbonisation tax credit if:

- It is within the charge of Corporation Tax in Ireland
- It carries out qualifying carbon reduction activities in Ireland, the European Economic Area (EEA) or the United Kingdom (UK)

  and

- The expenditure does not qualify for a tax deduction in another country.

Qualifying activities

To qualify for the decarbonisation tax credit, a company's carbon reduction activities may include:

Qualifying costs

- Accurately quantifying carbon footprint throughout the entire value chain.
- Assessing climate-related risks and opportunities.
- Establishing robust decarbonisation standards and strategies that set out clear targets and key performance indicators.
- Identifying and implementing technology solutions that can help enhance emissions monitoring and reporting.
- Developing robust regulatory compliance and risk mitigation programs.
- Creating a culture that promotes the benefits of decarbonization[18].
- Receiving advice on the implementation of carbon reduction processes in the business (professional fees).
- Costs associated with the implementation of carbon reduction processes (i.e., staff costs) and technology and annual reviews and reporting.
- Costs associated with obtaining and an annual renewal of a decarbonisation certificate, something similar to the BER assessment for houses, but focused on carbon reduction during the qualifying period.
- Costs associated with developing the in-house carbon reduction technologies.
- Associated staff training and upskilling costs.

Qualified refundable tax credit

Such a refundable tax credit should be aligned with the Pillar Two definition of a "*qualified refundable tax credit*".

Relief for investment in renewable energy generation

At the latest NED 2024, Minister for the Environment, Climate and Communications and Minister for Transport, Eamon Ryan T.D noted that "*many of the necessary investments entail high upfront costs and further consideration may be required on innovative approaches to mobilise and leverage private finance."*[19] Section 486B TCA 1997 previously provided corporate tax relief for equity investment in companies involved in renewable energy generation. This relief was introduced in Finance Act 1998 but was withdrawn in 2014.

[18] For further details: Deloitte, *Pathways to decarbonization: The built environment*, 2024 and *The Built Environment – Pathways to decarbonization*, 2024.
[19] Department of Finance, *National Economic Dialogue 2024, Climate Actions and the Green Transition*, p.4.

Key features of the relief were as follows:

- The relief was given in the form of a deduction from a company's profits for its direct investment in new ordinary shares in a qualifying renewable energy company.
- To have qualified for this relief, the energy project must have been in the solar, wind, hydro, or biomass technology categories, and must have been approved by the Minister for Communications, Energy and Natural Resources.
- The relief was capped at the lesser of 50% of all capital expenditure (excluding lands), net of grants or €9,525,000 for a single project.
- Aggregate annual investment by a company or group was capped at €12,700,000.
- The corporate investor needed to hold the shares for 5 years in order to avoid a clawback of the relief.

We would recommend that in light of the comments by the Minister, consideration should be given to the re–introducing this relief.

This relief would encourage corporate shareholders to invest in renewable energy projects. It should be noted that the relief became less attractive to investors when the corporate tax rate became 12.5% in 2003. Consideration could be given to allowing the relief to be used to shelter income or gains taxed at the higher rates of 25% and 33%.

Extension of the participation exemption to early-stage renewable energy projects

In many cases, to progress a renewable energy project, it will be necessary for the original promoters to sell all or part of the project at an early stage (to facilitate the introduction of capital and development expertise). In particular, this could involve the promoter selling the shares in the project company. In certain instances, the sale of shares by an Irish holding company would not be subject to Capital Gains Tax, due to the availability of the participation exemption in section 626B TCA 1997. However, the sale of shares in a project company hosting an early-stage renewable project may not be in a position to claim the participation exemption as in Revenue's view the company may not be considered trading (broadly, that the project company should be trading is one of the conditions required for the participation exemption to apply). Revenue practice is to view trading as commencing when the project company commences producing electricity.

Thus, a gain received by a holding company on the disposal of shares in a subsidiary company hosting an early-stage development project may be subject to tax at the rate of 33%. We would suggest that the participation exemption should be extended to the sale of companies that host early-stage development projects (in line with, for example, the UK broader approach). Such an exemption would increase the level of funds available to promoters to develop further new projects.

Pre trading expenses

In broad terms, an expense is only allowable if such expense is wholly and exclusively laid out or expended for the purposes of the trade. In the Revenue's view, a renewable energy trade will only commence once the company starts producing electricity. As such, any expenses incurred prior to the commencement of trading would not be deductible under first principles. There is, however, a provision that allows deductions for pre–trading expenditure. This provision allows a deduction for certain expenditure incurred in the 3 years prior to the commencement of trade.

Renewable energy projects and decarbonisation technologies by their nature take several years from the point of initial investment, until the point the project starts to generate electricity and therefore commences trading. In many cases, this pre-trading period is in excess of 3 years. The costs in this pre–trading period can be significant. As a result, a taxpayer may lose out on tax relief for expenditure incurred outside the 3-year window.

We would recommend that the rules are updated to ensure that all vouched pre–trading expenditure for renewable energy generation such as wind and solar, and also, for other renewable energy sources and decarbonisation technologies are deductible or at the very least expenditure in a 7-year window are deductible (in line with the 7-year lookback period in the UK).

Grid connection costs

Normally, in calculating taxable income, a deduction is only allowed for expenditure of a revenue nature (e.g., cost of sales type expenditure). A deduction is not available under general principles for capital expenditure e.g., broadly expenditure that endures for a number of years (e.g., buildings, plant and machinery, wind turbines, solar panels). However, capital allowances are available for capital expenditure. Under the capital allowances regime, broadly, a deduction is allowed for capital expenditure on plant and machinery on a straight-line basis over 8 years. One of the conditions of the capital allowances regime is that the taxpayer owns the asset.

While grid connections costs (costs incurred by the renewable energy company in establishing a connection between the electricity producing assets (i.e., wind turbines, solar cells) and the national transmission grid) are considered capital expenditure, Revenue have in the past taken the position that no capital allowances were available for such expenditure. As a result, a taxpayer receives no relief for such costs, which in most cases are significant.

The Tax Appeals Commission ('TAC') (94TACD2021) determined that this expenditure (Grid connection costs) should qualify for capital allowances. We ask that the position be clarified through legislation. Such clarification would have a significant impact on the overall cost of a renewable energy project. It should be noted that the capital allowances regime in the UK provide relief for grid connection costs.

VAT

Section 56 of the Value-Added Tax Consolidation Act 2010 provides for a supplier to zero rate the supply of qualifying goods and services to certain authorised persons. It also provides that those authorised persons can apply the zero rate of tax to the acquisition of goods and services received from other Member states, where obliged to account for VAT on the receipt of those supplies, and on the importation of goods from outside the European Union. Broadly, the persons who qualify (i.e., the authorised person mentioned above) are those primarily engaged in exporting more than 90% of their goods (Typically, MNEs). In general, there should be no loss to the exchequer associated with this scheme as any VAT suffered would generally be recovered. However, where the scheme applies to the taxpayer, it avoids the cash flow impact of suffering VAT (i.e., when the invoice is paid) and subsequently reclaiming VAT. (i.e., any refund could take a number of months after the payment of VAT to the supplier).

A similar cash flow impact arises for a renewable energy project. As the outlay in expenditure can be significant and with refunds only due a number of months later, the this can create a significant cash flow burden.

We would recommend a similar scheme is introduced for renewable energy projects which provides for a zero rating of inputs until the project is operational (i.e., generating revenues). This would ease the cash flow burden on renewable energy developers. Alternatively, allowing renewable energy companies, the option of making monthly rather than bi–monthly VAT returns may help to alleviate some of the cash flow burden. (It is currently possible to file monthly VAT returns if the taxpayer is in a constant repayment position, however confirmation that this can apply to companies up to the point of operating their renewable energy business would be beneficial to the sector).

Relevant Contracts Tax ("RCT")

Broadly, with certain exceptions, a developer of renewable energy infrastructure in receipt of services from contractors must deduct from payments to the contractors a withholding tax known as RCT. There are currently three RCT rates (35%, 20% and 0%) which may apply based on the contractor's RCT status. Following deduction of RCT, the contractors will then receive the net payment and should be in a position to recover the RCT deducted directly from the Irish taxation authorities or offset such RCT against other tax liabilities. One of the purposes of the RCT regime is to increase tax compliance in the construction industry.

There is an exemption from the RCT provisions for persons carrying out building or development work where the payments being made relate to work on land or buildings which will be used or occupied by the person, or their employees and the person is not otherwise considered a Principal Contractor ("the own use exemption").

In practice, new companies are normally subject to 35% RCT for up to 3 years. Once the company has established that it is tax compliant the RCT rate may reduce to 20% or 0%. However, in the early years, a 35% RCT rate will create a significant cash flow cost for contractors. Also, it is not uncommon for contracts to include a gross up clause for withholding taxes, thus increasing the business cost to the developer.

Consideration should be given to ways that would extend the 0% rate to companies backed by promoters with appropriate tax compliance records and to start up companies operating in the carbon mitigation space, either initially or after a short establishing period.

Alternatively, consideration should be given to extending the "own use exemption" to renewable energy development companies.

Decommissioning/rehabilitation costs

Section 681 TCA 1997 provides for a deduction for rehabilitation/decommissioning costs for mines necessary after certain mines cease to operate. When the funds are used to rehabilitate the mine, the expenditure on rehabilitation will be tax deductible.

The Revenue Note for Guidance explains that *"the reason for this mechanism is that if the full cost of rehabilitating a mine is not tax deductible until the point at which the mine ceases to be operated there may not be sufficient income against which to set the expenditure. Under the regime provided in the section the payments into the fund are allowed for tax purposes as they are paid and at the end of the day the clawback of allowances and tax deductibility of expenditure should match each other. If the receipt from the fund exceeds the expenditure on the mine rehabilitation, the clawback ensures taxation on the excess."*

We would recommend that a similar type of relief be made available for renewable projects such that tax relief is available for decommissioning/rehabilitation costs.

Research and Development

Another key area for tax policy to support has been in R&D measures to support innovation. Key measures include incentives for developing alternative energy technologies and for innovation in transmission, distribution and storage technologies. Measures that support decarbonisation of the extractives sector by advancing technological advancements in reducing flaring, venting, and methane emissions across the upstream oil and gas and mining sectors also fall within this category.

As Ireland expands its onshore wind, offshore wind (both fixed and floating), solar and biofuel industries, there is likely to be significant investment in research, development and innovation. With the proper incentives, Ireland could become an innovation hub for renewable energy and meet its targets under the Fit55 proposal. We should review our R&D regime to ensure that it is first in class and is well positioned to attract investment in the decarbonisation space.

See our comments on the RD&I in this submission.

Solar Investment Vehicle

It is estimated that Ireland will need to invest €20bn annually (or 5% of GDP) for the next ten years in climate-related infrastructures and mitigation measures to achieve its targeted emissions reduction.[20] Where will this level of capital investment come from? Is it expected that such investment will fall to the government or the private sector? If the private sector is to play a role in this targeted emissions reduction, then we believe it is important that adequate incentives, not just through RESS type auctions, are used to facilitate the timely deployment of private capital.

[20] IMF, IMF Country Report No. 21/124, *Ireland: Selected Issues*, 16 June 2021.

There remains significant potential for solar energy to aid in achieving Ireland's targets in the short-term. Solar farms have usually received a very positive reception from both the public and local authorities due to the low visual and acoustic impact of the infrastructure.

In Ireland, however, given regulation costs that accompany infrastructure (such as electricity planning standards), business rates and grid connection fees, it is difficult to achieve such low Corporate Power Purchasing Agreements ("CPPA") pricing to stimulate that sub-economy. Note a CPPA is a long-term contract where the end user business (rather than a licensed electricity supplier) agrees to purchase electricity directly from a renewable generator at an agreed price for a fixed term.

At a macro level, the inability of solar energy providers to ensure a competitive return on investment as a result of the relatively high costs of solar assets in Ireland (due to the various factors outlined above) will ultimately limit the amount of solar energy developments which can take place in Ireland (outside those subsidised through the RESS process) and will therefore, in turn, impact on Ireland's ability to meet its renewable energy and carbon reduction targets by 2023 and beyond.

While a substantial effort has already been made in Ireland through various tax policies, including tax policies, in its latest assessment of Ireland's latest draft National Energy and Climate Plans ("NECPs"),[21] the Commission outlined a number of shortcomings that needed to be addressed before being finalised in 2024, indicating, *inter alia* that 1) Ireland is not on track to meet its national greenhouse gas target of -42% in 2030 compared to 2005 levels; 2) the draft sets an objective for Ireland to reach an 80% share of renewable electricity generation by 2030, driven by auctions under the Renewable Electricity Support Scheme, but it does not sufficiently elaborate on how revised EU energy and climate targets would be met.[22] Therefore, we urgently need to address this issue in 2024, not by just ensuring that we are not lagging behind other Member States, but by aiming to become one of the leaders on decarbonisation and green transition.

We recommend the introduction of the new a solar energy fund tax regime in Budget 2025 to encourage investment in solar energy and to reduce the cost barriers to entry.

This specific tax incentive regime would aid in reducing the costs of producing the electricity and therefore make solar projects more viable to compete with wholesale electricity prices. This in turn should result in increased investment.

Other key aspects of a solar investment vehicle include:

1. Exempt vehicles, such as exempt PLCs, allow access to a wider investor group with potentially reduced demand for high returns. Although there are other exempt investment vehicles we believe that such vehicles do not support access to a wider investor pool as such investors are limited in terms of minimum investment and qualifying criteria and it will be important that both for the solar energy operator and society in general (as a means of environmental investment) investment is accessible widely.

2. On 1st May 2023, the rate of VAT on solar installations for private dwellings was reduced from 13.5% to 0%. However, apart from this change, current tax law does little in the way of incentivising investment in solar energy. While the Carbon Tax will likely impact and dissuade investors to invest in industries with high carbon emissions, it does little to incentivise them to look at solar energy investments. By providing an exempt regime to solar energy projects, be that for vehicles investing in or developing solar energy projects or mortgage type vehicles that finance such projects (both of which are already evident in the US), the Government will be providing the incentive for investors to move their capital into the industry whilst allowing the vehicles themselves to service the investment in as tax-efficient manner as possible.

[21] Department of Environment, *Ireland's National Energy and Climate Plan 2021-2030*, 15 June 2020.
[22] European Commission, *The Environment: Ireland's Green Deal*, 24 April 2024.

3 As a result of current tax rules, Ireland will suffer financial and economic, and possibly even reputational losses due to the opportunity cost of failing to maximise renewable energy development opportunities and by failing to meet its 2030 renewable energy targets. Each nation within the European Union must enact policy which enables the transition to a low carbon economy including targets for lowering emissions. If such targets are not met, then such nations will incur fines and penalties. Ireland paid €63m in statistical transfers in 2020 despite the downturn in the economy and faces compliance costs of up to €1.8bn cumulative between 2020 -2030 if actions are not implemented to curb greenhouse gases. Clearly, incurring such high fines and penalties when that capital can be deployed elsewhere in the economy, particularly in incentivising investment in renewables is impractical. Thus, we are suggesting a redeployment of these costs in establishing a solar investment vehicle.

4 The wide scale implementation of solar energy projects will have a positive wider impact on rural Ireland. In addition to helping Ireland fulfil its solar energy ambitions, including those relating to CO2 emissions, the solar energy industry has the potential to make an important contribution to Ireland's growth agenda and the diversification of industry in rural Ireland. The accelerated deployment of solar energy will generate jobs, particularly in the construction and installation sectors but also more broadly in professional services across consultancy, finance, and asset management. A larger domestic market will enhance Ireland's offering as a location for firms in the solar energy supply chain, which could bring further jobs and investment in high-tech, exporting industries. Creating an industry for the development, operation and management of renewable energy projects particularly solar farms could make Ireland a leading competitor for such services. Also, an increase in activities and renewable energy projects in rural areas will increase the rates received by the local authority and will allow the community to prosper more generally through the update of local infrastructure and facilities.

Whilst recognising the need to create the required market signal for renewables investment, we are conscious that an open-ended tax-exempt vehicle may not be the preferred policy going forward, particularly when the renewables sector has reached the required scale to meet targets and indeed reduce our reliance on carbon driven electricity generation. Therefore, we would suggest that certain criteria are included to give a manner of certainty on the potential benefits economically and in time provide a natural source of tax revenues to supplement, or replace, what might be a diminishing carbon tax yield as and when Ireland reduces its reliance on fossil fuels.

Additionally, a change in current tax law is likely to have a net positive effect on tax revenues. We are of the view that the tax revenues from the solar energy industry will not increase significantly in the future due to the lack of investment. Thus, there should be little potential opportunity cost of implementing an exempt regime for the solar energy industry. In fact, where we see the potential for increased revenues is from the increase in construction services provided in Ireland in the construction of the solar energy assets as in most instances this will be undertaken by third party contractors but more significantly, we see the increased rental payments under lease arrangements as providing a positive effect on tax revenues. Further, as with the provisions for other exempt plc's, distributions are mandated for the plc exemption to apply. Therefore, a level of annual taxation will still occur, albeit at the shareholder level.

Proposed Legislation

In order to achieve the objective of incentivising investment in solar energy projects, we would recommend enactment of new legislation. This would create an exempt renewable energy vehicle for the sole purpose of generating income from the financing, development or operation of solar energy assets in the State. We would propose qualifying conditions as follows could apply:

During the accounting period in which the company or group elects to be an exempt renewable energy vehicle it must –

- Be resident in the State and not in another territory;
- Be incorporated under the Companies Acts;
- Have its shares listed on the main market of a recognised stock exchange in a Member State;
- Not be a close company within the meaning of Chapter 1 of Part 13 TCA 1997;

- It must derive at least [70%] of its aggregate income from sources outside the RESS regime – e.g., through merchant trading or corporate PPAs;
- It must maintain an appropriate profit to financing costs ratio which reflects the market from time-to-time;
- It must ensure that the aggregate of the specified debt does not exceed 50% of the aggregate market value of the business assets of the renewable energy vehicle; and
- It must have a diversified share ownership and distribute at least 85% of its solar energy income annually on or before the specified date of return date for the accounting period in relation to the renewable energy vehicles.

Solar energy business could be defined as follows, along with ancillary definitions:

"solar energy business" means a business which is carried on by the renewable energy vehicles or the sole purpose of generating income from the financing, development or operation of solar energy assets in the State.

"solar energy assets" means land and accompanying infrastructure, including onsite energy storage, relating to Solar energy.

"solar energy income" means all profits (including chargeable gains) of the solar energy business.

The exemption may be drafted as follows:

"Notwithstanding anything in the Acts, but subject to the provisions of this Part, a company which is a renewable energy vehicle shall not be chargeable to tax in respect of solar energy income."

The Climate Action and Low Carbon Development (Amendment) Act 2021 ("the 2021 Act") was signed into law amending the Climate Action and Low Carbon Development Act 2015 (the Principal Act). The 2021 Act requires the Government to "pursue and achieve the transition to a climate resilient and climate-neutral economy by the end of 2050". In particular, the 2021 Act amends the principal act and provides a framework to reduce green-house gases ("GHGs") including an objective of climate neutrality by 2050 and an interim target of a 51% reduction in GHG emissions by 2030, relative to a baseline of 2018. This is an extremely ambitious target and Ireland will face many challenges if it is to meet its environmental commitments.

Incentivise Green spending

We recommend that spending on green technology, buildings with recognised accreditation and business processes related to decarbonisation should be incentivised by way of super deductions or accelerated capital allowances. For example:

- 'Super deduction' of up to 200% of capital expenditure incurred (depending on the type of expenditure) or a qualified refundable tax credit with respect to such expenditure[23]; or/and
- Super accelerated capital allowances.

[23] Such a refundable tax credit should be aligned with the Pillar Two definition of a "qualified refundable tax credit". Any super deduction or tax credit should also be aligned with US foreign tax credit regulations so as not to disincentivise US groups from engaging in green spending within the Irish economy.

Such reliefs could apply for the purposes of:

- Developing new buildings/factories that receive a recognised accreditation for overall energy performance;
- Retrofitting existing commercial buildings;
- Expenditure on plant and machinery that receive a recognised accreditation for overall energy performance;
- Expenditure on IT equipment for remote working;
- Expenditure on commercial hybrid and electrical vehicles ("EV's") to encourage companies to electrify their fleet;
- Expenditure on charging stations for electric vehicles; and
- An incentive scheme for certain energy-efficient equipment is due to expire on 31 December 2023. We would call for the extension of the scheme.

Transport

We would encourage wider adoption of electric/hybrid vehicles via:

- Tax incentives for hybrid/electric vehicles such as super deductions and accelerated capital allowances.
- Lower rates of VRT on electric/hybrid vehicles; and
- Lower rates of motor tax on hybrid/electrical vehicles.

Currently, there are limits on the amount of capital allowances a business may claim on a company car i.e., regardless of the cost of the car, the capital allowances that may be claimed over the lifetime of the car is €24,000. The limit on capital allowances for electric vehicles ("EVs") could be increased to make the acquisition of such vehicles more attractive.

Consider reducing the VAT rate of electric and hybrid vehicles in order to bring the cost of such vehicles to a more competitive level.

Extend the benefit-in-kind exemption for electric vehicles when the current scheme expires and to review the BIK treatment of cars provided by car sharing organisations.

Consideration should be given to introducing a scrappage scheme for second hand electric/hybrid vehicles.

Tax measures to facilitate a transition in employment

A move from the brown to the green economy may lead to some labour market disruptions[24] during which workers may have to be retrained and a shortage of green talent may be experienced. The shift to greener technologies over the medium and longer-term may have implications for production and consumption and, hence, for the allocation of resources (workers and firms within the economy). Tax policies can make this transition smoother by providing adequate incentives and reliefs to businesses and workers for upskilling; facilitating the entry of 'green' firms and supporting restructuring of activities in traditionally `brown' firms to become more environmentally sustainable. For example, we would recommend increasing the Tuition Fee relief for qualifying courses which will lead to upskilling of workers in areas related to decarbonisation and expand the list of approved courses and colleges beyond third level education courses.

Emission Allowances

Section 81C TCA 1997 was introduced to confirm that a tax deduction is available for expenditure incurred on the purchase of emission allowances as defined in that section, and that the consideration for the disposal by a company of such allowances, for the purposes of its trade, is deemed to be a trading receipt of the trade. Consideration should be given to broadening the

[24] Department of Finance, *National Economic Dialogue 2023 – The economy in 2030*, pp. 5-6

definition of "emission allowances" to include other expenditure incurred on various forms of emission allowances with a view to achieving carbon emissions targets.

Global tax measures to support energy transition

Tax policy, working in tandem with other policies, can play an important role in the transition to a climate neutral and circular economy. Decarbonisation is central to global climate goals, which include moving from carbon-emitting to carbon-free sources of energy and removal of potential carbon in the atmosphere through either post burning of hydrocarbons or direct air capture of carbon. Energy transition is a key part of decarbonisation.

The US Inflation Reduction Act of 2022[25] provides a good example of the use of tax policy to encourage energy transition.[26] And now, Australia's Green Tax Credit Plan aims to compete with the US IRA2022.[27] We recognise that while United States has made very significant investments, most other countries, including Ireland, may not have the resources or fiscal space to provide this level of investment and may consider more targeted responses or supports on a smaller scale.

Government policy and regulation is the most important driver in the current energy transition. Policymakers have two broad groups of instruments, set out below, at their disposal to influence the transition: 1) financial measures which include tax measures to promote energy transition, including incentives for renewables and energy conservation, use of climate friendly solutions in transportation and power generation, etc.[28]; and 2) regulatory measures and market factors.[29]

Wide-ranging direct and indirect tax incentives and reliefs coupled with administrative measures and are already deployed around the globe to effectively support renewable energy production to reduce carbon emissions, encourage technological innovation, and support the repurposing of fossil fuel assets to produce energy, store energy, or provide ancillary services. Indirect tax measures often include exemptions or reductions of customs duty and, less commonly, VAT concessions.

We would encourage the Government to conduct an in-depth comparative review of global tax regimes for energy transition with the view of identifying and implementing suitable regimes in Ireland to fit our scale and ambition, while taking into the consideration available budgets and future revenue flows.[30]

Other decarbonisation options

One of the key levers available to the Government is tax policy which can be used to influence behavioural change throughout business and society. In particular, these policy matters could include:

- **Tax Exemptions:** Tax exemptions for both companies and individuals in respect of certain types of capital gains and income/benefits.
- **Tax Reliefs:** Tax relief for investors investing in particular types of investments. For example, EIIS allows investors to deduct the cost of their investment from income, therefore reducing their income tax liability.

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[25] The White House, *Building a Clean Energy Economy: A Guidebook to the Inflation Reduction Act's Investments in Clean Energy and Climate Action*, Version 2, January 2023.

[26] The United Nations report, *Energy transition in extractive industries*, noted on p.20 that *"Concerns have been expressed that the provision of direct tax incentives could lead to tensions with the standards implemented by a number of countries for a global minimum tax, the so called "Pillar 2" top up tax. It is not necessarily the case, however, that an incentive measure is automatically rendered ineffective as a result of a global minimum tax. The specific design of the measure, for example the IRA credits, can build in provisions so that companies that do not benefit from a reduction in tax can monetise them*".

[27] Tax Notes, *Australia's Green Tax Credit Plan Aims to Compete With U.S. IRA*, 16 April 2024.

[28] Other financial measures include imposing a price on carbon and use of an ETS; favourable pricing for energy produced from renewable sources; and capital grants and financial incentives/subsidies for renewables and/or policies aiming at decreasing investment costs of renewables.

[29] These measures include, for example, energy efficiency codes and mandates; mandating closure of fossil fuel-based energy plants; and control measures such as permitting only energy efficient vehicles in specified urban zones.

[30] A good starting point could be the UN report *Energy transition in extractive industries* which summarises many of the available measures and provides referenced for further research.

- **Accelerated capital allowances:** In general, a taxpayer claims a deduction in respect of expenditure on plant and machinery over a period of 8 years. An accelerated capital allowance allows the taxpayer to take a deduction for all the expenditure in the year such expenditure is incurred.
- **Super deductions:** For example, a corporate taxpayer that incurs capital expenditure on energy efficient plant and machinery assets worth say €10m would be able to get a tax deduction of €13m. This would amount to a tax saving of €375k for the taxpayer ((€13m - €10m) @ 12.5%).

2. Irish Ingenuity, Global Opportunity: Tax Reform for Homegrown and International Success

Contacts

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The changes to the tax code brought about in Finance (No.2) Act 2023 (e.g., angel investors relief, changes to retirement relief, Key Employee Engagement Programme, Employment and Investment Incentive Scheme and VAT thresholds); revisions to the Debt Warehouse Scheme and the establishment of a dedicated Tax Administration Liaison Committee on Simplification and Modernisation of Business Reliefs were timely and welcomed. More tax policy measures must be identified and implemented to build stronger Domestic Direct Investment, (DDI) provide an attractive entrepreneurial landscape for growth and scale up and to address the impact of mega-trends such as digitalisation and decarbonisation.[31]

Entrepreneur Relief

CGT Entrepreneur relief provides that gains on disposals of "chargeable business assets" made by individuals are liable to a reduced CGT rate of 10%, up to an overall lifetime limit of €1m. The standard rate of CGT (currently 33%) applies to gains made in excess of the lifetime limit. To qualify for the reduced CGT rate of 10%, the shareholder must have owned the "chargeable business assets" for a minimum period of 3 years prior to disposal. A qualifying business is widely defined to include all activities apart from holding assets as investments; holding development land; or the development or letting of land.

A Cost Benefit Analysis of the Revised Entrepreneur Relief[32] published as part of Budget 2024 recommended that *"any decision to modify or relax the eligibility criteria or scope of the relief should be carefully considered in terms of its potential impact on the exchequer".*

Taking this into account, we believe that now is the time to increase the existing lifetime limit of €1m. Under the current rules, there is a diminished incentive for an entrepreneur to remain in Ireland and scale the business to bring it to a value in excess of €1m. The increase in the lifetime limit would reduce the risk of Irish entrepreneurs establishing or moving abroad in a

[31] Department of Finance, *National Economic Dialogue 2023*.
[32] Department of Finance, *Budget 2024: A Cost Benefit Analysis of the Revised Entrepreneur Relief*.

highly mobile world, thereby depriving the State of innovation and revenue and resulting in reduced domestic employment and thereby negatively impacting upon the exchequer.

Entrepreneur Relief should also remain available as an alternative to CGT Tapering relief as detailed below, to allow for maximum flexibility in business decisions of Entrepreneurs in Ireland.

CGT Rate – Tapering Relief

The current CGT rate of 33% is high by international standards, 6th highest amongst European OECD countries.[33] To remain competitive, consideration could be given to reducing the CGT for entrepreneurs who stay with their respective businesses with a view to scaling up their business while retaining the headline rate of tax of 33%.

It is generally in the enterprise's interest that the entrepreneur would remain actively involved with the enterprise for as long as possible. In the past, reliefs such as CGT tapering relief recognised this fact and incentivised the entrepreneur remaining with the business. We would argue that a similar relief should now be introduced.

A new tapered tax relief could operate in such a manner that the applicable rate of CGT would be reduced on a pro rata basis depending on the length of ownership of the relevant assets by the individual concerned. The very reason for the introduction of this form of relief is commensurate with our need to stimulate growth in the Irish entrepreneurial landscape. Such a relief would reward commercial longevity, signal Ireland as an excellent place to operate as an entrepreneur and encourage direct domestic investment and future domestic employment. In our view, the design of such a tapering relief should encourage long-term ownership by founding entrepreneurs, thereby driving value of businesses. In particular, this could be achieved by providing for the CGT rate applicable to entrepreneurs to be reduced over time depending on the period of ownership/active involvement by the owner in the business, such as the following (suggested rates below are by way of an example only):

Period of ownership	**CGT rate**
0-5 years	33%
5 -10 years and a full-time working director for 5 years	16.5%
10+ years: working director for 10 years and a full-time working director for 5 years	8.25%

Therefore, with this policy objective in mind of rewarding the 'genuine entrepreneur', we should look to the approach adopted in the 1970s and should introduce a 'fundamental change' in our CGT rate structure for entrepreneurs that encourages a strong entrepreneurial spirit in our domestic economy that is aligned to economic success. If deemed necessary, the relief could apply to certain industry sectors subject to State Aid rules, etc.

Rollover Relief

In addition, 100% rollover relief should be allowed for persons who exit the business earlier but who then re-invest 75% or more of the sales proceeds in another company which is itself subject to CGT on a future disposal of that investment.

Retirement Relief

Retirement relief is a form of relief from capital gains tax which arises on the disposal of certain business assets and shares in certain companies. For an individual who has attained 55 years of age and satisfies the conditions applicable to the relief, there is no monetary limit on the amount of consideration that can qualify for the relief in relation to disposals made prior to 1 January 2014. For disposals made from 1 January 2014 until 31 December 2024, where the individual making the disposal

[33] Tax Foundation, *Capital Gains Tax Rates in Europe, 2024*, 12 March 2024.

is 66 years or more and the market value of the qualifying assets is over €3million, the relief is limited to an amount of €3million.

Changes introduced in the recent Finance Act including an increase in this age limit from 66 years old to 70 years old with effect from 1 January 2025, are welcome, but it does not go far enough. Budget 2024 also introduced a new cap of €10m on intrafamily transfers of business assets from age 55 to 70, where previously no limit applied up to age 66.

The cap on the availability of retirement relief from 1 January 2025 of €10m from age 55 to 70 and €3m from age 70 represents a hindrance to the transfer of shares in a family-owned business during the lifetime of an entrepreneur and presents problems in the transfer of a family business to the next generation. While a business may be valuable and exceed these limits, there may not be liquid funds to discharge a tax liability arising on a transfer of that business to the next generation, which would be for the benefit of the business and the longevity of the business. The caps of €10m and €3m therefore act as a hindrance on the transfer of a family business, with the result being a delay in passing on the business until an inheritance. Such an outcome is counterproductive when one notes the purpose and intent of retirement relief is to facilitate transfers of businesses to the next generation at an optimum time for the business rather than on the death of the owner. We would therefore recommend increasing the caps and maximum retirement age for retirement relief.

Dividends taxable at the standard rate of income tax

With a policy objective of encouraging entrepreneurs to keep investment in the business and to reward successful entrepreneurs that have emerged from the start-up period, a 20% tax rate on dividends could be provided to entrepreneurs subject to an annual dividend cap of €100,000 and subject to the company's having been trading for a period of five years. This would greatly help to mitigate some of the adverse consequences arising from the current high marginal rate of income tax. Currently, preferential rates of tax on dividends apply in the UK and the US in certain instances and we would recommend that Ireland update the tax policy in this area, which will aid in attracting and retaining globally mobile entrepreneurs.

Making the investment – Tax efficient financing arrangements

At a time when many SMEs are considering their growth plan and may now look to draw down additional debt funding, we are of the view that now is a critical time to ensure that entrepreneurs have access to efficient financing arrangements. Many SMEs require access to financial support in various stages of their development in order to grow their business. Without such support it may not be economically viable to operate. Debt funding from third-party financial institutions may be limited for SMEs and thus alternative means of funding are of paramount importance.

An alternative to debt funding from financial institutions would be to introduce a special loan finance arrangement whereby individuals can lend money to SMEs in the EU and provided certain safeguards are in place (for example, market interest rates are applied), then the individual will be taxed on the coupon received at the standard rate of income tax (i.e., 20%) as opposed to the marginal rate of income tax (i.e., up to 55%).

While the Employment and Investment Incentive Scheme ("EIIS") is a welcome source of finance for SMEs, the reality is that, from an investor's perspective, the shares acquired under this scheme rank behind trade creditors on liquidation. A similar risk would apply for investors investing in innovative SME's with a view to availing of Angel Investor Relief. This results in a significant concern regarding the security of these investments and underlines the importance of an alternative funding option for SMEs.
The loan finance arrangement should alleviate these concerns. In addition, many potential investors have capital held in deposit accounts etc. which give a particular rate of return. This loan finance initiative should act as an incentive to 'relocate' those funds into 'active' investments with the potential for a higher market rate return, taking account of the additional risk being borne by the investors.

We would also note that a tax efficient financing arrangement similar to that described above would arguably not result in a significant loss of Revenue to the Exchequer. Where the interest is payable in the course of a trade carried on by the SME company, tax relief on same would be available to the company at 12.5% while by contrast the interest income in the hands of the lender would be subject to income tax at 20%. Such an arrangement would undoubtedly have the effect of encouraging greater investment in the SME space by making lending to such companies more attractive, rather than acting to reduce the taxable base for such individuals from an income tax perspective.

Retaining talent

Many SMEs are looking to the future and may now be looking to increase their headcount in order to achieve their growth targets. However, in the current market many SMEs are struggling to attract and retain employees. It is important that measures are introduced for SMEs to firstly, assist them with their remote working offering, and secondly to facilitate non-cash reward mechanisms to help attract and retain key staff. Further to that, reliefs such as SARP and KEEP should be reviewed and updated as necessary. This is discussed in further detail in the Employment section of this submission.

Professional Services Companies

Professional service companies are inequitably treated by Irish tax legislation. For example, professional service companies are excluded from the EIIS/SURE. In additional, professional service companies are subject to close company rules that can trigger taxation at higher rates or at the very least accelerate when tax is paid compared to other trading companies. This results in additional costs or additional cash flow costs for professional companies as opposed to other trading companies. It is difficult to understand the policy objective of treating professional companies in this manner as professional companies are a significant employer in the country. Aligning the tax system for professional companies with ordinary trading companies could incentivise indigenous professional services companies to develop, expand both in Ireland and abroad thereby creating high value jobs (with a resulting increase in PAYE receipts). The continued inequitable treatment of professional services companies (and by extension future start-ups and growth in the fintech and professional services space) creates a blocker to growth and should be re-examined as a priority.

VAT

We would make the following key recommendations with respect to VAT as it relates to the SME sector:

- The 23% rate is one of the highest rates in Europe. The rate should be reduced to 21%. This should stimulate consumer spending potentially increasing the VAT take.
- The current VAT thresholds are as follows:
  - €40,000 for businesses that supply services only.
  - €80,000 for businesses that supply goods only.
  - €80,000 for businesses that supply both goods and services (provided they generate more than 90% of their turnover by supplying goods).

While the increase to the above thresholds announced in Budget 2024 is welcome, these thresholds should be further increased to €50,000 and €100,000 respectively, to help small businesses.

- Increase the cash-receipts basis of accounting for VAT threshold (currently turnover of below €2m).
- The EU has taken steps in recent years to grant EU Member States more flexibility to apply reduced and zero percent VAT rates and the list of goods and services for which reduced VAT rates are allowed has been updated and modernised. The new rules also phase out preferential treatments for certain environmentally harmful goods. Further to that, a review should be carried out to ensure that Irish VAT rates are in line with other EU countries.

Stamp Duty on transfers of commercial property

Currently, relief from CGT (e.g., retirement relief, revised entrepreneur relief) and CAT (e.g., business relief) act to facilitate the passing of a business to the next generation including the transfer of commercial property. However, similar reliefs are absent from the current Stamp Duty regime in Ireland. For example, quite often, the business property is owned by the individual, but in use by a company (e.g., hotels, offices, pubs, restaurants, nursing homes). With the retirement and business reliefs, the CGT and CAT implications on a transfer of the business property along with the shares in the trading company would be minimal. However, as a result of increases in stamp duty rates in 2017 and 2019, and the curtailment of consanguinity relief, a 7.5% Stamp Duty arises for the next generation on the receipt of a gift of business property. This 7.5% cost may delay or even halt a very important succession process for the business and all stakeholders (i.e., the current owners and intended successors), with the next generation often waiting to inherit the business property due to the stamp duty costs and a lack of funding to discharge same, despite this having negative implications for the business.

Previously, consanguinity reduced the stamp duty rate by 50% on transfers of assets between blood relatives. However, since 1 January 2015, consanguinity relief only applies on certain farm transfers (reduction of 7.5% to 1%) and there is no similar relief on other property transfers.

The Government needs to strongly focus on certainty, growth and competitiveness in all top priority areas including indigenous businesses. It needs to strengthen the growth and competitiveness offerings for indigenous businesses, and as one of the measures to address it, we would recommend the reintroduction of consanguinity relief on commercial property family transfers and for this relief to reduce the stamp duty rate to 1% on such property transfers to the next generation.

Stamp Duty on share transactions

The Irish stamp duty rate on share transactions is high in comparison with other countries. For example, the stamp duty rate for share transactions in the UK is 0.5%. Consideration should be given to reducing the stamp duty rate on share transactions in Ireland.

Angel Investor Relief

The introduction of the reduced CGT rate for Angel Investors investing in innovative SME's, introduced in Budget 2024,[34] is a positive measure and should open the door to much needed investment in the indigenous sector, which will help the sector to grow and foster entrepreneurship in Ireland.

However, there are numerous conditions to be satisfied in order to qualify for this relief which mean that it is likely to be difficult to avail of in practice, which will result in a low uptake of this relief. The Angel Investor Relief needs to be simplified and the conditions made less onerous in order for this relief to provide the intended benefits to innovative start-ups and their investors. The legislation should also be extended such that it may apply to subsequent fundraising rounds for start-up businesses, rather than just the initial risk finance investment as is the case under the current legislation.

[34] Remains subject to Ministerial Order.

3. Innovate, Grow, Thrive: Redefining Corporate Tax for a Future of Success

Contacts

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The corporate tax landscape has been reshaped in recent years mainly by the Organisation for Economic Co-operation and Development's (OECD) Base Erosion and Profit Shifting ("BEPS") project and US tax reform.

We have just come through the most significant change to the Irish tax system in a century with the introduction of the OECD's Pillar Two rules as part of the BEPS 2.0 project. The level of complexity in the Pillar Two legislation is not like anything we have seen before in the tax world.

We are facing the prospect of another substantial reform to international tax rules; the second element of the OECDs BEPS 2.0 project, the Pillar One Amount A rules, seeks to reallocate a portion of MNEs profits to the jurisdictions where their customers and users are located thereby giving those jurisdictions taxing rights over that income. As a small open economy, the Irish tax base will likely be adversely impacted should the Pillar One rules be introduced.

Against this, corporation tax receipts in Ireland continued to grow. Corporation tax accounted for 27% of all tax income in 2023. From 2014 to 2022 there was a rapid increase in corporation tax receipts, with growth averaging 23% per year during the period, before a more modest growth 2023[35]. Corporation Tax receipts have become a significant source of government revenue. However, we know that there is a concentration risk – with the ten largest corporate taxpayers paying 52% of the total receipts in 2023. [36] We are arguably over reliant on too few taxpayers.

In our view the required tax policy response to the twin risk of international corporate tax reform and concentrated corporation tax receipts begins with a combination of a number of actions which we outline below.

[35] Parliamentary Budget Office, An analysis of corporation tax revenue growth, 25 March 2024.
[36] Revenue, Corporation Tax - 2023 Payments and 2022 Returns.

The future landscape

Legislating for Pillar Two in Finance (No.2) Act 2023 brought about a substantial workload for all stakeholders. The collaborative work engaged in by the Tax Administration Liaison Committee ("TALC") BEPS group was beneficial in being able to discuss such important measures in advance of legislation being formalised.

Since legislating for Pillar Two in the Irish tax system, Pillar Two guidance from the OECD Inclusive Framework has evolved and there have been statements from the EU Commission and the EU Council on Pillar Two. Continued engagement at TALC on administration of our domestic Pillar Two legislation is important to ensure that practical implications are highlighted, and workable solutions are identified. It is also important that there are opportunities to engage with the Department of Finance and the Office of the Revenue Commissioners to the extent that there are Pillar Two updates at OECD, EU or domestic level.

In the new global tax ecosystem in which the OECD Pillar Two rules feature, competition, and protection of Ireland's attractiveness to FDI has become even more important. The Irish corporation tax headline rate of 12.5% remains competitive, and in our experience the Pillar Two minimum effective tax rate is one element influencing the investment decisions of MNEs, however, Ireland must evolve and seek to implement tax reform that will maintain and increase our competitiveness.

Territorial regime

We welcome the proposed introduction of a participation exemption into domestic legislation in Finance Bill 2024 so that foreign sourced dividends and distributions are fully exempt from tax in Ireland. This, we feel, is an important step towards an enhanced competitive tax system. However, more needs to be done, we urge the government to continue consideration of a foreign branch exemption thereby moving to a full territorial system.

A move to a full territorial regime (substantial shareholding exemption, participation exemption for distributions, as well as a foreign branch exemption) would be a positive change to the Irish tax code and will only enhance Ireland's competitiveness for FDI.

We have outlined our views and recommendations on the proposed introduction of a participation exemption for dividends and distributions in our most recent response to the 'Participation Exemption for Foreign Dividends Response to Feedback Statement: Strawman Proposal' of April 2024[37]. We also outlined our views and comments to the Department of Finance in our response to the public consultation on the 'Roadmap for the Introduction of a Participation Exemption to Irish Corporation Tax including technical consultation' of December 2023 and to the previous consultation of 22 December 2021.

Interest deductibility rules

We acknowledge the government's commitment to review the existing interest deductibility rules in the Irish tax system. We understand that such review is ongoing within the Department of Finance with potential stakeholder engagement during the latter half of 2024 and possibly measures to be introduced no earlier than in Finance Act 2025. Notwithstanding future comments we may wish to make as part of the engagement on this review we set out below our views on the current rules and key areas we recommend are considered as part of the review.

The myriad of rules that apply to financing has resulted in significant uncertainty and cost for taxpayers. All of the provisions in our tax law are in general complex in their own right. When layered on top of each other, it can be difficult to navigate the rules or provide certainty in respect of them. This places Ireland at a competitive disadvantage with other countries. The areas we are of the view should be a priority for the review are:

- Certain shortcomings exist in section 97 TCA 1997. For example, interest on a loan used to refinance a loan used to purchase, improve, or repair a premises would not be technically deductible. In addition, certain financing costs such as swaps and arrangement fees would not be deductible from a strict technical perspective as neither amounts are

[37] Deloitte, *Response to the Feedback Statement on Participation Exemption in Irish Corporate Tax System for Foreign Dividends*, 8 May 2024.

"interest". Some of these shortcomings have been addressed by Revenue practice, but such practices should be put on a legislative footing. In particular, a change of the rules to the effect that all financing costs, including interest should be deductible if incurred in the course of a rental business would be welcome.

- The anti–avoidance rules in section 247(4A) TCA 1997 and section 840A TCA 1997 should be repealed.
- The distribution rules in section 130(2)(d) TCA 1997 should be reviewed.
- Since the introduction of the Interest Limitation Rules, the rules in section 291A TCA 1997 relating to interest deductibility are superfluous and should be removed.

Interest relief

Section 247 TCA 1997 provides relief for interest on loans used to acquire shares or to on-lend to other companies. The following should be noted: -

- The rules are condition heavy i.e., interest is only deductible if certain conditions are satisfied including (i) if the monies are used for certain very defined purposes, (ii) if the interest is paid, (iii) if a certain percentage of shares are held in the company acquired, (iv) if the companies have common directors, (v) if the monies are used within a specific period of time and (vi) if no capital has been recovered etc. These rules are very complex.
- As mentioned, any monies borrowed must be used for a highly prescriptive purpose. In some cases, even if the borrowings are clearly for business purposes, they may not fall within the very descriptive rules resulting in no tax deduction for genuine business interest.
- Under the recovery of capital rules (section 249 TCA 1997), certain routine bona fide transactions such as repaying intra-group debt or internal restructurings can result in denial of interest relief.
- Certain provisions such as the need for common directors would seem to serve little purpose.

In our view, section 247 TCA 1997 should be repealed and replaced with new interest deductibility rules that are principle based e.g. interest should be deductible if it is laid out or expended for the purposes of the business concerned. The Transfer Pricing rules, Interest Limitation and Controlled Foreign Company rules did not exist when section 247 TCA 1997 was originally introduced. With these rules now in place, many of the reasons associated with the complexity of section 247 TCA 1997 are no longer necessary.

Connected Party Rules

Sections 840A TCA 1997, 247 (4A) TCA 1997 and 247 (4E) TCA 1997 are provisions that deny interest relief on loans from connected parties which are used, or which are ultimately used to finance asset acquisitions from connected parties. The purpose of these rules is to prevent the Irish tax base from being eroded.

In our view, the extension of Irish transfer pricing rules and the introduction of interest limitation rules should be sufficient to prevent excessive base erosion and therefore consideration should be given to removing these provisions. These provisions put Ireland at a competitive disadvantage.

Distribution rules

Section 130 (2) (d) (iii) TCA 1997 deems interest linked with a company's profitability to be a distribution. As a result, such interest is not allowed as a tax deduction. It should be noted that many genuine third - party lenders look for a profit participating element when lending to companies. As such interest is not deductible, this then results in an additional tax cost for the borrower. We would recommend that consideration is given to disapplying this provision where the lender and borrower are unconnected. Section 130(2)(d)(iv) TCA 1997 pre-dates the introduction of transfer pricing rules and interest limitation rules. In our view, section 130(2)(d)(iv) TCA 1997 is obsolete and should be removed.

Tax Treaty non discrimination

Section 242A TCA 1997 provides that patent royalty payments can be paid without the deduction of withholding tax where they are paid to companies that are tax resident in relevant territories. For the purpose of section 242A TCA 1997 a "relevant territory" takes it meaning from section 172A TCA 1997 as EU member states, other than Ireland, or a country with which Ireland has or will have a tax treaty. Irish tax resident companies are not afforded the benefits of section 242A TCA 1997 which are available to companies which are tax resident in EU member states or tax treaty countries.

Section 410 TCA 1997 provides an exemption from Irish withholding tax being applied on certain payments to companies within the same EU group or EEA group with which Ireland has a double tax treaty, including the United Kingdom.

Section 411 TCA 1997 provides relief for trading losses and related matters between group companies. Finance Act 2012 extended the group relief rules for corporation tax loss relief by including a definition of "relevant territory" in section 411 TCA 1997. This amendment was because of a UK tax case in respect of identical tax legislation, FCE Bank plc v Revenue and Customs Commissions [2013] STC 14. The FCE Bank case highlighted the discriminatory aspect of the previous definition which precluded group formation between certain Irish tax resident companies on the basis that they were subsidiaries of non-EU or non-EEA resident companies. There was no similar amendment of section 410 TCA 1997. It is our view that section 410 TCA 1997 could, in the event of a legal challenge, be found to be in contravention of the ownership non-discrimination article of Ireland's Double Tax Agreements. We suggest that section 410 TCA 1997 is amended to include payments between companies' resident in a "relevant territory" as defined in section 411 TCA 1997.

Investment Limited Partnerships

A Dividend Withholding Tax (DWT) exemption should be introduced for Investment Limited Partnerships ("ILPs"). We recommend extending the definition of a "collective investment undertaking" as defined in section 172(A) TCA 1997 to include an investment limited partnership.

Research, Development and Innovation

The Research & Development ("R&D") sector is a cornerstone of Ireland's future prosperity, driving innovation, economic growth, and regional development. The R&D tax credit is a fundamental tax policy tool for fostering innovation and growth in indigenous companies and encouraging foreign direct investment in our economy.

Studies have shown positive correlation between R&D investment and economic growth, noting that countries with robust R&D sectors tend to exhibit higher levels of productivity, technological advancement, and job creation. [38] Ireland's commitment to R&D is evident through initiatives such as the National Development Plan and Innovation 2020,[39] which prioritise investment in research infrastructure, skills development, and industry collaboration. The latest R&D report by the Government of Ireland[40] shows record levels of government spending on research and development (R&D) in Ireland, with

[38] Tung, L. and Hoang, L., "Impact of R&D expenditure on economic growth: evidence from emerging economies," *Journal of Science and Technology Policy Management*, 2, 9 February 2023.
[39] Department of Public Expenditure, "Government launches the renewed National Development Plan 2021-2030," 12 October 2021.
[40] Government of Ireland, *The Research and Development Budget 2022-2023*.

the government's investment in R&D ("GBARD") was €963.7 million in 2022 and is estimated to reach €1,075 million in 2023, the first time it will surpass the €1 billion mark.

Enterprise Ireland provides a range of programmes that help enterprises to innovate, which are centered on direct supports for R&D activity within Irish firms which assist companies to build R&D capability and acquire new technology through licensing and equity support for new High Potential Start-ups (HPSUs); promoting industry collaboration with the third level sector; and realising the commercial potential of the Irish research community.[41]

Ireland has a robust and sustainable R&D ecosystem underpinned by several factors such as a strong innovative and internationally competitive enterprise base; growing employment, sales and exports; a renowned pool of talent; and a coherent joined-up innovation ecosystem that is responsive to emerging opportunities, delivering enhanced impact through the creation and application of knowledge.

Ireland has the capacity to meet the needs of R&D investors and offers the ideal commercial, political and social environment in which to carry out successful and profitable R&D activities[42]. But in our view the Irish R&D ecosystem requires ongoing protection in a highly mobile and competitive world.

Based on the latest data, R&D expenditure in 2021 grew by 19%, compared with 2019. The current expenditure (i.e., labour costs and other current costs) accounted for 89% of the total expenditure (i.e., current expenditure and capital expenditure). This reflected a growth in employment of R&D staff in 2021, however, in the same year, there was a slight drop in female R&D personnel (26.7%) compared with 27.1% in 2019. Large enterprises accounted for 62.6% of all R&D expenditure; medium sized enterprises accounted for 21.0% with small enterprises making up the balance (16.4%). Nearly 70% of total R&D expenditure in 2021 was in foreign-owned enterprises, with these enterprises spending €2.70bn on R&D in that year.

Enterprises reported that 87.9% of all R&D expenditure was funded by company/internal funds, and only 12.1% was funded by external sources, with the lowest proportion of internal funding (64.6%) occurred in small enterprises, compared with more than 92% in both medium and large enterprises.[43] Such lack of adequate and timely finding in small enterprises is one of the critical barriers to innovation and entrepreneurship.

In 2021, of all enterprises engaged in R&D activities, 65.6% were actually small enterprises, followed by medium enterprises (24.3%) and only 10.1% were large enterprises. In 2021, there were 1,345 (69.7%) Irish-owned enterprises engaged in R&D activities, compared with 585 (30.3%) foreign-owned enterprises. Irish-owned enterprises reported a 22% increase in R&D spend between 2019 and 2021, up from €963.0m to €1.18bn.[44] These figures demonstrate a strong entrepreneurship spirit by SMEs and indigenous businesses.

Total R&D spending in the Eastern and Midland region accounted for 64.3% of all R&D expenditure, with the Southern region accounting for 27.0% and the Northern & Western region for only 8.7%[45], highlighting uneven geographical spread of R&D activities across Ireland which could be linked to areas such as infrastructure, talent, housing etc. It is important to address such geographical concentrations though policies, aiming at distribution of R&D activities with a strong focus on regional development.

Data available from CSO showed that in 2019 the R&D intensity rate for Ireland (0.91%) was below the EU27 average of 1.48%. Ireland ranked 13th in the EU27 in 2019, compared with a ranking of 12th in both 2017 and 2015.[46]

These figures demonstrate the paramount importance of the R&D sector in Ireland, driven by indigenous businesses and MNEs alike, but also highlight a number of areas for improvement.

[41] Department of Enterprise, "Enterprise Ireland's research, development and innovation programmes."
[42] IDA Ireland, *Ireland: A Winning Proposition for Research, Development and Innovation*, 5 August 2009.
[43] *Ibid*.
[44] *Ibid.*
[45] *Ibid.*
[46] CSO, *Business Expenditure on Research and Development 2021-2022*, 4 May 2023.

Finance (No.2) Act 2023 provided for an increase in the R&D tax credit rate from 25% to 30%. With Pillar Two in effect since 31 December 2023, the R&D tax credit is part of income and subject to the global minimum tax rate of 15% for the companies in scope. Increasing the rate to 30% ensured that companies subject to Pillar Two will see a small increase in net benefit, effectively a 25.5% R&D tax credit. This has also given the government the opportunity to provide a 30% rate for smaller companies, those below the Pillar 2 thresholds. In addition to the rate increase, Finance (No.2) Act 2023 provided for an increase in the first-year payment threshold from €25,000 to €50,000, which is a valuable accelerated cash-flow for companies with claims of less than €100,000.

These amendments delivered certainty to MNE's currently undertaking R&D in Ireland or considering investing in Ireland and ensured that this important incentive remains one of the leading regimes globally and that Ireland remains competitive as a location for investment in STEM and provides continued support to over 300,000 FDI jobs in Ireland. Ireland was one of the first countries to amend its R&D tax credit scheme to ensure that companies subject to US FTC regulation and Pillar Two rules can continue to benefit from incentives supporting their R&D investments and the Government must be commended for continuing to provide certainty for companies looking to invest in Ireland. In the post-Pillar Two environment, Pillar Two compliance, tax, and other incentives will become increasingly important in retaining and attracting investment. Therefore, while we welcome these measures; we also believe that more can and should be done in this space.[47] Research and Development are key drivers of competitiveness, productivity, and economic growth. Ireland's future economic growth and prosperity will depend in large measure on a continued investment in R&D.

We would recommend the following changes to the tax policy on R&D:

Enhanced R&D tax credit for safe Artificial Intelligence research

Artificial intelligence ("AI") is progressing rapidly, with many businesses spending substantial resources on developing and implementing generalist AI systems that can now act autonomously, doing incredible tasks in various fields including science, technology and art.[48] However, increases in capabilities and autonomy also increase risks such as, for example, large-scale social harms, malicious uses, and an irreversible loss of human control over autonomous AI systems.[49]

And while we are moving in the right direction by developing legal safeguards around AI with EU Council approving on 21 May 2024 the first ground-breaking worldwide AI Act to harmonise rules on AI [50] and the Department of Enterprise, Trade and Employment currently holding a public consultation on the national implementation process and options available to it,[51] certain areas remain unaddressed.

Despite well-acknowledged risks, AI safety research is lagging.[52] And it, therefore, not surprising that lack of trust related to safety, quality and reliability remains a major barrier to large-scale Generative AI adoption and deployment by many businesses.[53]

Addressing these risks through research should be encouraged and incentivised in Budget 2025. Major tech companies and public funders should allocate at least one-third of their AI R&D budget, comparable to their funding for AI capabilities, toward addressing the above R&D challenges and ensuring AI safety and ethical use.[54]

Beyond traditional research grants, government support could include tax incentives. Addressing these challenges, with an eye toward powerful future systems, must become central to Budget 2025 policy decisions.

To address risks associated with the development, implementation and use of AI, we would recommend introducing a new enhanced R&D credit in excess of 30% ("*qualified refundable tax credits*" for Pillar Two) for relevant R&D expenditure related

[47] Deloitte, "Global investments and innovations incentives (Gi3), Budget 2024 & Finance (No.2) Bill 2023", 27 September 2024.
[48] Deloitte, *Seeing the forest for the trees, and the forests beyond The future of AI*.
[49] Bengio, Y. *et al*. (2024) "Managing extreme AI risks amid rapid progress", *Science, Vol. 384(6698)*.
[50] European Council, "Artificial intelligence (AI) act: Council gives final green light to the first worldwide rules on AI ", 21 May 2024.
[51] Department of Enterprise (2024), "Public consultation on National Implementation of EU Harmonised Rules on Artificial Intelligence (AI Act).
[52] Yoshua Bengio *et al*., "Managing extreme AI risks amid rapid progress", *Science,* Vol. 384(6698), (2024).
[53] Deloitte, *The State of Generative AI in the Enterprise: Getting real about Generative AI*, April 2024, p. 6.
[54] Dan Hendrycks, Nicholas Carlini, John Schulman and, Jacob Steinhardt, "Unsolved Problems in ML Safety", Cornell University, 16 June 2022.

to reliably safe development, implementation and use of AI. The increase in the tax creditable above 30% could be done on a phased basis similar to the reduction in corporate tax rates between 1998 and 2003. This would be a significant step in ensuring Ireland taking a lead in addressing AI risks through research.

Qualifying R&D activities

Artificial Intelligence, Blockchain, Data Analytics and carbon neutrality

Qualifying R&D activities must be systematic, investigative, or experimental activities, in a field of science or technology, encompassing basic research, applied research and/or experimental development. The fields of science or technology are divided into four areas being natural sciences, engineering, and technology, medical sciences, and agricultural sciences (see S.I. No. 434 of 2004) Each of these areas are further broken down in S.I. No. 434 of 2004. We would recommend that S.I. No. 434 of 2004 is updated to explicitly specify certain emerging technologies such as Artificial Intelligence, Blockchain, Data Analytics and carbon neutrality. Arguably, these emerging technologies are already covered in S.I. No. 434 of 2004. However, we would be of the view that specifically mentioning such emerging technologies in S.I. No. 434 of 2004 would give taxpayers more certainty.

Process innovation and organisational innovation

In addition, the Report of the SME Taskforce: National SME and Entrepreneurship Growth Plan[55] recommended broadening the definition of innovation to include 'process innovation' and 'organisational innovation'. Action 2.4.1: states:

> *"Redefine the qualification requirements for the R&D tax credit by broadening the definition of innovation to include "process innovation" and "organisational innovation".*
>
> - *Broadening the definition of innovation should enable SMEs to better recognise the innovation they have achieved, record innovation and measure its impact. Through the inclusion of 'process innovation' and 'organisational innovation', the R&D tax credit should include ongoing activities within SMEs to improve and enhance their business processes and products and in particular, the adoption of productivity and efficiency enhancing processes.*
> - *This action will reduce the administrative and financial burden on SMEs to apply for innovation supports and incentives, as they could apply for a greater level of support under this broader definition of innovation just once a year though the R&D tax credit."*

Financial services technologies

As outlined by the "Ireland for Finance" development strategy for 2025[56], innovation is a key focus in attracting investment in the fintech space. The strategy in particular notes the following:

> *"In addition, growing numbers of IFS firms are choosing Ireland as a location for researching new financial technologies….To ensure this continues, it will be vital to increase the use of the growing number of innovation hubs. This will need the encouragement and support of key stakeholders….Other stakeholders such as the Central Bank, the Department of Finance, and industry will continue to play a crucial part in shaping the ecosystem to support start-ups, existing financial service providers, fintech businesses, and global technology companies."*

While S.I. No. 434 of 2004 makes reference to "mathematics and computer sciences, including mathematics and other allied fields", widening the categories as described above to include emerging technologies including financial services technologies would undoubtedly assist in targeting growth and investment in the fintech space.

Definition of "expenditure on research and development" to include rental costs

An R&D credit is only allowable on expenditure falling within the definition of "expenditure on research and development" in section 766(1)(a) TCA 1997. That defines *"expenditure on research and development*" as *"expenditure…, incurred by the*

[55] Department of Enterprise, *Report of the SME Taskforce: National SME and Entrepreneurship Growth Plan*, January 2021.
[56] Department of Finance, *Ireland for finance: The strategy for the development of Ireland's international financial services sector to 2025*, April 2019.

company wholly and exclusively in the carrying on by it of research and development activities in a relevant member state…." Such wording is not clear and can give rise to narrow interpretations as to what expenditure qualifies.

For example, with regard to rental costs, Revenue Tax and Duty Manual 29-02-03 (updated July 2023) substantially limits the type of rental costs on which an R&D credit can be claimed. Revenue Tax and Duty Manual 29-02-03 states:

> *"Where a company rents a specialised laboratory or a clean room in order to advance its R&D, the question to ask is whether or not the company could have undertaken the R&D activity without the specialised nature of the laboratory or clean room. If the activity could not have been carried out, then the specialised nature of the rented space can be said to be integral to the R&D activity the company is carrying on and, to the extent that the expenditure is wholly and exclusively incurred in the carrying on of the R&D activity, rent may be qualifying expenditure.*
>
> *In contrast, a company who rents an office space in which it carries on its R&D activities is unlikely to be able to demonstrate that there is anything specialised in the nature of the space that is integral to the R&D activities. While the company may require a space to house the R&D team, this requirement does not mean that the space is integral to the R&D activity. An office space is the setting in which R&D happens and does not itself perform a key function in relation to the R&D process; it is not integral to the R&D activity.*
>
> *Where a company undertakes qualifying R&D activities on the manufacturing process, it is unlikely to be eligible to claim rent on the manufacturing facility as expenditure on R&D activities. While the R&D activities may not be undertaken away from the facility, the rent is not incurred wholly and exclusively in the carrying on of those R&D activities."*

The removal of rent as an allowable expense in many claims has resulted in a reduction in the value of R&D tax credits for many claimants, thereby reducing the attractiveness of the R&D tax credit regime. We cannot see the policy rationale for denying an R&D credit on rental costs associated with genuine R&D activities.

In addition, R&D projects and particularly those that include digitisation (conversion of data and processes, i.e., cloud storage and data costs), include significant spend on annual subscriptions for software licences, digital platforms, data costs and renting cloud services etc. We have seen Revenue challenge these costs. Again, we cannot see the policy rationale of this approach. This is of particular concern given that the UK have specifically stated that cloud storage and data costs are qualifying costs when used for R&D.[57] In addition, substantial indirect overhead costs such as recruitment fees, insurance, travel, equipment repairs or maintenance, shipping and telephone costs, currently do not qualify as relevant expenditure. Again, these costs should be qualifying.

We would recommend that this is addressed through an amendment to the definition of "expenditure on research and development" in section 766 TCA 1997. We would recommend that section 766 TCA 1997 is amended to read *"expenditure…, wholly and exclusively laid out or expended for the purposes of R&D activities…."* This wording is in line with the tried and tested Schedule D, Case I rules which taxpayers and advisers are familiar with and for which there is a significant body of case law. This should avoid potentially narrow interpretations of what is and what is not qualifying expenditure and give taxpayers more certainty. The suggested amendment would also ensure that companies get a credit for most costs that are essential to the R&D process.

As mentioned, broadly, according to section 766(1)(a) TCA 1997, expenditure on research and development means expenditure incurred by the company wholly and exclusively in the carrying on by it of research and development activities. Thus, in the first instance, expenditure incurred on R&D activities carried out by third parties would not be expenditure on research and development for the purposes of the definition in section 766(1)(a) TCA 1997. However, section 766(1)(b)(vii) & (viii) TCA 1997 provide a number of exceptions to this rule. Where a company incurring expenditure in carrying out R&D activities also pays a sum to a university or institute of higher academic education in the EEA to enable that university or institute to carry out R&D work on behalf of the company, that sum, up to an amount not exceeding the greater of €100,000 or 15% of the expenditure incurred on R&D activities carried out by the company, will qualify for credit. Expenditure by a

[57] HMRC, "Research and Development (R&D) tax reliefs – draft guidance update," 18 April 2023.

company on subcontracting research and development work to an unconnected party will qualify for relief up to a limit of the greater of €100,000 or 15% of qualifying R&D expenditure incurred by the company in any one year. We would recommend that these limits on outsourcing are removed in Budget 2025. A removal of such limits, or at the very least a substantial increase, would encourage interaction and collaboration between Irish businesses and between businesses and Irish third level institutions.

Outsourcing to related parties

Many Irish businesses carrying out R&D work will often find that some elements or stages of that work cannot be completed in-house/in-country and have to be outsourced. Outsourcing to third parties is particularly common in certain industries such as the food, pharmaceutical and biotech sectors and can be of particular importance to the SME sector. The Food, Chemical, and Pharmaceutical sectors accounted for 67.4% of all production in Ireland in 2022.[58]

Yet in Ireland, we significantly limit tax relief on the cost of work outsourced or undertaken in collaboration with others. The existing R&D legislation completely prohibits related parties' expenditure from being claimed as part of the Irish R&D tax credit regime, even in cases where such expenditure is recharged to the Irish company, the Irish company is managing and directing the R&D activity in the related party's jurisdiction and the Irish company is the principal IP owner/IP hub location for the group.

We noted in our response to the public consultation on R&D and the KDB that the current regime restrict collaboration and could undermine our competitiveness.

The latest *Analysis of Corporation Tax Revenue Growth*[59], listing several main risks affecting Ireland's CT yield including an offshoring IP risk, cautioned that:

"The relocation of IP assets from Ireland to other jurisdictions could reduce the importance of MNC operations in Ireland and therefore reduce the level of taxable profit booked in the state."

And while the PBO also notes that "*thus far this phenomenon has not developed into a major trend*", this risk may become more prominent now in 2024 and beyond as many other jurisdictions actively began to provide businesses with more competitive grants and tax measures related to R&D.

We believe the outsourcing restrictions in the R&D Tax Credit regime should be removed. This would be consistent with approach by other jurisdictions to the treatment of outsources expenditure in the context of connected parties. For example, under the Belgian law, the R&D activities can be performed by the Belgian taxpayer in Belgium or abroad or outsourced to related or unrelated foreign parties. The UKs new merged R&D regime will also allow this expenditure in specific scenarios, for example clinical trial costs be allowable at 100%. In Japan, regarding research outsourced to other parties, the tax credit is 30% (for expenses in research outsourced to special R&D institutions or universities) or 20% (for expenses in research outsourced to other parties, including private corporations but 25% in case of an R&D venture company).

We would recommend allowing related parties' expenditure that is recharged to the Irish company, particularly where the Irish company is the IP owner, to be included as qualifying expenditure in the Irish company's R&D tax credit claim, subject to a 10-year period claw back provision (i.e., removal of IP from Ireland within the 10-year period will result in a clawback).

For example, no outsourcing restriction is required under the OECD Modified Nexus rules for the Knowledge Development Box (KDB).

Ireland already has in place a strong legal framework and intellectual property system that offers IP right holders the opportunity to be rewarded for their creativity and innovation and enabling society at large and the economy to benefit from

[58] CSO, *Irish Industrial Production by Sector 2022*, 20 July 2023.
[59] Parliamentary Budget Office, *An analysis of corporation tax revenue growth*, p. 15.

their achievements. In combination with a strong R&D tax regime, they will continue contributing sustainably to volatile CT Exchequer's returns and allow our Irish IP owning companies stay and grow in Ireland.

R&D tax credit and personal taxes

Attracting talent is key to attracting R&D and innovation activities and to help foster a knowledge-based economy. Steps need to be taken to reduce the personal tax burden on employees engaged in appropriate R&D activities, to ensure that Ireland can retain and attract key R&D talent.

Examples from the following jurisdictions should be reviewed and considered to stimulate further growth in employment of R&D staff:

- **Canada: Scientific Research and Experimental Development (SR&ED) Tax Credit:** Canada offers tax credits to individuals engaged in scientific research and experimental development (SR&ED) activities. Qualified individuals can claim tax credits for eligible expenditures related to R&D work.[60]
- **France: Research Tax Credit (Crédit d'Impôt Recherche, CIR):** France provides a tax credit for companies engaging in research and development activities. Employees involved in R&D work may indirectly benefit from this incentive through increased investment in R&D projects and potential job creation.[61]
- **Sweden: Tax Deductions for Income from Inventors' Rights:** Sweden offers tax deductions for income derived from inventors' rights, including patents and intellectual property. Individuals engaged in R&D and holding such rights may benefit from reduced taxation on related income.[62]
- **Singapore: Personal Income Tax Relief for R&D Professionals:** Singapore provides personal income tax relief for individuals engaged in approved R&D projects. This relief may include deductions for employment income related to R&D activities, encouraging professionals to pursue careers in research and development.[63]

Alternatively, we would recommend applying the standard 20% rate to an appropriate amount of remuneration reasonably attributable to qualifying R&D activities of R&D employees or offering R&D employees a personal tax credit or a flat rate expense, commensurate with time spent on such activities. It must be recalled that Ireland allows the R&D credit to be surrendered to certain key employees engaged in R&D (see section 472D TCA 1997) but we understand this is not widely used.

R&D definitions for grant purposes

While there are differences in the definition of R&D for the purpose of grants applications and the R&D tax credit, it is considered that the two definitions are very close. With a view to minimising the burden of engaging experts to verify the science test in R&D tax credit claims, Revenue have stated that they would not, as a rule, seek to challenge the science test in relation to a project where: (i) an Enterprise Ireland, Horizon 2020, Horizon Europe or IDA R&D grant has been approved in respect of the R&D project; (ii) the project is undertaken in a prescribed field of science or technology, as defined in regulations (S.I. No. 434 of 2004); (iii) the company is a micro or small enterprise within the meaning of the Annex to Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises; and (iv) the total R&D tax credit claimed by the company for an accounting period (of not less than 12 months) is €50,000 or less. We welcome such decision but would recommend that this approach is extended to all companies and that the €50k amount is increased to €250k.

Companies often observe differences in Revenue's interpretation of the law. In particular, different offices and inspectors may apply different interpretations in audits resulting in a variation of allowable expenditure. Given the importance of the

[60] Canada Revenue Agency (CRA), "Scientific Research and Experimental Development (SR&ED) tax incentives".
[61] Ministère de l'Enseignement supérieur et de la Recherche, "French Ministry of Higher Education, Research, and Innovation".
[62] Swedish Tax Agency (Skatteverket), "Tax Guide for Researchers and Developers".
[63] Inland Revenue Authority of Singapore (IRAS), "Research & Development (R&D) Tax Measures".

tax credit to many companies, and the bespoke expertise involved, developing a centralised audit process would promote consistency and ensure the same interpretations are applied to all claimants.

Interaction of section 291A(7) TCA 1997 and section 766 TCA 1997

Section 291A TCA 1997 was introduced by Finance Act 2009. Subsection 7 is an anti-avoidance provision providing that capital allowances in respect of capital expenditure incurred on specified intangible assets will not apply to capital expenditure incurred by a company for which any relief or deduction under the Tax Acts may be given or allowed other than by virtue of that section.

Revenue Tax and Duty Manual 09-02-05 (Updated February 2024) comments on this:

> *"Under section 291A(7)(a) capital expenditure on the provision of a specified intangible asset for the purposes of the trade will not qualify for an allowance where relief is provided for the same expenditure under any other provision of the TCA 1997. This means that a company claiming an R&D tax credit under section 766 TCA 1997 for expenditure on research and development will not also be able to claim an allowance under section 291A for such expenditure. In addition, under section 766(1)(a) expenditure incurred on a specified intangible asset within the meaning of section 291A will not be regarded as expenditure on plant or machinery for the purposes of qualifying for relief as research and development expenditure."*

We appreciate that this anti-avoidance provision which when introduced, was aimed to prevent double-dipping or duplicate benefits for the same expenditure, ensuring fairness and consistency in tax treatment. The rationale behind its implementation was to avoid multiple tax benefits for the same expenditure, which could lead to inefficiencies and distortions in the tax system. By limiting the availability of capital allowances in such cases, the tax policy aimed to maintain the integrity of the tax base while preventing tax avoidance or abuse.

However, we cannot see the policy rationale for above, especially where the company developed the asset, as opposed to purchased it. We would recommend including the disclaimed in section 291A(7) TCA 1997 expenditure for cases where the expenditure is claimed under section 766 TCA 1997 on assets developed in-house. We also recommend that there should be an exception to the rule "*under any other provision of the TCA 1997*" to exclude section 766 and section 766A TCA 1997. Continuing to preclude companies from claiming R&D tax credits on such expenditure is limiting the ability of companies, especially those operating in the ITC industry, from claiming valuable incentives and making Ireland a less attractive location to develop valuable IP.

R&D measures adopted in another Member States

To achieve decarbonisation targets, developed and developing countries already implemented tax policy measures including R&D measures. The latest UN report by the Committee of Experts on International Cooperation in Tax Matters noted that *"tax policies can support energy transition by offering research and development measures. Often provided through credits, these incentivise companies to invest in innovative technologies and processes that can help advance the transition to cleaner energy sources."*[64]

For example:

- **Brazil:** Provides for 1) super deductions of 160% to 200%; 2) an extra 20% deduction is available for IP development for registered patents; 3) a Special depreciation/ amortisation for R&D assets; 4) certain deductions related to equipment, machinery, and tools acquired and dedicated exclusively for R&D activities; and 5) a 50% reduction in IPI (federal excise tax) on equipment, machinery, and tools dedicated to R&D.[65]

[64] United Nations, *Energy transition in extractive industries*, 19 March 2024, p.21.
[65] *Ibid*., p.46.

- **France:** The Innovative New Company status, which allows companies conducting R&D projects in France to receive tax benefits and pay lower social security contributions for highly qualified jobs, such as engineers and researchers. A reduced CIT rate of 10% instead of the standard CIT rate applicable to revenues derived from patents.[66]
- **Germany:** The R&D incentives regime in Germany is predominantly based on two pillars: 1) non-refundable cash grants, provided through various programs via a competitive application process and 2) an R&D tax credit that offers companies a legal entitlement to R&D funding, currently up to EUR1 million per year (per company group, max funding amount p.a. fixed until 1 July 2025).[67]
- **China:** In China, a resident enterprise may deduct 150% of qualifying R&D expenses actually incurred (i.e., an additional 50% deduction on top of the normal expense deduction) in computing its tax liability if the expenses do not result in the creation of an intangible asset. If intangible assets are developed, the qualifying R&D expenses that have been capitalised may be amortised based on 150% of the actual R&D costs.[68]

These measures should be researched and considered in the Irish context, taking into the account Pillar Two rules.

Digital Gaming Tax Credit

Redesign

Our overarching comment on this credit would be that it needs a redesign as there are almost no digital game development companies develop games in isolation and behind closed doors (i.e., 95% of the market is creating games in a collaborative manner). There needs to be a flow through of the benefit to all the companies collaborating in the game development, not just an individual company aligned to a game. It also needs to be updated to allow for continuous post release expansions and features.

Rate

Changes to the digital gaming tax credit in Finance (No.2) Act 2023 ensured that it is treated as a qualified refundable tax credit and compliant with Pillar Two minimum effective tax rate and US foreign tax credit rules. This will ensure that the 32% benefit can be achieved by the claimant. However, as the benefit is now deemed a Qualifying Refundable Tax Credit, it is treated as income as opposed to a reduction in a company's effective tax rate. As such the net benefit secured by the claimant is significantly reduced from the original 32% rate intended. To ensure that the original 32% incentive is achieved, we would recommend increasing the rate to 38%. This will ensure that there is a sufficient incentive to attract ongoing investment in an attractive and high growth industry. This would help to secure further investment and jobs in Ireland.[69]

Shareholder Liability

Section 481A(26) TCA 1997 provides for a clawback where it is subsequently found that the payment of all or some of the credit was not authorised. In such cases, the clawback may be assessed on:

- The company,
- Any director of the company, or
- Any person referred to in section 481A(13)(c) TCA 1997

[66] *Ibid*., p. 48.
[67] *Ibid*., pp. 48-9.
[68] *Ibid*., p.47.
[69] Deloitte, "Global investments and innovations incentives (Gi3), Budget 2024 & Finance (No.2) Bill 2023".

A person referred to in section 481A(13)(c) TCA 1997 means -

(c) the digital games development company, any company controlled by the digital games development company and each person who is either the beneficial owner of, or able directly or indirectly to control, more than 15 per cent of the ordinary share capital of the digital games development company (in this paragraph referred to as a 'relevant person'), as the case may be, is not in compliance with all of the obligations imposed by the Tax Acts, the Capital Gains Tax Acts or the in relation to -

i. The payments or remittances of taxes, interest or penalties required to be paid or remitted under those Acts,
ii. The delivery of returns, and
iii. Requests to supply to an officer of the Revenue Commissioners accounts of, or other information about, any business carried on, by the digital games development company, or relevant person, as the case may be.

While the provision is to ensure that the clawback may be levied in an effective manner and to act as a disincentive to unauthorised claims, the inclusion of shareholder liability[70] is unworkable from the perspective of global groups who wish to invest in Ireland through a digital games development company. We would accordingly recommend that reference to such shareholder liability be removed from section 481A TCA 1997 and are of the view that a clawback on the company itself would be sufficient.

Knowledge Development Box ("KDB")

While the interest in the KDB relief remains high, the uptake of the relief since its introduction remains limited. For example, since its introduction in the Finance Act 2015, the highest number of claimants in a given year was 20 (2020), and the lowest 14 (2021). By comparison, in the same year (2021), 1,629 companies claimed R&D credit.[71] While in UK, based on the latest HMRC statistics, in the tax year 2019 to 2020, 1,395 companies claimed relief under the Patent Box and projected figures for the tax year 2020 to 2021 show that 1,535 companies claimed relief.[72]

The objective of our KDB regime is positive, however, our experience and that of our clients to date is that this is a highly complex regime to navigate, requiring significant input in terms of not only expertise, but also time and expense for the business. Nevertheless, we are of the view that it has a role to play in attractive FDI, securing sustainable corporation tax returns for Ireland and developing the knowledge economy and, therefore, steps should be taken to enhance and streamline the regime.

We outline our recommendations on KDB in our response to the public consultation on Research & Development Tax Credit and the Knowledge Development Box (accessible here).

Digitalisation tax credit

Businesses of all sizes across the globe are trying to catch up with mega trends including decarbonisation and digitalisation, either by researching, developing and delivering the products to address the impact of these trends or by implementing relevant technologies in the business.[73] We would recommend introducing a digitalisation tax credit ("qualified refundable tax credits" for Pillar Two) for certain categories of expenditure to assist businesses with digitalisation process and its acceleration. This new stand-alone digitalisation tax credit will be closely aligned to the existing R&D tax credit format, but with a different science test and lower bar in terms of advancing the field of computer science.

[70] Referring to persons who are able directly or indirectly to control more than 15% of the share capital of the company.
[71] Revenue, *Corporation Tax – 2022 Payments and 2021 Returns.*
[72] HMRC, *Official Statistics: Patent Box relief statistics*, 28 September 2023.
[73] McCarthy, John, Department of Finance, ""Mega-trends" – building economic and fiscal resilience".

4. Lifting the Burden, Fuelling Ambition: Personal Tax Reform to reward workers

Contacts

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Labour supply, and in particular increases in labour force participation, has been a significant feature of Irish economic growth in recent decades.[74] Income tax (including USC) continues to be the largest revenue stream funding public services in Ireland (38% in 2023[75]; 37% in 2022[76]). It is vital that we have a personal income tax system which is progressive and has a broad base, in order to support economic growth and grow personal income tax revenues into the future.

Our high personal tax rates and the cost of doing business which includes labour costs, remain a disincentive to businesses locating in Ireland, to employees taking on additional work and to foreign based talent (including Ireland's diaspora) relocating or returning to Ireland. The increasing cost of doing business was signalled as the single most significant challenge for business leaders at the end of 2023.[77] In addition, our narrow personal income tax base is a threat to the sustainability of this revenue stream.

A substantial income tax and USC reform which would broaden the tax base and make the personal tax regime attractive for workers and businesses is vitally important in a highly mobile and competitive world and during a time of demographic transition.[78] A competitive personal tax regime in Ireland would play a crucial role in fostering economic growth and encouraging entrepreneurship ultimately creating a vibrant ecosystem of startups and SMEs. Competitive personal income tax rates and incentives will enable Ireland to continue to attract key talent, bolstering the country's workforce and stimulating innovation. This competitive advantage will enhance Ireland's global competitiveness, enticing multinational corporations to establish operations, thereby boosting employment and investment. Additionally, competitive personal tax policies will contribute to higher disposable income for individuals, encouraging consumer spending and driving domestic demand.

Furthermore, a robust tax regime bolsters consumer confidence and disposable income, driving domestic consumption and bolstering economic activity. This virtuous cycle of talent attraction, entrepreneurship, FDI, and consumer spending will

[74] Central Bank of Ireland, *Understanding Irish Labour Force Participation*.
[75] Revenue, *Headline Results 2023*.
[76] Revenue, *Headline Results 2022*.
[77] Ibec, "Government needs to pause uncoordinated and excessive labour cost increases," 22 January 2024.
[78] Department of Finance, *National Economic Dialogue 2023*.

solidify Ireland's position as an attractive destination for talent, businesses, and investors, propelling its economic prosperity and sustainability.

In addition to implementing short-term personal tax reform, a Personal Tax Roadmap should also be put in place to demonstrate to workers when and how the personal tax burden will be reduced over the medium-to-long term.

Tax Rates and Bands

A tax policy which is competitive and effective is vital to Ireland's position in attracting and retaining talent in a world which is highly digitalised and mobile. Our combined top personal tax rates of 52% - 55% remain among the highest in the EU (Top 10[79]).

For a single person[80], income up to €42,000 is taxable at the standard rate of income tax which is 20%, while the balance over this €42,000 threshold (referred to as the Standard Rate Cut-Off Point or "SRCOP") is taxable at the higher rate of 40% (referred to in the remainder of this submission as the higher rate of income tax). Despite a slight increase in the SRCOP in the last Budget (↑€2,000), we still have a very early entry point for the higher rate of income tax to apply placing a significant burden on middle income earners. For example, a single person who earns a salary of €48,855 gross (an average salary in 2023[81]) will take home circa €38,250 (78% of the gross salary), while someone in a senior role who earns €100,000 will take home circa €63,647 (64%).[82] The difference between gross and net salary in the example above occurs as a result of the higher tax rate being applied to the salary in excess of €42,000.

As such, by remaining in the EU's Top 10, the personal tax burden in Ireland will continue to be higher than many of our competitors. There are numerous forces which will drive a successful entrepreneurial landscape in Ireland, such as a skilled workforce, financial and technological resources, and infrastructure, etc. Critical to all of these forces is our tax system. We also cannot ignore global trends such as digitalisation and globalisation, which allow entities and people to become increasingly mobile, and which could erode the personal tax base in the longer term.[83]

With these matters in mind, and to ensure that the overall tax yield is maintained, and to continue to provide a sustainable and stable source of revenue to the Exchequer to fund public services,[84] our view is that a sustainable taxation system should remain progressive but with a focus on widening the tax base as a whole, with a view to shifting towards less distortionary taxes. In light of such concerns, serious consideration should be given in the next Budget to enhance and amend the existing personal tax regime to reduce the top combined tax rate for a worker from 52%-55% to no more than 50% through our two key recommendations detailed below:

1. An increase to the Standard Rate Cut off Point ("SRCOP") (e.g., from €42,000 to €50,000); and
2. A reduction in the higher rate of Income tax.

[79] Ireland remains in the top 10. OECD.Stat, *Top marginal rates*, 2023.
[80] Including a widowed person or surviving civil partner without qualifying children, per Revenue "Tax rates, bands and reliefs", 2024.
[81] CSO, *Earnings and Labour Costs Q3 2023 (Final) Q4 2023 (Preliminary Estimates)*, 27 February 2024.
[82] Deloitte, "Income Tax Calculator".
[83] Rita de la Feria and Giorgia Maffini, "The Impact of Digitalisation on Personal Income Taxes", *British Tax Review 2*, 154-168.
[84] While there is always a scope to increase tax on higher earners, aiming at providing a comprehensive system of quality public services in Ireland may also require more earners to pay more tax and social insurance too.

Increasing SRCOP

The proposal to increase the SRCOP is regularly and well addressed and evaluated by the Tax Strategy Group in advance of the Budgets.[85] When one considers that the average salary in 2023 was €48,855 and is likely to increase due to rising wages, such reform would be welcomed by the existing workers in receipt of an average salary in the State, as well as potential expatriate workers. Our recommendation would mean that workers on the average salary in the State would not become automatically taxed at the higher rate of income tax of 40%; an increase to the SRCOP would keep a larger portion of such workers' salaries on the standard rate of income tax of 20% and thus provide greater take home pay for these individuals.

Lowering the higher rate of income tax

As outlined above, based on the latest statistics, our top combined personal tax rates of 52% - 55% (higher rate of tax of 40%, plus top USC rate and PRSI rate) remain among the highest in the EU (Top 10). Ireland's high personal tax rate is a disincentive to businesses locating in Ireland and employees taking on additional work. It is also a disincentive to foreign based talent (including Ireland's diaspora) relocating to Ireland. Furthermore, in light of the potential opportunities/risks arising out of OECD Pillar Two/Brexit, we need to ensure that the personal tax system is not a barrier to attracting and retaining talent in Ireland. This will be critical in terms of driving economic activity, future investment and reinvestment, and supporting SMEs and entrepreneurs to grow and scale their businesses in and from Ireland. The top combined rate of 52%-55% should be reduced, which would include a reduction in the higher tax rate of 40%.

The intermediate rate of tax

The policy rationale for introducing an intermediate rate of tax at 30% is to increase the entry point before taxpayers are subject to the higher rate of income tax (currently 40%), which would result in an increase in net pay for those taxpayers. Considering that the average salary in 2023 was €48,855, the introduction of an intermediate rate of income tax between the current standard rate of income tax of 20% and the top rate of income tax of 40% would benefit middle/average and high income earners (i.e. those that have some part of their earned income between those income bands) as they would see a direct increase in their net income due to the intermediate rate of tax. While we are of the view that focus needs to be given to middle income workers and the tax burdens faced by them, we believe that the same result could arguably be achieved by effectively addressing our previous recommendations 1 and 2 (moving the entry point to the standard rate cut off and reducing the top rate of Income tax), without the need for introducing a new rate of tax. While we support a reduction in the tax burden for workers, such objectives should not result in greater complexity in the personal tax system.

Tax Credits and Flat Rate Allowances

Inflation is expected to ease even further over the next two years, reaching around 2%, in line with recommendations by the Central European Bank.[86] The inflation rate in March 2024 was 2.9% down from 3.4% in February.[87] March 2024 was also the fifth consecutive month where the inflation rate was lower than 5%.[88] Overall inflation is projected at 2.2% in 2024 and 1.9% in 2025.[89] However, for many workers, their salary is still catching up with the increases in costs of goods and services over the past couple of years when the rate of inflation peaked. Hence, we recommend increasing tax bands and credits and Flat Rate Allowances above the inflation rate this year and in line with inflation annually thereafter.

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[85] For example, see the latest TSG paper 22-02 Income Tax. Department of Finance, *Budget 2023 Tax Strategy Group papers*, 10 August 2022.
[86] Central Bank of Ireland, "Looking over the Horizon: the long-term outlook for the Irish economy," 30 January 2024.
[87] Statista, *Inflation rate for the Consumer Price Index (CPI) in the Republic of Ireland from November 1976 to March 2024*, 11 April 2024.
[88] CSO, *Consumer Price Index March 2024*, 11 April 2024.
[89] European Commission, *Economic forecast for Ireland*, 15 February 2024.

SARP

The Finance Act 2012 introduced section 825C to the Taxes Consolidation Act, 1997, which provides for the Special Assignee Relief Programme ("SARP"). The relief is aimed at reducing the cost to employers of assigning skilled individuals in their companies from abroad to take up positions in the Irish-based operations of their employer or an associated company, thereby facilitating the development and expansion of businesses in Ireland, creating jobs and enhancing Ireland's competitiveness in the global market. SARP benefits both employees and employers, facilitating smoother transitions and reducing the financial burden associated with international assignments, which is critical in a highly mobile world. The relief, by encouraging Irish companies to recruit foreign expertise, fosters knowledge exchange and innovation.

SARP is an initiative aimed at encouraging skilled personnel to relocate to Ireland by granting an exemption from income tax for 30% of earnings between €100,000 and €1m.

Based on the latest available statistics, the number of SARP claimants increases year-on-year. In 2021, there were 1,982 individuals recorded on SARP Employer Returns; 1,659 in 2020; 1,574 in 2019; 1,481 in 2018 and so on. The dominating sectors between 2017 and 2021 were Information and Communication; Financial and Insurance Activities; and Manufacturing. [90]

A tax policy that is competitive and effective in attracting top mobile talent to Ireland is vital to Ireland's position in attracting and retaining Foreign Direct Investment. We welcome the extension to the relief up to 31 December 2025 introduced in the recent Finance Act. However, in our view, as it is currently structured, the relief remains insufficient, to restrictive and complex, and is less competitive than similar schemes in other neighbouring jurisdictions. We hope to see some enhancing provisions in the next Budget.

While the extension of the relief is welcome, further enhancements to SARP are still required to make it easier to access including:

- In order to meet the "relevant employee" conditions, an employer needs to certify within 90 days of an employee arriving in Ireland that the employee meets all qualifying conditions for the relief, including having obtained a PPS number. We believe that the absence of a PPS number in the first 90 days should not be a barrier in claiming SARP and is an unwelcome addition to the legislation and should be removed.

- Removal of the 90-day administrative rule and instead incorporating any information requests within the self-assessment income tax return would make the relief more workable and user friendly.

- Overall, the SARP application process is unnecessarily complex and should be streamlined and simplified.

- The relief should be available in respect of USC and, where relevant PRSI, rather than being limited to income tax. Extending SARP to USC and PRSI would allow for a lower effective tax rate for the employee making the relief more competitive with regimes in other jurisdictions. This could reduce costs for employers by allowing a lower gross pay due to the lower effective tax rate payable. If SARP applied for employer PRSI purposes, this would further reduce costs for employers allowing for greater investment in the business.

  - Similar to other jurisdictions, the relief should be available to new hires as well as existing employees assigned or transferred to Ireland. In the current climate, companies are finding it difficult to source suitably skilled employees and they cannot compete with other countries with lower tax rates or expatriate reliefs. In the 2014 review of SARP the observation regarding extending SARP to new hires, was that this could cause job displacement in the Irish labour market. In our view, this could be addressed by limiting access to the relief by new hires to specific areas in line with the requirements for a Critical Skills Permit. The relief could be available to new hires who, if they were required to hold a permit, would satisfy the conditions for a Critical Skills Permit. This would ensure that it was only available for

[90] Revenue, *Special Assignee Relief Programme Statistics 2021*, August 2023.

those working in areas where a critical shortage in Ireland has been identified. The extension of the scheme to new hires would also allow SMEs to access the scheme.

- The relief should be available to employees of all employers, i.e., not just employees of companies in Treaty or Tax Information Exchange Agreement ("TIEA") States.
- Non-residents should be able to claim the relief against the portion of earnings that is taxable in Ireland. This is the position in the Netherlands under the Dutch 30% regime.
- The 5-year period that a claimant needs to be non-resident should be reduced to 3 years.
- The relief should be available for 10 years, rather than 5 years, to set Ireland apart in terms of competitiveness from a personal tax perspective. Existing claimants should be able to qualify for the relief for the extended period.
- All remuneration, including share-based remuneration and BIK items, should count towards meeting the minimum income requirements of €100,000.
- The cap on qualifying school fees should be removed.
- The improvement in the SARP should also be combined with a Personal Tax Roadmap to reduce high earner effective personal tax rates.
- SARP was extended for new arrivals into the State until 31 December 2025. In our view, the relief should become a fixed part of the tax code, i.e., remove the sunset provision entirely.

Increasing numbers indicate that SARP bolsters Ireland's reputation as a favourable destination for foreign investment, bolstering economic growth. By attracting skilled individuals, Ireland can address skill shortages in key sectors like technology and finance, driving productivity and prosperity. Overall, SARP plays a vital role in Ireland's economic development and global competitiveness.

Ireland's SARP regime needs to be reconsidered from an international competitiveness perspective. We would be pleased to discuss further with the Department of Finance, including assessing the competitiveness of the current earnings ceiling. A competitive and attractive SARP regime can ultimately result in increased investment into Ireland, increased jobs creation, and while the SARP relief itself may reduce a specific individual's personal tax burden, overall Ireland should achieve increased tax receipts through the additional corporate tax and personal taxes generated from the business and jobs that have been secured.

Foreign Earnings Deduction ("FED")

The Foreign Earnings Deduction ("FED") is an Income tax relief available to employees who spend a minimum of 30 days working overseas in certain territories, allowing an individual to ultimately reduce their tax bill by up to €14,000. The FED plays an important role in encouraging and incentivising Irish businesses to export to emerging markets.

The extension to the FED until 31 December 2025 in Finance (No. 2) Act 2023 was a welcome development for many companies, but continuous reform of the relief is still required to ensure that it remains fit for purpose.

We believe that FED should be enhanced as follows.

Application to all countries

Global Ireland 2025 sets out an ambitious strategy to double the scope and impact of Ireland's global footprint. It is clear from the report that this involves a range of measures focused across the globe and not just in emerging markets. Leo Varadkar stated, *"The EU has always offered the promise of a better future, but it is a future that will not be handed to us. We must work to create it*." It is clear that our aim is to continue to be an active and engaged member state of the EU. In the context of Brexit, we are focusing on new markets both in the EU and beyond and it is key that companies do not solely focus on emerging markets. The report states "...*diversifying beyond the UK market is an important aspect of the national effort to* *mitigate the negative impacts of Brexit. Further reinforcing our presence in Europe will support this drive, enabling us to better capture and exploit new market opportunities*."

When initially introduced in 2012 the Minister stated, *"I am ... introducing a Foreign Earnings Deduction to further support our export drive by aiding companies seeking to expand into emerging markets."* The relief was extended to additional countries in 2013 and further locations were added in 2015 and 2017.

It is clear from Global Ireland 2025 that there is a global focus not limited to specific regions or countries. We would recommend that the FED is extended to all countries to align with this policy, so as to assist Irish companies looking to expand their exports.

Extend the annual maximum relief

The deduction is currently capped at €35,000 equating to a maximum tax saving of €14,000 as the relief is only allowed for income tax. This is quite limited in the context of the extent of travel that an individual may have in a tax year. Employers incur significant costs in relation to travel and subsistence for employees that they need to send overseas and, in many cases, may need to offer an incentive for employees to undertake the development work due to the personal commitment required.

Increasing the maximum deduction to €100,000 would allow companies to reduce their costs as the FED would be the incentive for employees. Companies could redirect any savings to increased investment in the drive for overseas exports resulting in increased growth and exchequer returns.

The above would make the relief sufficiently attractive to encourage greater travel to develop foreign markets while reducing cost for companies.

Other changes

- The sunset provision should be removed, with this relief becoming a permanent feature of Ireland's tax code.
- The relief should be extended to USC and PRSI.
- The relief should be extended to the self-employed sector.
- The alternative is for a territorial approach to be taken akin to that in Hong Kong and Singapore where tax/USC/PRSI would only be applied to earnings referable to duties exercised in Ireland. This would be of great assistance to exporters.
- We are not alone in our view, as outlined in the report issued from the Commission on Taxation, which notes that the relief does not appear to be adequately targeted to achieve its policy objectives. Broadening the application criteria and extending the annual maximum relief would, in our view, go some way to bridging the gap.

KEEP

At the time of its introduction, the objective of the Key Employee Engagement Programme ("KEEP") was to support SME's in their efforts to attract and retain key employees in a competitive international labour market by providing key employees with financial incentives linked to the success of the company. Prior to its introduction it was difficult for SMEs to compete with larger firms in cash remuneration terms to attract and retain talent. Since then, the talent pool became increasingly mobile and the labour market became even more competitive.

Effective tax design of KEEP could offer numerous benefits to businesses, employees, and the economy, particularly in the context of modern Ireland.

The key benefits include:

Retention and productivity: KEEP could foster a sense of belonging and commitment among employees, leading to increased retention rates, engagement and productivity.[91]

Increased innovation and creativity: Engaged employees are more likely to contribute innovative ideas and solutions, driving business growth and competitiveness.[92]

Positive culture: KEEP could contribute to the development of a positive business culture, characterised by trust, transparency, and collaboration, employee satisfaction and loyalty, which in turn could lead to improved business performance.[93]

Economic impact: Engaged employees are more likely to contribute to overall economic growth through increased productivity and innovation.[94]

The indigenous SMEs, competing with larger and foreign businesses, are in need of these benefits to remain in competition. However, KEEP in its current design has ultimately failed to provide SMEs with an easy to implement and cost-effective way to offer shares to employees. The statistics shows an extremely low uptake of the relief. In 2019, there were less than 10 taxpayers[95] availing of the relief with the cost of expenditure €0.1m; increasing to 45 taxpayers in 2020 and the cost of €0.2m; and dropping to 43 in 2021, while the cost of tax expenditure increased to €0.5m.[96]

As companies continue facing challenges of cost increases coupled with a constrained labour market, they need to consider alternatives to cash remuneration. The introduction of KEEP was heralded as a mechanism to help SMEs retain and reward staff, but the current KEEP legislation has presented a number of difficulties in operating the scheme effectively which has put SMEs on the back foot in terms of competing in the labour market.

Recent amendments to KEEP are positive, however, it is difficult to see any real impact due to the 5-year holding requirement which would mean an employee would have to exercise their option, paying market value from grant date for the shares, and hold for 5 years to avail of the buy-back relief. In the UK EMI scheme, the holding period commences from the date of grant of the option, if this was replicated the buy-back provisions would be workable. In addition, some challenges remain in relation to KEEP such as the definition of a holding company for KEEP and the lack of a safe harbour or Revenue guidance regarding the valuation of shares.

Please refer to our response to the consultation on Ireland's taxation of share-based remuneration.

Taxation of Share Based Remuneration

The potential benefits of employee share ownership are well evidenced and include enhanced employee engagement, improved company performance, retention of talent, alignment of interest of employees with those of shareholders and tax advantages, which can ultimately lead to greater economic growth and prosperity.

[91] Alan M. Saks, "Antecedents and consequences of employee engagement", *Journal of Managerial Psychology*, Vol. 21 No. 7, (2006): pp. 600-619.

[92] Arnold B. Bakker and Evangelia Demerouti, "Towards a model of work engagement", *Career Development International*, Vol. 13 No. 3, (2008): pp. 209-223.

[93] Abraham Carmeli, Gelbard, R., and Roni Reiter-Palmon, "Leadership, creative problem-solving capacity, and creative performance: The importance of knowledge sharing", *Human Resource Management*, 49(6), (2013): pp. 929-950.

[94] For example, the research by Gallup (2017) estimated that actively disengaged employees cost the U.S. economy up to $550 billion annually in lost productivity, emphasising the economic significance of employee engagement.

[95] The exact number was not provided in the "Cost of Tax Expenditures" document due to Revenue's obligation to protect taxpayer confidentiality and Revenue's statistical disclosure protocols.

[96] Revenue, *Cost of Tax Expenditures*.

- **Enhanced engagement:** Employee share ownership schemes increase employee engagement and commitment to the company's success. When employees have a stake in the company's performance, they are more likely to go above and beyond in their roles, leading to higher productivity and overall job satisfaction.
- **Improved performance:** There is a positive correlation between employee share ownership and improved company performance. Employees who own shares are motivated to work towards the company's success, leading to increased innovation, efficiency, and profitability.
- **Retention:** Employee share ownership schemes can aid in retaining top talent within an organisation and offering such schemes tend to experience lower turnover rates as employees feel a stronger sense of loyalty and investment in the company's long-term success.
- **Common Interests:** By aligning the interests of employees with those of shareholders, share ownership schemes encourage a collective focus on the company's objectives and long-term growth. This alignment fosters a culture of teamwork and collaboration, as employees understand how their efforts contribute to the company's overall success.
- **Taxation:** Employee share ownership schemes in Ireland often come with tax benefits for both employees and employers and these incentives make such schemes more attractive for companies to implement and for employees to participate in, further promoting employee ownership as a viable strategy for business growth and employee retention.

Unfortunately, however there are a number of barriers preventing greater employee share ownership in Ireland and many other countries and one of these barriers is a lack of suitable government support. Whilst the current system of taxation of share-based remuneration has elements that work effectively, we believe that with right tax policies, more could be done to support employers and employees.

Please refer to our response to the consultation on Ireland’s taxation of share-based remuneration.

The key considerations that we recommend are:

- The exemption from employer’s PRSI should be retained. This exemption is effective as it encourages employers to offer shares to employees. For example, the administrative costs of operating share schemes are generally funded by this saving. It also allows cash strapped start-up companies/SMEs to offer incentives to attract and retain staff in lieu of higher cash remuneration which they cannot afford.
- We recommend that legislation is introduced to better support the use of share-based remuneration schemes by start-ups and SMEs who are increasingly having to offer share-based remuneration as a way of competing with larger competitors. This involves the following:
  - As a minimum, KEEP legislation should be updated to ensure that it is fit for purposes.
  - We also recommend the introduction of a deferral of tax to the date that shares are disposed of, rather than the current tax point on ‘vest’ or ‘exercise’. This would allow greater employee share ownership from an early stage without onerous tax implications being triggered.
- SAYE and APSS have historically been successful initiatives in Ireland but workforce trends are changing which may be making the schemes less attractive. The UK operate very similar tax advantaged plans (SAYE and SIP) and, acknowledging this change in workforce trends, HMRC recently closed their Non-Discretionary Tax-Advantaged Share Schemes: Call for Evidence. HMRC plan to use the finding from this consultation to consider whether there are opportunities to improve and simplify their SAYE and SIP arrangements. We recommend that a similar review is undertaken in Ireland to ensure that listed companies can avail of tax advantaged arrangements which are fit for purpose and competitive in a global economy. One recommended change is that the savings period attached to SAYE awards is reduced from three years as this is often viewed as too long by many employees.
- In our response to the consultation, we provide details on where current legislation and revenue guidance could be improved to further support the use of share-based remuneration in Ireland. In summary, key recommendations include:
  - Reviewing the KEEP, APSS and SAYE legislation as referenced in the points above.
  - Removing of a tax charge on the grant of ‘long options’.

- Reducing the wide-ranging nature of the 'convertible securities' legislation (section 128C TCA 1997) as it has unintended consequences, particularly with regards to share buy-backs by private companies.
- Applying a more commercial rate of interest when calculating the benefit-in-kind arising in connection with employee loans, which are often advanced to fund share acquisitions.
- Relaxing the requirements that need to be met in order to claim a corporation tax deduction for share-based payment expenses.

Small Benefits Exemption

In accordance with section 112A TCA 1997 "qualifying incentive" means a relevant incentive that is the first or the second relevant incentive given to an employee in a year of assessment where –

a

in the case of a first relevant incentive, the value does not exceed €1,000; and

b

in the case of a second relevant incentive, the cumulative value of the first and second relevant incentives does not exceed €1,000.

A 'relevant incentive' means either a voucher or a benefit that is given to an employee by his or her employer in a year of assessment where the following conditions are satisfied:

a

the voucher or the benefit does not form part of a salary sacrifice arrangement;

b

the voucher can only be used to purchase goods or services and cannot be redeemed, in full or in part, for cash;"

There must be a record of each "relevant incentive" granted to employees as only the first and second can be considered in allowing the exemption. For example, each employee of Company A is granted a voucher for €500 in March, a trivial benefit (e.g., Easter Egg and a box of chocolates) to the value of €15 in April and a €500 voucher in December. While each employee of Company B is granted a voucher for €500 in March and a voucher for €500 in December only. In the first example, employees of Company A can have only €515 tax free (the first voucher and second trivial benefit), but the €500 voucher in December will be taxable. While employees of Company B can have €1,000 tax free. We would recommend removing the maximum number of benefits (currently 2) and focus on the maximum value instead (€1,000 per year collectively).

Remote Working Reliefs

Finance Act 2022 provides for income tax relief for remote working by allowing employees who work from home to claim a 20% tax credit for 30% of the cost of broadband, electricity, and heating, apportioned based on the number of days worked from home during the year.

The relief is reduced by any amount reimbursed to the worker by their employer. Also, where the relevant expenses are shared by two or more people, the total costs are apportioned between the individuals based on the amount of the expense paid by each person.

While this is a welcome relief, in practice the tax relief due to most individuals is minimal. For example, someone who works at home 50% of the time with circa €5,000 a year in expenses, will only benefit by around €175.

Our key recommendations are as follows:

- The relief does not apply to other remote working from home costs which employees may incur, such as stationery, printing, which would be provided in the office and paid for by the employer. We would recommend extending the relief to include these costs (a 20% tax credit for 30% of these costs).
- We would recommend introducing a €1,000 tax credit which may be reduced pro-rata depending on the number of days an individual spends in the office.
- Alternatively, removing the 30% cap on expenses and allowing a deduction for the full amount of the expenses. It should be noted that currently employers can contribute up to €3.20 per day to cover the employee's additional costs of working from home without triggering a charge to BIK, but many employers cannot afford to make such a contribution.
- We would further recommend that where an employer pays an employee's increase in home insurance premium which arises from remote working this should not be treated as taxable under the BIK regime.

Revenue guidance states that remote working will not impact an individual's claim for exemption from CGT on disposal of their Principal Private Residence. This Revenue practice should be put on a legislative footing.

Home office as a place of work in a hybrid world

Identification of an employee's normal place of work is central to the tax treatment of travel and subsistence payments made to employees. While the position adopted by Revenue is that an employee's home is not a normal place of work, such rules should now be reconsidered in light of the growing portion of the labour market who work remotely or on a hybrid basis. The employee's normal place of work should be based on the facts of where the employee carries out the majority of their duties of employment, irrespective of whether that is their home or their employer's office or, indeed, some other workspace. We would recommend recognising a home office as a "place of work" in cases where the company formally adopts a hybrid working policy.

R&D Employees

Attracting talent is key to attracting R&D and innovation activities and in helping to foster a knowledge-based economy. Steps need to be taken to reduce the personal tax burden on employees engaged in appropriate R&D activities, to ensure that Ireland can retain and attract key R&D talent. Please refer to the Research, Development & Innovation section of our report for recommendations for R&D employees.

Agriculture, Forestry and Fishing Sector

In Q4 2023, the Agriculture, Forestry & Fishing sector rose by 3.1% quarter-on-quarter. Comparing with Q4 in 2022 the Agriculture, Forestry & Fishing sector posted a significant increase, rising by 23.3% year-on-year.[97] The agri-food sector is Ireland's oldest and largest indigenous exporting sector. In 2020, the sector accounted for over 6% of GNI and 9% of exports in value terms. The sector accounts for 38% of total indigenous exports and over 60% of indigenous manufactured exports. In Ireland, agri-food is an integral part of the economy and society, and especially so for our rural and coastal communities.[98] However, agriculture as a sector which continues to face skills and labour shortages.[99] With an overall increase in competition for workers in this sector globally, urgent steps needs to be taken in the next Budget to make the agricultural sector more attractive for people who currently work in it, and to attract individuals with new skills to join the sector.

To facilitate and accelerate growth, more focus is required on incentivising and encouraging people to work in the Agriculture, Forestry & Fishing sector. While we already have limited measures in place to encourage people to work in these areas (e.g.,

[97] CSO, *Quarterly National Accounts Quarter 4 2023*, 1 March 2024.
[98] Department of Agriculture, Food and the Marine, "Agri-Food and the Economy", 6 January 2021.
[99] Teagasc, "Agriculture must work to meet skills and labour shortages", 07 December 2023.

Fisher Tax Credit, Flat Rate Allowances), further incentives are required to support the growth of the sector, including tax incentives to promote careers and upskilling in Agriculture, Forestry & Fishing sector.

Construction Sector

The Government should consider fixed period tax reliefs to assist certain sectors. The key policy challenges to addressing the imbalance between housing supply and demand include funding, viability and delivery. Relieving capacity constraints through tax policy, particularly with regard to labour, will be key to achieving higher output and addressing the delivery challenge. There are currently over 160,000 people working in the sector, almost 80,000 less than there were in 2007. It is estimated that 28,000 more workers will be needed to produce the current HFA 2030 target of 40,000 units.[100] With such shortage of construction workers and the requirement for more housing, as an example, consideration should be given to a specific percentage tax exemption for earnings from construction employments. The suggestion is that these exemptions would expire after five years (subject to regular reviews and monitoring). EU State Aid will have to be considered, such targeted measures could be of real benefit to the economy in addressing areas most in need of support.

Tax measures to incentivise and encourage people to take up and return to employment

Irish tax legislation provides a number of supports and initiatives to assist start-up business and small and medium enterprises. Initiatives include tax incentives - tax reliefs, deductions and exemptions as well as supports and other initiatives[101]. While we recognise that entrepreneurs are vital to the success of the Irish economy and we support the existing measures, the absence of meaningful tax measures to incentivise and encourage people to take up or return to employment (i.e., employees) and remain in employment (including progressing from an average earner to a higher earner) represents an opportunity for a Personal Tax Reform and a Roadmap to introduce tax measures to make work more attractive. This is one of the three core areas of economic action outlined in the latest NESC report (April, 2023[102]).

In particular, removing cliff-edges in the tax and welfare systems should be considered, so that people have an incentive to take up and remain in employment, and they do not artificially curtail the hours that they work, decline promotions due to tax concerns or use other measures in response to the existing rules under both systems.

Cliff-edges can result in individuals being left financially worse off as a result of taking up employment, increasing their hours of work or getting a pay rise. They can occur, for example, when earnings surpass the liability threshold for PRSI (at €352 per week[103]) and USC (at €13,000 per year)[104], as well as when working more than three days a week on low levels of pay (leaving individuals ineligible for a partial Jobseekers Allowance payment). Cliff-edges in the taxation and welfare systems should be removed. The Departments overseeing both systems should recognise that arbitrary thresholds and boundaries which result in cliff-edges in both systems may create disincentives for individuals to move from the welfare system into the tax system and to remain in the tax system. The transition from one system to another should be gradual, and in cases where the provisions of both systems apply to a worker (e.g., Back to Work, Family Income Supplement), two systems should work in tandem.

[100] Department of Finance, National Economic Dialogue 2024, *Building for the Future: Maintaining progress in a challenging environment*, p. 7.
[101] For example, the Seed Capital Scheme, Employment and Investment Incentive Scheme, Relief from Corporation Tax for start-up companies. A range of other supports for small and medium businesses are also in place such as exemptions from the requirement to register for VAT and the use of the cash basis for VAT.
[102] NESC, *Understanding the Irish Economy in a Time of Turbulence*, April 2023.
[103] Citizen's Information, "Paying social insurance (PRSI)".
[104] Revenue, "Universal Social Charge (USC)".

Tax measures to address at risk individuals

According to the latest statistics provided by the CSO, despite strong and progressive income growth over the past three decades in Ireland, there are still groups of individuals and households who are regarded as being at risk of poverty and others who experience the highest rates of deprivation and consistent poverty.

These groups include persons aged under 18, people aged 50 to 64 and people who are long-term unemployed, lone parents and their children, working-age adults with disabilities and older people (65+) living alone.[105]

As part of the Personal Tax Reform and the Roadmap, tax labour participation measures and incentives (in addition to other fiscal measures) should be introduced, targeting these groups, for example:

i. Unemployed people returning to the workforce, particularly the long term-unemployed (e.g., by introducing a Returning to Work tax Credit similar to the PAYE Credit; tax reliefs for unemployed who return to and take up employment similar to those available to individuals who start up a business etc.);
ii. One-parent families[106] (by, for example, including further increases in related tax credits and the SRCOP) and
iii. Those between 50 and 64 (by providing tax incentives and reliefs to requalify and upskill if required as well as measures listed above if long-term unemployed).

PRSI and USC systems

Our key recommendations on PRSI and USC:

- With three personal taxes in play (Income tax, USC and PRSI), together with their different rates and reliefs, this creates a level of uncertainty and complexity in the tax system which is not conducive to employment or economic growth. Of the 624 appeals heard by the Tax Appeals Commission in the period from 2016-2022 inclusive (and published in the TAC website), 322 contain some element of personal taxes (whether income tax, PAYE, PRSI or USC), demonstrating the uncertain nature of this area in practice for taxpayers. Merging income tax with the USC would provide a measure of clarity and would streamline the tax system considerably.
- With 12 different rates and 11 different classes, further divided into sub-classes, the Pay Related Social Insurance (PRSI) is overly complex and difficult for people to understand. Significant simplification is required if PRSI is to be effective going forward.

Tax relief for pension contributions

An individual can get Income tax relief at the marginal rate against employment earnings in respect of pension contributions (including AVCs) to pension plans such as occupational pension schemes, PRSAs, RACs and qualifying overseas plans. This is subject to an age-related limit and a total earnings limit. The maximum amount of earnings taken into account for calculating tax relief is €115,000 per year.

[105] CSO, *Survey on Income and Living Conditions (SILC) 2023*, 7 March 2024 and ESRI, *Poverty, Income Inequality and Living Standards in Ireland: Second Annual Report*, 7 September 2023. Also, CSO, Survey on Income and Living Conditions (SILC) 2022, 22 February 2023.

[106] In accordance with the latest ESRI report, over the period 2004-2019, lone parents and their children and working-age adults with disabilities and their children experienced the highest rates of at risk-of-poverty, deprivation and consistent poverty. See ESRI, *Decreasing poverty requires a mix of policy measures such as increasing female labour force participation and spending more on benefits targeting children*, 13 June 2022. And also, ESRI, *Poverty, Income Inequality and Living Standards in Ireland: Second Annual Report*, 28 October 2022.

The age-related limits are listed below:

Age	Age	Age	Age	Age	Age
Under 30	**30-39**	**40-49**	**50-54**	**55-59**	**60+**
% Limit	% Limit	% Limit	% Limit	% Limit	% Limit
15%	20%	25%	30%	35%	40%

The composition of Ireland's population is going to change substantially over the coming decades. The old-age dependency ratio in Ireland[107] is set to nearly double over the next 30 years, from 24 per cent at present to 47 per cent by the middle of this century and to 53 per cent by 2070. In other words, while there are currently around 4 persons of working age to support each person aged 65 and over; by 2050, the equivalent figure will be just over 2. Such developments will see demand for demographically sensitive public expenditure such as health and pensions grow, with significant costs for the State.[108]

To promote pension savings and to encourage more people to provide a private pension to supplement their retirement income, in combination with other pension-related measures initiated by the Government to prepare for increased costs to the State arising from an aging population and other demographic shifts, we would recommend increasing the limits for each age category or having a single maximum limit for all taxpayers. Furthermore, we would recommend that the relief applies to USC and PRSI to make it more effective.

Travel and subsistence relief

At present, tax-free subsistence may be paid or reimbursed by the employer for the first 12 months of a temporary assignment provided that the period of assignment in the State does not exceed 24 months. In order to enhance Ireland's competitiveness in attracting key talent to Ireland and to reduce the costs of international assignments to Ireland, we would recommend that the accommodation costs for the first 24 months of an international assignment to Ireland are tax free, as opposed to the current period of 12 month. Our closest competitor for talent, the UK, allows for such a longer period of relief at a temporary work location.

Bin and Service Charges Relief

Return of the Bin and Service Charges Income Tax relief should be considered to address the increasing cost of living in Ireland. It was available to individuals who paid a local authority (or somebody operating these services on their behalf) towards bin collection, sewage disposal, or for water charges. The relief was given at the standard rate of tax (20%) and the maximum amount on which relief could be claimed was €400,[109] which gave a tax credit of €80 per year.

We recommend the following:

1. Reintroduce this relief and adjust the maximum amount to reflect the average cost of refuse collection; and
2. To incentify households to recycle more, link the amount of the credit (subject to an adequate cap) to the level of recycling (%, based on the annual recycling report received by the household from the provider each year) (scaled credit based on the level of recycling %).

[107] The number of retirees as a fraction of the number of workers.
[108] Department of Finance, *Population Ageing and the Public Finances in Ireland*, 29 September 2021.
[109] Which is a very modest ceiling, considering that According to the Money Guide Ireland website, the annual bin collection charges in Dublin, for example, varied between €191 and €342 (posted 1 March, 2023).

Childcare Services Relief

An individual can provide childminding services at home and claim tax relief on income derived from those services. In order to qualify an individual must:

- Not receive more than €15,000 income per annum from the childminding activity (the annual limit applies to receipts from the childminding activity rather than to actual profits from the activity);
- Provide the service in her/his home;
- Not mind more than three children, who are under the age of 18 years, at any one time;
- Be self-employed and registered for self-assessment; and
- Notified the Health Services Executive (HSE) that he/she is providing childcare services.

Temporary measures were in place during the pandemic when the HSE issued guidance on the provision of childcare where, in accordance with this official guidance, individuals who cared for children in their own home could still qualify for Childcare Services Relief. Specifically, as part of the stay-at-home restrictions put in place during the Covid-19 pandemic, the HSE advised that childminding should only take place in the home of the child. While these stay-at-home restrictions were subsequently lifted, Revenue acknowledged that some childminders may have continued to provide care in the child's home on public health grounds. For this reason, the treatment above applied up to 30 April 2022. An individual could no longer qualify for Childcare Services Relief in respect of receipts from the provision of childminding services in the child's own home on or after 1 May 2022.We believe that this temporary measure should be retained on a permanent basis, particularly for children who, for example, may require in-home case for medical reasons, but ideally for all children.

While we welcome the availability of such relief, so as to encourage more people to provide childcare in their own home and assist parents who are either struggling to secure or afford the cost of creches or prefer their children to be minded in more private settings (including their own home) for either health or other reasons, we would recommend the following:

- Amend the exemption limit to €15,000 net (after the expenses) to reflect the rising costs of providing the childcare services;
- Remove the maximum number of children;[110] and
- Allow for the childcare services to be provided in children's home to address for example children's health concerns.

TaxSaver Commuter Ticket Scheme

The Scheme is designed to encourage workers to use public transport and to reduce traffic congestion. It reduces the cost for workers using public transport, but it is not limited to State-owned public transport. According to TaxSaver, employees can save between 28.5% and 52% of travel costs as a result of tax, PRSI and USC savings by using a TaxSaver ticket.[111] With hybrid working now an option for many, the scheme needs to be adapted for workers who only commute to work for 1-3 days per week. At present, such workers only have an option of purchasing monthly or annual tickets, when they are only travelling to the office occasionally.

We understand that in 2022 the NTA was evaluating the possibility of a new flexi TaxSaver commuter ticket and it had discussions with the Department of Transport and the Department of Finance on this at the start of 2022 and even received a confirmation from Minister for Finance that no legislative change would be required to proceed with such product. However, no new flexi ticket was introduced across all public transport to date.[112] As such, we would support and recommend

[110] Having regard to the HSE guidance on the same of course (service provider/children ratio).
[111] Taxsaver.ie, "How Taxsaver works?".
[112] Only one private company introduced it to date. "Coach company Matthews.ie was the first passenger transport operator to launch a Flexible TaxSaver Commuter Ticket across all routes", July 2022

a recommencement of discussion on this point and an introduction of a flexi tax saver ticket for hybrid workers across all public transport, to facilitate hybrid working.

Health Expenses

Currently, a tax relief is available on the cost of health expenses. These can be an individual's health expenses, those of a family member or any individual, as long as the claimant paid for them. An individual generally receives a tax relief for health expenses at the standard rate of tax (20%). Nursing home expenses are given at the highest rate of tax (up to 40%). Only those who actually paid tax can avail of this relief.

While the list of qualifying health expenses is already relatively broad, certain health expenses are excluded from the list, such as:

- Routine dental care (while, for example, routine GP and maternity services are covered).
- Routine ophthalmic care (same as above).
- Guide and assistance dog costs (in addition to Guide/Assistance Dog Allowance).
- Cosmetic surgery or procedure the sole or main purpose of which is to improve one's appearance.

There are exceptions to cosmetic surgery procedures if the surgery or procedure is necessary to *"ameliorate a physical deformity arising from, or directly related to a congenital abnormality; personal injury; or disfiguring disease."* [113]

Relief may also be allowed in respect of a surgery where a medical practitioner confirms that the treatment is necessary to alleviate a "*life-threatening condition*" (e.g., gastric band).[114]

All cases are examined on a case-by-case basis with no detailed guide, apart from the limited information provided in the related Tax and Duty Manual.

We would recommend the following:

- Expand the list of qualifying health expenses to include items such as, for example, routine dental and ophthalmic care, so all basic routine care (e.g., GP/Dental/Ophthalmic/Maternity) is included.
- The Revenue Commissioners issue detailed guidance on qualifying cosmetic surgeries and procedures to *"ameliorate a physical deformity arising from, or directly related to a congenital abnormality; personal injury; or disfiguring disease"* and surgeries and procedures which are necessary to alleviate a *"life-threatening condition"*; and maintain a list of non-inclusive examples and precedents, while continuing to deal with cases on a case-by-case basis. Such approach will add clarity and transparency to the claiming procedure.
- Expand the list of qualifying health expenses to include the cost of gym memberships and fitness classes to encourage and assist people to become and stay physically active and healthy.

Child-related tax credits

When it comes to child-raising costs in Ireland, existing tax reliefs are currently very limited and include measures such as:

- An incapacitated child tax credit of €3,500 (per child and if a child is maintained by more than one person, the tax credit is divided between them).

[113] Revenue, *Health Expenses – Qualifying Expenses, RTDM 15-01-12*, May 2023.
[114] *Ibid.*

- A single person child carer tax credit of €1,750 (in total and only one parent or guardian of a child can claim this credit).
- An increase of €4,000 in SRCOP whereby earnings up to €46,000 (instead of €42,000) are subject to income tax at 20% (only for a single or widowed or surviving civil partner, qualifying for a single person child carer credit).

While we welcome and support the existing measures listed, more can be done from the tax policy perspective to support parents with young children. To address and mitigate the aging trend and to help parents with the cost of raising our future generation, we would recommend the following:

- Substantially increasing the single person child carer tax credit to mitigate the child-related costs for single parents and if a child is maintained by more than one person, the tax credit should be apportioned between them;
- Substantially increasing the incapacitated child tax credit to mitigate the rising healthcare and other costs of raising a child who is incapacitated;
- Introduce a flat-rate child tax credit (per child, available to each parent or guardian); and
- Introduce childcare/pre-school tax credit (20% of the cost, subject to the maximum amount based on the average cost of the service, similar to the tuition fees tax credit).

For example, a child tax credit is available in Austria, being a credit of €58.40 per child per month, and is paid in combination with the Child Benefit from general tax revenue. No separate application is required, and it is also paid to non-taxable persons and to persons who pay low taxes. Outside the EU, the child tax credit is also available in UK up to £3,480 per year, together with tax credits for childcare (up to £122.50 a week (1 child), up to £210 a week (2 or more children)). We would recommend reviewing these credits and assessing the possibility of introducing them in Ireland.

Olympic Athletes

For Ireland, 2024 is a significant year in the world of sport. Not only were all eyes on Ireland when Dublin hosted one of the biggest tournaments in soccer with the Europa League Final in May, but following the European Athletic Championships, all eyes will be on Paris for the 2024 Olympic Games where we will be hopeful of success in a variety of events. Deloitte are a Worldwide Olympic and Paralympic Partner and also an Official Partner to Team Ireland and the Olympic Federation of Ireland. We are of the view that Irish tax policy must recognise these athletes and support them in their endeavours. Given the different approach to athlete remuneration compared with their professional counterparts in rugby and other sports, we believe the government should consider specific legislation to remove carding grants and similar from the scope of Irish income tax and to expand the sportspersons relief to include appearance fees and sponsorship. We also call for legislative amendments to provide protection to the athletes such that their access to social welfare (including State pension entitlements) supports are not impacted due to their time committed to represent Ireland at the Olympic Games.

5. Sustainable Futures: Delivering homes for people and businesses

Contacts


Padraig Cronin **Shane Wallace**

Adequate tax measures addressing housing supply and demand are critically important for Ireland due to several reasons. Firstly, housing affordability remains a pressing issue, with skyrocketing prices and limited supply causing hardships for many citizens. Effective tax policies can incentivise the construction of affordable housing and discourage speculative investment, thereby stabilising prices and increasing accessibility. Moreover, housing plays a pivotal role in Ireland's economic stability. A well-functioning housing market supports labour mobility, attracting skilled workers and facilitating economic growth. Conversely, a shortage of affordable housing can lead to talent drain and hinder productivity. Furthermore, housing taxation directly impacts government revenue and expenditure. Property taxes, stamp duties, and capital gains taxes generate significant income for public services and infrastructure development. Properly calibrated tax policies ensure a fair distribution of the tax burden while funding essential services. Lastly, housing taxation intersects with social and environmental goals. Tax incentives for energy-efficient buildings and sustainable development contribute to Ireland's climate action targets. Additionally, measures like vacant property taxes discourage hoarding of housing stock, promoting efficient use of resources. In essence, adequate tax measures related to housing are indispensable for Ireland's economic prosperity, social equity, and environmental sustainability.

However, despite all the benefits outlined above, the housing crisis continues to be one of the biggest challenges facing people across the country today, affecting our competitiveness, talent retention and sustainable long-term exchequer returns.

The latest CSO figures indicate that new home completions fell by more than 12% in the first quarter of 2024, on the same three months of 2023, putting the Government's housing targets for 2024 at risk.[115] The figures appear to reflect a slowdown in residential activity in the early part of the year, detailed in other construction barometers. It could be very challenging for the Government to meet its (current) target of 33,450 this year without any effective policy interventions including tax policy.

[115] CSO, *New Dwelling Completions Q1 2024*, 25 April 2024.

The number of houses available to buy nationwide on 1 March 2024 stood at below 10,500 while prices continue to rise, according to the latest Daft.ie House Price report. The number of available homes was down 24% year-on-year and represents a new all-time low for the series which extends back to January 2007. In the first three months of 2024, housing prices nationally rose by an average of 1.8%.[116]

The total number of properties available to rent on 1 February was just over 2,200. This was slightly higher than the figure on the same date in the previous year, but still less than half the number available on the same date in 2020. The average rent of €1,823, rose by 6.8% in one year.[117] In March 2024, this number dropped to 1,180 properties available to rent at any price across Ireland, and number of houses available to rent for people accessing the Housing Assistance Payment (HAP) stood at 38 nationwide.[118]

Homelessness has reached levels never thought imaginable. As of March 2024, 13,866 people were accessing emergency accommodation in Ireland.[119]

We welcomed changes introduced in the Finance (No.2) Act 2023 related to Help to Buy; rent tax credit; vacant home tax; mortgage interest relief; concrete levy and taxation of small landlords; together with new announcements related to RZLT; interest deductibility for a qualifying financing company; exemption from income tax of rental income derived from properties owned by retirement benefit schemes and approved retirement funds; non-resident landlords; landlord retrofitting expenditure and taxation of leases.

While these measures offered a short-term step in the right direction to alleviate some of the immediate challenges, a number of challenges remain, with the key issue being the supply which is constrained by matters including planning delays, lack of zoned land and infrastructure and policy challenges including viability, funding and delivery.[120] To solve the housing issue will require a medium-to-long term collective and continuous approach.

We would make five key recommendations regarding real estate and housing taxation measures:

- **Real estate and housing policy assessment and a Roadmap:** To give certainty to investors and homeowners alike, we would call for the Government to draft and publish a Roadmap on real estate and housing. Furthermore, we would recommend assessing all tax and other policy measures and interventions against their impact on housing supply, in line with the Recommendation 10 of the Housing Commission.[121]
- **Landlords:** We believe that additional measures are required to encourage new landlords, including foreign investors, to enter the market and keep those currently in from leaving:
  - Consideration needs to be given to further reforms and the introduction of a standard tax rate for rental income. This should be linked to properties remaining in the sector for longer periods of time and to energy efficiency upgrades.
  - For all landlords, Case V deductibility rules should be brought into line with Case I deductibility rules to avoid situations where genuine letting activity costs are not viewed as deductible for tax purposes. Similar rules currently exist in Germany. To remain competitive and continue attracting a mobile global investment in the highly competitive world, we need to ensure that our Case V deductibility rules are brought into line with Case I deductibility rules in the next Budget.
  - Retrofitting tax incentives for landlords should be enhanced to improve and maintain energy efficiency in rented accommodation.
  - Introduce tax incentives for landlords to retrofit and use vacant and deteriorating dwellings and reuse of existing buildings (e.g., over-the-shop).

[116] Daft, *The Daft.ie House Price Report: An analysis of recent trends in the Irish residential sales market 2024 Q1*.
[117] Daft, *The Daft.ie Rental Price Report: An analysis of recent trends in the Irish residential rental market 2023 – Year in Review*.
[118] Simon Community, *Locked out of Market, March 2024*.
[119] Department of Housing, Local Government and Heritage, *Monthly Homelessness Report, March 2024.*
[120] Department of Finance, *National Economic Dialogue 2024, Building for the Future*, p. 3.
[121] Department of Housing, *Report of the Housing Commission*, 22 May 2024, p. 59.

- Case V capital allowances should be deductible for USC purposes up to and including the 8% threshold.
- Consideration should be given to introducing an allowance similar to an Industrial Building Allowance ("IBA") in respect of the part of the capital expenditure on residential property which does not currently qualify for capital allowances (e.g., The total acquisition cost less the site element less the element which qualifies for plant or machinery allowances). Similar incentive schemes currently exist in Germany, USA, Canada and Australia.
- We recommend targeted amendments to capital allowances on plant or machinery to reduce the writing down period and potentially become refundable (subject to certain restrictions) where no profits are available to offset such allowances against.
- At present, the treatment of rental losses in a personal capacity is very restricted and should be reviewed. For example:
  - A landlord cannot offset rental losses against other income or carry them back to a previous year.
  - Rental losses made by one spouse or civil partner cannot be offset against the rental profits of another.

- **Reducing tax input costs on residential property:** One of the key policy challenges to addressing the imbalance between housing supply and demand is viability.[122] And therefore, we urge the Government to consider reducing the VAT rate and other tax input costs applicable in connection with residential development. Amendments to the Residential Zoned Land Tax should also be considered to ensure it is not taxing those that are genuinely trying to advance developments but are being prevented from doing so by reasons outside of their control, together with the reduction in Stamp Duty rates.
- **Tax incentives to re-purpose the property from non-residential to residential:** In our view the Government should consider a full refund from stamp duty where sites or developed property designated for non-residential use are subsequently repurposed and made available for residential use. Further tax incentives should be considered for developers or investors to stimulate this re-purposing on a timely basis to address the housing shortage.

Other recommendations include:

- **Stamp Duty on bulk purchases:** Amend the relevant Stamp Duty legislation (S31E, SDCA 1999) to address *bona fide* bulk purchases cases where, for example, a company is bought with housing as a stock and proceeds to develop and sell the properties.
- **Strategic Supply:** Consider introducing tax incentives for developers to deliver housing on strategic sites, including urban centres, brownfield sites and existing and proposed strategic transport corridors.
- **Land taxes:** Consideration should be given to whether the cost of new infrastructure should be passed to the purchaser of a new home (via development levies) or whether such infrastructure costs should be charged via Local Property Tax on the entire community (as in many cases it is the entire community that benefits from the new infrastructure).
- **Tax on the disposal of the property:** The CGT rate of 33% is high by international comparison and consideration should be given to reducing same. In particular, given the lack of available rental accommodation, consideration should be given to whether CGT can be used as a mechanism to (1) incentivise new landlords into the market and (2) provide those landlords who are currently supplying rental property with an incentive to continue to do so.
- **Surcharge:** To make corporate residential lettings more attractive consideration should be given to removing profits on residential lettings from the scope of the close company surcharge.
- **Derelict/deteriorating and over-the-shop properties:** We recommend the following measures*:*
  - Providing tax reliefs to sellers (CGT exemption or a reduced rate) and buyers (Stamp Duty exemption or a reduced rate) for derelict/over-the-shop properties to be renovated and occupied as a principal private residence ("PPR").
  - Introducing the Help to Renovate Scheme in respect of derelict properties.
  - Introduce tax incentives for homeowners and landlords to retrofit and use vacant and deteriorating dwellings and reuse of existing buildings (e.g., over-the-shop).

[122] Department of Finance, *National Economic Dialogue 2024, Building for the Future*, p. 3.

- **Energy efficiency:** Introduce tax incentives for homeowners and landlords to improve and maintain energy efficiency in homes.
- **Help to Buy:** To help more people to secure their own homes and to address the housing crisis, we recommend consideration is given to extending the existing Help to Buy scheme to second-hand homes and apartments which meet certain pre specified criteria (e.g., this could also incentivise owners to ensure their property is at a certain level (e.g., climate efficiency) prior to sale).
- **Tax measures for renters:** Further enhance the Rent Tax Credit.
- **Homeowners:** For those renting or considering a room only, we recommend amending the relief to incentify more homeowners to open doors to those in need an accommodation.

Some of the recommendations and proposed solutions are discussed in a greater detail below.

Tax incentives to re-purpose the property from non-residential to residential

Currently, where a developer acquires a site, then 7.5% stamp duty is payable on that site. However, subject to certain conditions, where residential property is developed on the site, then a refund of 5.5% is due. This relief has been extended from 31 December 2022 to 31 December 2025. Covid19 has accelerated the trend towards online shopping and home working. According to the GeoDirectory Commercial Vacancy Rates Report, the national commercial vacancy rate has increased to a 10 year high at 14% in Q4 2022. While the exact outcome is unclear, this may result in a decreased demand for retail and office space. Currently, where a developer buys non-residential property and re–purposes that property for residential purposes, then the above 5.5% refund may also be available.

In our view the Government should consider a full refund from stamp duty where sites or developed property designated for non-residential use are subsequently repurposed and made available for residential use. Further tax incentives should be considered for developers or investors to stimulate this re-purposing on a timely basis to address the housing shortage.

Therefore, certain targeted incentives should be considered for developers or investors to stimulate this re-purposing on a timely basis to address the housing shortage. For example:

- Accelerated capital allowances for capital expenditure on the repurpose.
- Reduction in CGT rate charged to a commercial landlord who disposes of a property to a developer who subsequently successfully repurposes the property for residential purposes.
- Where a commercial property has been repurposed and subsequently sold as residential, a deduction should be available for VAT incurred on acquisition.

Landlords

We welcomed measures announced in the latest Finance (No. 2) Act 2023 for small landlords including the Residential Premises Rental Income Relief (“RPRIR”)[123] for individuals, the extension of the accelerated capital allowances for energy-efficient equipment scheme until the end of 2025 and a 3-year-long tax incentive for small-scale landlords who undertake retrofitting works while the tenant remains in situ.

However, the country’s rental system continues to experience increasing pressure due to a surge in the numbers of households renting, coupled with fewer new rental properties coming to the market.

The latest figures published by RTB reveal significant rental price growth in Ireland, with the standardised average rent for new tenancies reaching €1,598, reflecting an 11% year-on-year increase across the 14,000 new tenancies registered during

[123] Revenue, “Residential Premises Rental Income Relief (RPRIR),” 26 February 2024.

this period. The RTB report also demonstrates the disparity between the level of rents achieved through new tenancies and those achieved through existing tenants, with new tenancy rents in Q3 2023 being around 18% higher than the rents paid by the 46,854 existing tenancies.[124]

According to published market research, since 2013 there is estimated to have been a net outflow of more than 80,600 properties from the private rental market. In contrast, the number of households renting in Ireland has increased almost 30 % since the turn of the century. Currently, private landlords pay up to 55 % in tax on net rental earnings (and indeed more on an effective basis when you factor in that some costs incurred as part of the letting activity are not deductible for tax purposes).

The Report of the Housing Commission noted that in addition to retrofitting housing stock, it is also necessary to reduce greenhouse-gas emissions in the residential sector, noting that "*there is an opportunity to do this through tax incentives*". The Recommendation 79 of the same report suggests addressing the energy efficiency deficit in the housing stock through sufficient funding and supports, including tax-based incentives.[125]

The tax treatment of landlords should be further reviewed.

We believe that additional measures are required to encourage new landlords to enter the market and keep those currently in from leaving:

- At present, many private landlords pay up to 55 % in tax (income tax, USC and PRSI) on net rental earnings. The Recommendation 31 of the Housing Commission suggests introducing measures, including tax measures, to make the private rental sector more attractive for landlords and recommends, *inter alia*: "*[r]eform the tax treatments of landlords to incentivise remaining in the sector and to encourage new entrants. Consideration needs to be given to further reforms and the introduction of a standard tax rate for rental income. This should be linked to properties remaining in the sector for longer periods of time and to energy efficiency upgrades."*[126] We would welcome such recommendation.
- Case V deductibility rules should be brought into line with Case I deductibility rules to avoid situations where genuine letting activity costs are not viewed as deductible for tax purposes.
- Enhance retrofitting tax incentives for landlords to improve and maintain energy efficiency in rented accommodation.
- At present, the treatment of rental losses in a personal capacity is very restricted and should be reviewed. For example:
  - A landlord cannot offset rental losses against other income or carry them back to a previous year.
  - Rental losses made by one spouse or civil partner cannot be offset against the rental profits of another.

Consideration should be given to introducing an allowance similar to the Industrial Building Allowance ("IBA") in respect of the part of the capital expenditure on residential property which does not currently qualify for capital allowances (e.g., The total acquisition cost less the site element less the element which qualifies for plant or machinery allowances). Similar incentive schemes currently exist in Germany, USA, Canada and Australia.

Where residential landlords provide residential accommodation via a corporate vehicle, consideration should also be given to removing Case V income derived from residential property from the definition of estate and investment income such that undistributed Case V rental income of a closely held company is not subjected to the 20% close company surcharge. This could incentivise more landlords to use a company for residential lettings.

[124] Residential Tenancies Board, *RTB Data Publication Update - 21 February 2024*.
[125] Department of Housing, *Report of the Housing Commission*, p. 230.
[126] Department of Housing, *Report of the Housing Commission*, p. 122.

Potential other methods of reducing costs for landlords / developers (thus stimulating the residential rental / development market) could be achieved via targeted amendments to capital allowances:

- Currently, there are accelerated wear and tear allowances for certain energy efficient equipment; said allowances operate via the allowance of 100% of the allowable costs in the year they are brought into use. We note that certain landlords may not gain an immediate cash flow benefit from this relief where they are in a loss position (i.e., losses are carried forward for offset against future profits). Rental capital allowances could be enhanced such that allowances not offset against taxable profits would be available for a refund of tax, in limited circumstances (similar to the R&D tax credit).
- Currently, eligible plant and machinery are subject to capital allowances over 8 years. In the cases of residential landlords / developers, the write down period could be reduced to 4 years to provide an improved cash flow impact for said landlords / developers, thus, providing increased funds to re-invest.

Rent-a-Room Relief

At present, if an individual lets a room in a home, the income received may be exempt from tax. The following conditions must be met:

1. The gross income from the rent must be below the exemption limit;
2. There must be a minimum continuous-letting period (with exceptions); and
3. The room must be in a 'qualifying residence'.

If the gross amount of income (before expenses) exceeds the limit, then an individual is taxed on the total amount at the marginal rate and not just the balance.

The deductible expenses include the maintenance of the room let and capital allowances due on fixtures and fittings.

An individual cannot claim the relief against income received for the use of the room or rooms from a child or the child of a civil partner; an employer; and short-term guests (including those who book accommodation through online booking sites).

According to the Residential Tenancies Board ("RTB") rent index Q3 2023, a large proportion of the Irish population continue to rely on the private rental sector, which has also seen rising prices in recent years. [127] Rents in newly registered tenancies increased by 6.8% when compared with the same period in the previous year.[128]

However, for many, the cost of renting a separate accommodation (apartments or houses) remain out of reach due to increasing costs. Hence, many opt for renting room only. But even this option is very limited due to persistent shortages of rental accommodation.

We recommend the following changes to the relief:

- Amend the annual exemption limit to €14,000 net income (as opposed to the gross amount of income).
- Apply the standard rate of tax to the excess only (as opposed to the marginal rate to any amount in excess of €14,000 gross under the current regime).
- Include not only, for example, attached converted garage, but also up to one adjacent converted garage.

[127] Residential Tenancies Board, *RTB Data Publication Update - 18 April 2024.*
[128] Daft, *The Daft.ie Rental Price Report 2023*

- Extend the relief to rooms where they are used by a person for a mixed purpose (residential and business-from-home), as opposed to only residential purpose under the current regime, to facilitate current working from home trends and digitalisation in general.
- To adapt the relief in line with the modern family arrangements, remove the exclusion related to children who remain in the family home and pay rent to parents or their civil partners.

Rent Tax Credit

We welcome recent changes to the rent tax credit, including the increase in the amount of the relief; the availability of the relief to parents paying for their student children who have tenancies in 'Rent a Room' or 'digs' accommodation and the retrospective effect of the same.

Only 137,697 claims have been made in respect of rent paid in 2022.[129] As of 6 December 2023, the number of claims increased to 323,077.[130] Despite some increase in numbers since 2022, and the recent awareness champaign, a slow and low uptake of the tax credit may be indicative of underlying issues in the current regime which need a review or a change. The low number is believed to be partly due to landlords not being registered with the Residential Tenancies Board ("RTB"). Another reason for renters not applying for the credit could be simply that they may not be aware of the support at all or they may not realise that they are eligible for it.

We recommend the following changes to the relief:

- In light of average and continuously increasing rental costs, the rent credit should be substantially increased to reflect the same and to have a real and meaningful impact on the cost of living of tenants.
- All renters should have access to the tax credit, even if their rental property was not registered with the RTB, due to no fault of their own.
- The age-based condition for relief in respect of students should be removed. The parent(s) of mature students should be able to claim the tax credit for the duration of that course.

Tax measures to reuse and retrofit vacant and deteriorating dwellings, incentify the reuse of existing buildings and address energy efficiency

The Recommendation 61 of the Report of the Housing Commission suggests incentivising *"the reuse and retrofitting of vacant and deteriorating dwellings… and further incentivising the reuse of existing buildings (e.g. above-the-shop spaces)."*[131] To action this, the Commission recommends to "*[a]dopt appropriate taxation measures to encourage the reuse of vacant buildings."*[132] The same report also recommended addressing the energy efficiency deficit in the housing stock through sufficient funding and supports, including tax-based incentives.[133]

We recommend the following measures for these properties:

- Providing tax reliefs to sellers (CGT exemption or a reduced rate) and buyers (Stamp Duty exemption or a reduced rate) for derelict/deteriorating/over-the-shop properties to be renovated and occupied as a principal private residence ("PPR") or for rent.

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[129] Department of Finance, "Minister McGrath urges renters to claim the Rent Tax Credit," 11 February 2023.

[130] These statistics refer only to claims by PAYE taxpayers. Data on claims by self-assessed taxpayers is not yet available. Statistics covering all taxpayers will be available in Q2 2024. Department of Finance, "Minister McGrath welcomes latest rent tax credit data as total claims for 2022 exceeds 250,000," 15 December 2023.

[131] Department of Housing, *Report of the Housing Commission*, p. 189.

[132] *Ibid.*

[133] *Ibid.*, p. 230.

- Introducing the Help to Renovate Scheme tax refund in respect of derelict, deteriorating and over-the-properties (similar to Help to Buy Scheme).
- Extending the period for which "pre letting expenses" may be deductible against Case V income to expenditure incurred in the 36-month period prior to first letting and removing the cap on such deductions (currently €10,000 for lettings on or after 1 January 2023), such that the rules effectively align with the deductibility of pre-trading expenditure. This would further incentivise landlords to bring vacant properties back on the market. The existing clawback mechanism will apply where the property ceases to be let as a residential property in the subsequent 4-year period.
- Introduce tax incentives for homeowners to retrofit and use vacant and deteriorating dwellings and reuse of existing buildings (e.g., over-the-shop).
- Introduce tax incentives for homeowners to improve and maintain energy efficiency in homes.

Help-to-Buy Scheme

To help more people to secure their own homes and to address the housing crisis, we recommend consideration is given to extending the existing Help to Buy scheme to second-hand homes and apartments which meet certain pre specified criteria (e.g., this could also incentivise owners to ensure their property is at a certain level (e.g., climate efficiency) prior to sale).

Tax incentives to deliver housing on strategic sites

Action 4 of the Recommendation 16 of the Report of the Housing Commission suggests:

> *"Review overall provisions for taxation and financial incentives to deliver housing on strategic sites, including urban centres, brownfield sites and existing and proposed strategic transport corridors, recognising that these locations are typically subject to complex and exceptional burdens on development. Review the application of measures available to the State such as: a. releasing from levies/contributions/tax for housing within specific areas – for example, brownfield or regeneration areas – to incentivise unlocking more complex and challenging sites; … ."*[134]

To incentivise the delivery of housing on strategic sites across Ireland, we would recommend introducing measures discussed in the report (e.g., releasing developers from levies/contributions/tax for housing within specific areas and extending existing waivers; tax incentives to deliver housing on strategic sites).

International Investors

The funding provided by the State has grown substantially over recent years. The capital funding in 2024 totals €5 billion. Other means of supporting housing delivery include funding of and advance delivery of infrastructure necessary for housing delivery and tax and other incentives for developers and investors.[135]

The Report of the Housing Commission notes:

> "*While increased domestic public and private resources can be used, the Commission believes that the scale of financing required to achieve Ireland's housing requirements over the medium term necessitates a substantial proportion from international capital. Studies*[136] *have estimated that between 60% and 70% of development financing comes from international sources, at current levels of output. This proportion may increase as financing requirements grow with higher output.*

[134] Ibid., p. 73.
[135] Ibid., p. 80.
[136] IP, *The Significance of International Finance in Ireland's Real Estate Market*, May 2021.

> *The Government has committed to over €5 billion (1.6%of GNI) in capital spending in 2024, but it is not clear how much of this is pure development finance (as opposed to turnkey purchase, for example). The Government currently spends more on housing than any other European country relative to GDP (GNI* for Ireland). This is partly due to the on-balance sheet nature of the Approved Housing Body (AHB) sector. Given vulnerabilities and spending pressures in the public finances, there will be constraints to increasing this to any greater significant extent. Domestic private funding sources are constrained by the small number of banks and concentration limits on their loans."*[137]

Foreign Private equity firms, insurance companies, pension funds and other institutional investors ("large foreign investors") have invested significant amounts in the Irish residential market in the last number of years. Many of these large foreign investors entered the Irish market in the early 2010's acquiring significant amounts of distressed debt following the financial crash. However, this was not the extent of the investment made by large foreign investors. Subsequently, significant amounts of capital were deployed by large foreign investors to finish uncompleted developments (including residential developments) and to commence new developments (including residential developments). In recent years a particular focus of large foreign investors has been social and affordable housing.

Prior to making any investment, these investors will model the likely return over the investment period. This model will be used in making an investment decision. One of the factors in estimating that return is the amount of tax cost associated with the investment. Tax can be a significant part of the cost of the investment. While there is always some level of volatility with forecasts, it is important that investors have a high degree of certainty when it comes to tax. In recent years, in a property context, investors have not been able to rely on the certainty that has historically been a feature of the Irish tax system. There is a view of many investors, whether right or not, that the Irish tax system pertaining to property is volatile and constantly changing.

The critical challenge in addressing the housing crisis is supply and viability. The focus should be on increasing supply, reducing costs/prices, and removing many of the bottleneck developers face associated with matters such as capacity constraints, zoning, and planning. We need large investors to provide the capital necessary to deal with these challenges. Key to ensuring continued investment by large foreign investors is providing a level of certainty in respect of tax. Further to that, we would urge that where changes are made, the investor, the transaction or results accrued under the earlier legislation (whichever is relevant) is grandfathered and in addition prior consultation being held with the industry.

Please read our response to the Public Consultation Funds Sector 2023: A Framework for Open, Resilient & Developing Markets for further details.

Our key comments were as follows:

- In our view, the IREF regime should be maintained without any significant amendments. The tax exempt-status of the IREF together with the withholding tax mechanism on distribution of profits are a common feature of European and international funds.
- In our view there is a still a case for maintaining the REIT regime.

We understand that proposals raised by stakeholders who provided responses are now being considered in further detail and further engagement with industry participants seeking additional data and deeper insights on the issues raised continue and a report will be presented to the Minister by summer 2024. We look forward to reading the report and its recommendations for the changes in the coming Budget and beyond.

[137] Department of Housing, *Report of the Housing Commission*.

6. From Taxation to Transformation: Policies that Encourage Saving and Investment

Contacts

Matt Dolan

Save for the bad times during the good

The right steps to guard our future has begun through the establishment of The Future Ireland Fund (a long-term savings fund that will deal with future expenditure pressures, including digital transitions) and the Infrastructure, Climate and Nature Fund (a fund that will help to maintain growth-enhancing investment through periods of lower or negative growth where capital expenditure is reduced as a response). These two Funds are vital and government policy should focus on growth and avoid the urge to deplete these funds to satisfy short term initiatives. However, we do acknowledge the policy that a defined portion of the Infrastructure Climate and Nature Fund may be drawn down to fund climate/net-zero transition in each of the next few years.

Encourage investment

We reiterate our comments to the Department of Finance in response to the Fund Sector 2030 review[138] that the tax treatment of various types of investment products, particularly investments in funds such as Exchange Traded Funds ("ETFs), is unnecessarily complex and does not reflect current behaviour where it is common for individuals to hold a range of investment types. The tax treatment should be reviewed and overhauled and simplified into two categories (Investment Funds & Life Assurance based investment products and other investments including deposit interest) thereby reducing complexity and increase taxpayer compliance.

We also support proposals[139] to introduce tax incentives for retail investments in domestic SMEs and startups. Such proposals will encourage vital equity funding to this sector and provide retail investors with an efficient return on their savings. A stocks

[138] Refer to our response to the Public Consultation Funds Sector 2023: A Framework for Open, Resilient & Developing Markets for further details.
[139] Department of Finance, *Funds Sector 2030: A Framework for Open, Resilient & Developing Markets Progress Update: Responses to the Public Consultation*, December 2023.

and shares tax free savings scheme in Ireland could be modelled on the UK Stock & Shares Investment Savings Account ("Investment ISA") scheme and Venture Capital Trust ("VCT") regime.

We understand that proposals raised by stakeholders who provided responses to the Funds Sector Review 2030 are now being considered in further detail and further engagement with industry participants seeking additional data and deeper insights on the issues raised continue and a report will be presented to the Minister for Finance by summer 2024. We look forward to reading the report and further engagement with the department as tax policy is being developed for Budget 2025.

7. From Complexity to Clarity: simplifying the tax system

Contact

Geraldine McCann

On publication of the' Feedback Statement on participation exemption in Irish corporate tax system for foreign dividends of April 2024 the Minister for Finance referenced "*Ireland's continued efforts to promote a business environment characterised by certainty and clarity" and "maintaining Ireland's reputation as a business-friendly destination and encouraging companies to establish and expand their operations in Ireland*." A similar message was spoken about by the Minister at the Irish Tax Institute annual dinner in February 2024. Indeed, the Minister's intention to simplify certain business tax reliefs announced as part of Budget 2024 culminated in the establishment of a dedicated TALC committee to identify opportunities to simplify and modernise the administration of business supports.

We commend the establishment and ongoing work of the TALC Sub-Committee on Simplification and Modernisation of Business Reliefs; this is an important forum where stakeholder can work together to identify opportunities to simplify and modernise the administration of business supports. Our comments and recommendations in this submission are without prejudice to the recommendations of this TALC subcommittee which we understand are forthcoming.

We also acknowledge the Funds Review 2030 and the anticipated changes to the Irish tax system as part of that review. We have provided our comments and recommendations under that Review[140]. Our focus in this section is on other specific areas of the Irish tax system we believe must be considered for simplification.

Schedule 24 TCA 1997

As part of our responses to the territorial regime consultations, we recommend that simplification of Schedule 24 TCA 1997 must be a priority in tax policy. Schedule 24 TCA 1997 is a patchwork of differing legislative changes and it is not fit for purpose.

The current legislative measures which underpin the operation of Schedule 24 TCA 1997 are cumbersome, complex to administer and outdated. In considering the potential simplification of Schedule 24, broadening the categories of income on which relief may be obtained and simplification measures for the pooling and carry forward of unrelieved foreign tax should be a priority.

[140] Deloitte, *Funds Sector 2030: A Framework for Open, Resilient & Developing Markets Public Consultation*, 15 September 2023.

At present, relief under Schedule 24 TCA 1997 is only afforded with respect to specific income streams (interest, royalties etc). We would welcome a simplification of Schedule 24 TCA 1997 which would distinguish between income sources:

A **Income subject to tax at the rate of** 12.5%

and

B **Income subject to tax at the rate of** 25%

We also reiterate our comments made previously to the Department of Finance on the provisions governing the pooling and carry forward of excess double tax credits are complex and not universally applied to all sources of income on which double tax relief may be available. The differing requirements imposed depending on the type of income create unnecessary complexity and should be simplified.

R&D administration

There is significant cost and uncertainty associated with the claims process for the R&D tax credit. This reduces the attractiveness of the R&D regime. We would recommend a pre-approval process for first time R&D tax credit claims which would bring much needed certainty for taxpayers. At the very least a pre-approval process should be introduced for SMEs.

Corporation tax return

In our experience the corporation tax return ("Form CT1") has become cumbersome over recent years. We recognise that there have been significant tax policy changes which required additions to the Form CT1. Nonetheless, we feel that there is opportunity to simplify the Form CT1. While predominately a matter of tax administration and for the Office of the Revenue Commissioners we feel it necessary to highlight in this submission the practical and administrative implications of tax policy changes and the possible solutions to ease the administrative burden on taxpayers. We welcome the opportunity to engage with the department and the Office of the Revenue Commissioners on the possible solutions briefly summarised here and other opportunities for simplification.

We also recommend that consideration be given to how the form is arranged, in our view tax policy changes in recent years appear to have been added without regard to the practical completion of the form.

We welcome timely communication of any changes to the Form CT1 schema, any changes to the background of the Form CT1 have significant knock-on implications for taxpayers and tax advisors and inadequate notice of such changes adds to the compliance burden for taxpayers.

It would be helpful to have an administrative guide to the Form CT1 that includes a visual representation of the Form CT1 schema. The CT1 has grown and consequently the Form CT1 schema has developed at a rapid pace and in our experience, there is a disconnect between the technical requirement of the Revenue Online Service 'ROS' technology and what Irish tax law requires.

Tax law review

Due to the global tax reform, particularly the OECD BEPS project, a significant amount of complex legislation has been enacted in recent years which include Pillar Two rules, Anti Hybrid rules, Interest Restriction Rules, CFC rules and various types of disclosure rules. The pre-BEPS legislation is complex in its own right. When the BEPS rules are layered on top, it can be difficult to navigate the rules or provide any certainty in respect of them. This places Ireland at a competitive disadvantage with other countries. Irish tax legislation should be reviewed with a view to simplification. As part of that consideration could be given to the establishment of an Office of Tax Simplification. The review should take account of the Irish tax legislation as a whole.

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