

**LEX MUNDI**  
PUBLICATION



**TAX PRACTICE GROUP**  
**Multi-Jurisdictional Survey**

**TAX DESK BOOK**

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**IRELAND**

**Introduction**

- 1. Please give a brief overview of the types of taxes imposed in your jurisdiction (i.e., direct and indirect taxes and their components.)**

**Income Tax**

Ireland imposes income tax on individuals, businesses, partnerships and other unincorporated business groupings currently at rates of 20% and 41%. Details on the scope, operation and calculation of income tax are set out in questions 8 to 12.

**Corporation Tax**

All companies resident in Ireland and all non-resident companies which carry on a trade in Ireland through a branch or agency are generally liable to corporation tax. In the case of trading companies the rate of corporation tax on trading income is 12.5%. Non-trading income (for example, investment income) and income of certain trades (for example mining) is subject to corporation tax at a rate of 25%. Gains arising to companies are generally chargeable to corporation tax, however, the taxable amount is calculated in accordance with the capital gains tax rules and the effective rate of tax

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on gains is 25%. Where a company is not resident in Ireland, the extent of its Irish corporation tax liability is limited to trading income arising directly or indirectly through a branch or agency in Ireland, and any income from property owned or used by, or held by or for, a branch or agency in Ireland. Income received by a non-resident company which is not attributable to an Irish branch or agency (e.g. Irish rental income or deposit interest) is liable to Irish income tax.

#### Capital Gains Tax (CGT)

Capital gains tax is chargeable on gains arising on the disposal of capital assets at a rate of 25%. A disposal occurs when the owner ceases to have ownership of the asset and in certain other circumstances.

An Irish resident or ordinarily resident and Irish domiciled person is subject to CGT on worldwide disposals of property. Irish resident or ordinarily resident but non-Irish domiciled persons are subject to CGT on disposals of Irish and UK assets and “foreign” assets, but only where the proceeds of the “foreign” disposals are remitted to Ireland. Non-Irish resident or ordinarily resident persons are subject to CGT on the disposal of specified Irish assets as outlined in question 14 below.

Irish resident companies are liable to corporation tax (rather than CGT) on their worldwide gains (calculated in accordance with the CGT rules and the effective rate of tax on gains is 25%) (other than development land gains which are subject to CGT). Non-resident companies are only liable to CGT on the disposal of certain specified assets (e.g. land, mineral/exploration rights situated in Ireland, unquoted shares deriving the greater part of their value from land/buildings or certain mineral rights situated in Ireland). Gains arising to a company on the disposal of shares in certain subsidiary undertakings are exempt from CGT provided certain conditions are met under the holding company regime / participation exemption.

#### Income Levy

Ireland imposes an income levy on gross income in the case of individuals only at rates of between 2% and 6% depending on the level of income. The first €75,036 i

## **INCOME TAXES – AS APPLIED TO BUSINESS ENTITIES AND INDIVIDUALS**

### **Calculation of Income/ Profit Taxes**

#### **2. How is the taxable base determined?**

In Ireland the taxable base for income / profits is determined in accordance with the income tax rules. For companies the starting point is the net profit figure in the audited financial statements of the company. This figure is then adjusted to reflect



changes required by law. The audited financial statements of an Irish corporate are generally computed in line with Irish Generally Accepted Accounting Principles (GAAP) or International Financial Reporting Standards (IFRS). Similarly, for unincorporated businesses the starting point in calculating the taxable base is to take the net profit as stated in the business accounts and make any adjustments required in accordance with the income tax rules.

### **3. What revenues are included?**

Income from all sources is subject to Irish income tax or corporation tax on income in the case of companies. This normally includes all business profits, interest, rents, royalties and dividends (subject to the Irish holding company regime / participation exemption).

Corporation tax is levied on total profits, that is, the income and gains of the company for the relevant accounting period. Income for these purposes includes business profits, interest, rents, royalties and generally dividends (subject to the holding company regime / participation exemption). The income / profits earned are taxed in line with the income tax rules and in the case of trading companies the rate of tax is 12.5%. Non-trading income (for example investment income) and income of certain trades (for example mining) is subject to tax at a rate of 25%. Capital gains arising to companies are chargeable to corporation tax rather than capital gains tax (except in the case of development land gains), however, the taxable amount is calculated in accordance with the capital gains tax rules and the effective rate of tax on gains is 25%. A company is tax resident in Ireland if it is Irish incorporated (subject to certain exceptions) or if it is centrally managed and controlled in Ireland. Where a company is not resident in Ireland, the extent of its Irish corporation tax liability is limited to trading income arising directly or indirectly through a branch or agency in Ireland, and any income from property owned or used by, or held by or for, a branch or agency in Ireland. Income received by a non-resident company which is not attributable to an Irish branch or agency (e.g. Irish rental income or deposit interest) is liable to Irish income tax.

Ireland has a holding company regime which exempts disposals by a company of shares in a subsidiary in which it holds at least 5% of the ordinary share capital from capital gains tax in certain circumstances.

### **4. What deductions are allowed?**

In calculating trading profits, a taxpayer may deduct revenue expenses which are incurred wholly and exclusively for the purpose of the trade. Expenses in the nature of capital are not generally deductible against trading income.

In calculating a chargeable gain, the cost of acquisition of the asset, incidental costs of acquisition and enhancement expenditure (indexed for inflation up to 31 December



2002 only) together with incidental costs of disposal, losses and other expenses are deductible.

#### **5. What are the major expenses that are not deductible?**

Certain business expenses are specifically disallowed such as business entertainment expenses and expenditure on capital items. Depreciation of capital assets contained in the audited financial statements of a company or unincorporated business will normally not be an allowable expense. However, the tax payer is allowed to claim capital allowances in respect of certain capital expenditure such as expenditure on plant and equipment and industrial buildings. In addition, allowances are available for expenditure incurred on research and development activities and in acquiring patents.

#### **6. What are the applicable federal rates?**

The rates of income tax for individuals, business, partnerships and other unincorporated business groupings are 20% and 41%. The 20% rate applies to the first €36,400 in the case of an individual and, €45,400 in the case of a married couple with one income or €72,800 in the case of a married couple with both parties working. The balance of income is taxed at a rate of 41%. The rates of corporation tax on income are as follows: 12.5% in the case of trading income, an effective rate of 20% in the case of income from the dealing in residential development land (for accounting periods ending prior to 1 January 2009; 25% thereafter) and 25% on rental and investment income.

#### **7. What are the applicable state and/ or other local rates?**

There are no separate applicable state or local taxes in Ireland. However, local authorities charge businesses commercial rates for the provision of certain services to businesses operating within a particular district.

#### **8. What are the applicable capital gains rates and base, if different and concessional tax treatment in case of business re-organization such as amalgamation, slump sale, demerger, etc?**

There are a number of exemptions from capital gains tax including the Irish holding company regime / participation exemption outlined in question 7 above and there is specific relief available in the case of business reconstructions or amalgamations of companies or reorganisations within a group. There are also specific exemptions from capital gains tax in the case of a transfer of an unincorporated business to a

company and transfers between spouses. Relief from capital gains tax for business reorganisations, amalgamations, demergers etc. are all available on a statutory basis in Ireland.

Stamp duty reliefs for business reconstructions, amalgamations etc. and transfers between associated companies are also available on a statutory basis in Ireland. The transfer of a business should generally not be subject to VAT where the buyer is VAT registered in Ireland.

## **9. How are operating losses handled?**

Trading losses incurred may be offset in the year in which they arise in full against other trading income. Any losses not relieved in this way can be carried forward for offset in future years or carried back 12 months against profits of the same trade or profession. Where a trade ceases, terminal loss relief can be claimed in respect of losses incurred in the last 12 months of a trade or profession. These losses can be carried back against the profits from the same trade or profession within the previous 3 years prior to the discontinuance of the trade. Losses incurred in a non-trade or non-profession are generally offsetable only against other income arising from a similar source so, for instance, losses incurred in the business of renting properties, are only offsetable against other rental income. Such losses would not generally be available for offset against other profits or income of the company or trade or profession.

## **10. How are capital losses handled?**

Losses incurred in the current year are generally offsetable against gains in the current year and any unallowed losses can be carried forward indefinitely. However, gains on development land may only be offset against losses on development land.  
Losses

## **Territorial Rules**

### **11. What are the residence rules?**

All companies incorporated in Ireland are automatically considered resident in Ireland unless considered resident in a country with which Ireland has a double taxation treaty under the terms of that treaty. The incorporation rule will not apply in the following circumstances where instead the company is resident in Ireland if its central management and control is located in Ireland:

- the company or a related company (50%) carries on a trade in Ireland and either (i) the company is controlled by persons resident in an EU Member



State or in a country with which Ireland has a double taxation treaty or (ii) the shares of the company or a related company are substantially and regularly traded on a recognised stock exchange in an EU Member State or in a country with which Ireland has a double taxation treaty; or

- the company is regarded as resident in a country other than Ireland and not resident in Ireland under the terms of a double taxation treaty.

An individual will be regarded as resident in Ireland if he is present in Ireland for a total of 183 days or more in the year of assessment or present for a total of 280 days or more in the year of assessment and the preceding year, although any year in which he is present in Ireland for 30 days or less is disregarded. For the tax year 2009 on an individual is regarded as present in Ireland for a day if he is present in Ireland at any time during that day.

An individual will be regarded as being ordinarily resident in Ireland for a year of assessment if he is resident in Ireland for each of the three years preceding the year of assessment.

Ireland also has the concept of domicile which is relevant to an individual's liability to certain Irish taxes. An individual will be regarded as being domiciled in Ireland generally if his father (or mother in certain cases) is Irish domiciled or if he has acquired Irish domicile by choice through a combination of residence and intention to reside in Ireland indefinitely.

## 12. Is worldwide income taxed?

Irish resident companies are liable to corporation tax on worldwide income. Non-resident companies are liable to corporation tax on income arising directly or indirectly through an Irish branch or agency. Income received by a non-resident company which is not attributable to a branch or agency but which arises from an Irish source (e.g. rental income or deposit interest) may be liable to Irish tax subject to the provisions of any relevant double tax treaty.

The scope of an individual's liability to Irish income tax differs depending on whether or not he/she is resident, ordinarily resident and/or domiciled in Ireland.

An individual who is resident, ordinarily resident and domiciled in Ireland is liable to income tax on his worldwide income.

An individual who is resident and ordinarily resident but not domiciled in Ireland is liable to income tax on income arising in Ireland but on foreign income only to the extent that it is remitted to Ireland. However, this remittance basis does not apply to income from a foreign employment that is attributable to the performance of duties of that employment in Ireland.

An individual who is resident but not ordinarily resident in Ireland and who is an Irish citizen is subject to the remittance basis as outlined above (i.e. Irish source income,

foreign source income to the extent that it is remitted to Ireland, and income from a foreign employment attributable to the performance of duties of that employment in Ireland).

An individual who is not resident but who is ordinarily resident and domiciled in Ireland is taxable on the same basis as a resident (i.e. worldwide income) but excluding income from a trade or profession no part of which is carried on in Ireland, income from a foreign employment no part of which is carried on in Ireland, and other income of the individual which in any year does not exceed €3,810.

An individual who is not resident and not ordinarily resident in Ireland is, in general, liable to Irish income tax only on income arising in Ireland. In addition a non-resident individual is generally not entitled to personal tax credits and reliefs.

**13. Tax credits - Are there tax credits relating to legal dispositions other than provisions in Double Taxation Treaties, on the possibility of deducting taxes paid abroad, or any others?**

Credit relief for dividends – Ireland has a favourable system of credit relief in respect of non-Irish dividends subject to tax in Ireland at 25%, whereby credit may be obtained for any withholding tax suffered and for any underlying taxes paid by the foreign company out of which the dividend was paid, against tax suffered in Ireland on the receipt of the dividend. Relief is available where the provisions of a double taxation treaty apply and also on a unilateral basis where the dividends are received from a non-treaty jurisdiction, or where the treaty does not apply due to restrictive ownership requirements being in place for the granting of credit. Unilateral credit relief is available where the foreign dividend is received, by either an Irish resident company or an EU resident company where the dividend forms part of that company's Irish branch profits, from a foreign company in which it owns directly or indirectly at least 5% of the ordinary share capital of the company. Where the foreign paying company has itself received dividends from a third company which has suffered foreign tax, the relief can extend to such tax if the recipient company and the foreign paying company each control at least 5% of the voting power of the third company.

The amount of available credit depends on the effective tax rate on the profits from which the dividend has been paid and there is flexibility to determine this. If there is an excess of foreign tax the excess may be pooled for offset against dividends from other jurisdictions which suffer no tax or less tax than the Irish effective rate, with the balance available for carry forward to utilise in subsequent years.

Where an election has been made to tax certain dividends at 12.5% (i.e. in respect of dividends repatriated from foreign trading income), the pooling of dividends applies separately to dividends taxed at the 12.5% rate and dividends taxed at the 25% rate.

There is a restriction on the offset of surplus tax credits arising on a dividend taxed at 12.5% so that they are not available for offset against tax suffered on a 25% dividend. There is no restriction on the offset of surplus tax credits arising on dividends taxed at 25%, i.e. the excess can shelter 12.5% dividends.

Capital Acquisitions Tax (CAT) – Ireland has double taxation treaties in place covering inheritance and gift taxes with only the US and the UK. For all other jurisdictions, unilateral relief is granted where a gift or an inheritance of foreign property to or from an Irish resident or ordinarily resident disponent or beneficiary is reduced by foreign tax which is similar in nature to estate duty, gift tax or inheritance tax. The relief applies only in respect of tax imposed by a foreign country on property situated in that foreign country. The credit cannot be greater than the Irish CAT which would have been payable on the foreign property and can only be given where the same event gives rise to tax in both countries.

## **Withholding Taxes**

### **14. What are the rates on dividends for withholding taxes?**

Dividends paid by an Irish resident company are generally subject to dividend withholding tax (DWT) at the standard rate of income tax (currently 20%) unless the shareholder qualifies for an exemption and all of the requisite documentation is in place prior to the payment of the dividend.

In addition to any relief which may be available under the terms of a double taxation treaty with Ireland, Ireland has a number of domestic exemptions from DWT. For example, an exemption from DWT is available for dividends paid to individuals who are resident for tax purposes in an EU Member State or in a country with which Ireland has a double taxation treaty, provided that the individual is neither resident nor ordinarily resident in Ireland. Several exemptions are also available in respect of dividends paid to companies. The main domestic exemptions for dividends paid to companies are as follows:

- 1.1 where the recipient company or person is resident in another EU Member State (other than Ireland) or in a country with which Ireland has a double taxation treaty and is not under the control of Irish residents;
- 1.2 where the recipient is a company that is not resident in a relevant territory but is controlled by a person or persons who are so resident (and who is/are not under the control of a person or persons who are not resident in a relevant territory); or
- 1.3 where the principal class of shares of the recipient company or its 75% parent company are substantially and regularly traded on a recognised stock exchange in a relevant territory.

The above exemptions apply as a matter of Irish domestic law and irrespective of the provisions of a double tax treaty.

A further domestic exemption from DWT is available in respect of certain depository arrangements in the United States in respect of listed shares of Irish resident companies where the persons beneficially entitled to the dividends are the holders of American depository receipts and are registered with a US address.

## **15. What are the rates on royalties for withholding taxes?**

Patent royalties are subject to a withholding obligation of 20% although many domestic exemptions are available. Copyright royalties are in general not subject to withholding tax. The requirement to deduct tax at source does not apply to a royalty payment to a corporate shareholder where:

- the Irish company is a 51% subsidiary of the recipient provided that the recipient is resident in an EU Member State;
- the provisions of Council Directive 2003/49/EC (Directive on Interest and Royalties) apply; or
- the shareholder is resident for tax purposes in a jurisdiction with which Ireland has a double taxation agreement in force and that agreement provides for a 0% rate of withholding tax.

## **16. What are the rates on interest for withholding taxes?**

Interest paid by an Irish resident company may be subject to withholding tax. In general, unless the circumstances falls within one of the many domestic exemptions from withholding tax or treaty relief is available, an Irish resident company must deduct withholding tax at 20% on payments of interest. The main domestic exemptions from withholding tax on interest paid by an Irish resident company are as follows:

- interest paid in the ordinary course of business of the payer where the recipient is a company that:
  - is tax resident in an EU Member State (other than Ireland), or in a territory with which Ireland has a double tax treaty; and
  - does not have an Irish branch or agency, with which the interest is connected;
- interest paid on quoted Eurobonds, being securities that are issued by a company, carry a right to interest and are quoted on a recognised stock exchange, where:
  - i. the person by or through whom the payment of interest is made is not in Ireland; or

- ii. the payment of interest is made by or through a person in Ireland and either: (A) the quoted Eurobond is held in a clearing system recognised by the Irish Revenue Commissioners (DTC, Euroclear and Clearstream, Luxembourg are, amongst others, so recognised), or (B) the person who is the beneficial owner of the quoted Eurobond and who is beneficially entitled to the interest is not resident in Ireland and has made a declaration to a relevant person (such as a paying agent located in Ireland) in the prescribed form.

Deposit Interest Retention Tax (“DIRT”) is charged on the payment of certain interest by specified institutions e.g. banks and building societies. DIRT is deducted at 25%, from interest paid either annually or at more frequent intervals or from the gross amount of interest paid or credited on specified accounts (Special Savings Accounts and Special Term Accounts). Any other interest paid or credited is liable to DIRT at 28%.

### **17. What are the rates of withholding tax on profits realized by a foreign corporation?**

If the foreign corporation is resident for tax purposes in Ireland, dividend withholding tax as outlined in question 20 will generally apply to any profits distributed by way of dividends. Non-resident companies which carry on a trade in Ireland through a branch or agency are generally liable to corporation tax on their Irish trading profits at a rate of 12.5% but are otherwise not subject to any withholding tax on the remittance of branch profits.

### **18. Please list any other rates on withholding taxes that we should be aware of.**

#### Capital Gains Withholding Tax

On the sale of certain assets the person by or through whom payment is made is obliged to withhold 15% of the sale proceeds and pay it over to the Revenue Commissioners. The requirement to deduct tax from the sale proceeds only applies where the consideration for the disposal exceeds €500,000, and relates to the sale of certain specified assets:

- land in Ireland;
- minerals in Ireland or any rights, interests or other assets in relation to mining, or minerals or the searching for minerals;
- exploration or exploitation rights in a designated area;
- shares in a company deriving their value or the greater part of their value, directly or indirectly from assets specified in paragraph (i), (ii) or (iii), other than shares quoted on a stock exchange;
- unquoted shares acquired following a reorganisation of share capital, such shares being similar in nature to those described in (iv) above;

- goodwill of a trade carried on in the Ireland. [Note: This only applies to a direct sale of goodwill and not to the sale of shares the value of which may be derived wholly or partly from goodwill.]

Tax does not have to be withheld by the purchaser of an asset where the vendor has obtained a clearance certificate (CG50A) authorising the payments to be made in full. An Irish resident taxpayer making a disposal is entitled to such a clearance certificate as of right. A non-resident person will receive such a certificate only where he has satisfied the Revenue Commissioners that he has no liability to capital gains tax on the disposal, or satisfies the Revenue as to the amount of the liability and that tax will be paid by him.

### Other Withholding Taxes

Income tax at 20% must also be deducted from certain other payments including inter alia:

- annuities and certain other annual payments;
- rents on Irish property payable to non-residents (unless Irish resident agent appointed); and
- payments for professional services rendered to or on behalf of specified State and semi-State bodies.

Principal contractors must deduct tax at 35% (relevant contracts tax) from payments made to sub-contractors in the construction, forestry and meat-processing industries unless the sub-contractor has requisite documentation.

## Tax Returns and Compliance

### 19. What is the taxable reporting period?

Income tax: the taxable reporting period is the period 1 January to 31 December, save that a sole trader is generally allowed take their accounting period as the taxable period.

Corporation tax: the relevant period is the company's accounting period, save that each return can only cover a maximum of twelve months. If the accounting period exceeds twelve months, it will be necessary to make more than one return for that period.

Capital Gains tax: the taxable reporting period is the period from 1 January to 31 December, or for a company subject to CGT, its accounting period.

VAT: a taxable period is a period of two months beginning on the first day of January, March, May, July, September and November. Certain large traders are required to submit detailed INTRASTAT returns on a monthly basis whilst smaller traders may be allowed to submit VAT returns on an annual, bi-annual or tri-annual basis.

**20. What are the due dates for the filing of tax returns?**

For Income tax, a chargeable person must make a preliminary tax payment by 31 October in the tax year. The chargeable person must file a tax return and pay the balance of tax due by 31 October following the year of assessment.

For Corporation tax, a company must make a preliminary payment of 90% of their tax liability, or (where liability for preceding period is less than or equal to €200,000) 100% of that figure, by the 21st day of month preceding the end of accounting period. The company may make a top-up payment in the month following the end of the accounting period. It must pay the balance of tax due and file a return (CT1) within 8 months and 21 days of the end of the accounting period.

Capital Gains Tax, must be paid by 31 October in the year of assessment in respect of disposals arising in the period from 1 January to 30 September, and by 31 January of the following year of assessment in respect of disposals arising in the period 1 October to 31 December. A CGT return must be made by an individual by 31 following the year of assessment in which the disposal is made. For companies, the CGT return is due to be filed nine months after the end of the accounting period.

For Capital Acquisitions Tax, if a taxable gift or inheritance leads to a tax liability arising, or (after the benefit is taken into account) more than 80% of a group threshold being used, or agricultural or business relief is being claimed, a self-assessment return Form IT38 must be filed and tax paid within 4 months of the valuation date.

For VAT, every taxable person must generally file bi-monthly VAT returns by the 19th day of the month following the taxable period, and at the same time remit any tax due.

Stamp duty must be paid in respect of a chargeable instrument, and the instrument stamped, within 30 days after its first execution.

**21. What are the key compliance requirements?**

See question 20 above.

**22. Are there any other requirements that we should be aware of regarding tax returns and compliance?**

Specific minimum retention periods apply to certain documents under various tax heads.

For example, a person (including a company) is obliged to keep certain records (including accounts) required to enable true tax returns to be made for the purposes of income tax, corporation tax and capital gains tax, for a period of six years. Where accounts are made up to show the profits or gains from any trade, profession or activity, or in relation to a source of income of any person, that person is further required to retain 'linking documents' (being documents drawn up in the making up of accounts and detailing calculations linking the records to the accounts). Such records must be kept on a continuous and consistent basis in written form or electronically.

For VAT purposes, the following must be held for a period of six years from the date of the latest transaction to which they relate:

- bank statements
- purchasing invoices
- employees' expense reports and invoices
- sundry billing invoices
- inter-company invoices
- sales invoices
- purchase orders and acknowledgements
- credit notes and all supporting documentation (credit claimed, etc.)
- import and customs declarations
- monthly control statements
- documents relating to exercising and terminating a landlord's option to tax
- a capital goods record
- a joint option for taxation.

## **INDIRECT TAXES**

### **23. Are there any indirect taxes in your jurisdiction?**

#### Stamp duty

Stamp duty is charged on certain documents executed in Ireland or which relate to Irish situate property. The tax payable is either a fixed duty or, where the consideration payable exceeds a basic exemption amount, a percentage of the value of the transaction (for example, 1% on share transfers, 7% – 9% on residential property, 1% – 6% on other real property and up to 12% on the lease of residential property in certain circumstances). There are also a number of exemptions from stamp duty, for example, for intra group (90%) transfers and certain reconstructions and amalgamation transactions which may be available depending on the particular circumstances.

**24. How does it operate? Is it a VAT or a sales tax?**

VAT is an EU tax on consumption with each Member State allowed various exceptions and derogations from the EU Directives. Each Member State may also set its own rates within a given range. VAT is charged on certain imports and on goods and services supplied in Ireland in the course of business. In general, VAT is collected by VAT-registered traders on their supplies of goods and services effected within Ireland for consideration to their customers. Each such trader in the chain of supply from manufacturer through to retailer charges VAT on his or her sales and is entitled to deduct from this amount the VAT paid on his or her purchases and, so, generally, it is ultimately borne by the final consumer. The place of supply of certain services is subject to the “reverse charge” mechanism, with the recipient deemed to be the supplier and accountable person for the VAT in certain circumstances.

**25. How is the taxable base determined?**

The general rule is that VAT is chargeable on the total consideration for the supply or importation of VAT-able goods or services including all taxes, commissions, costs and charges, but excluding the VAT chargeable. The amount liable to VAT includes not only the direct charge for the goods or services but also expenses incurred by the supplier in the course of his business and charged by the supplier to the customer e.g. travel expenses. Expenses incurred as agent of a customer and recharged directly to the customer are not liable to VAT.

Supplies where the consideration does not consist of, or does not consist wholly of money are subject to VAT at their open market value. Certain supplies between connected persons may also have open market value substituted for the consideration paid.

**26. What are the applicable rates?**

0%: exports, intra-Community supplies of goods to VAT-registered persons in other EU Member States, certain food and drink, oral medicine, certain books, certain animal feeding stuffs, certain fertilisers, seeds and plants used to produce food, clothing and footwear appropriate to children under 11 years of age and supplies to VAT-registered persons who derive not less than 75% of their turnover from supplies of goods out of Ireland;

4.8%: livestock, live greyhounds, the hire of horses;

13.5%: certain fuels, building services, newspapers, magazines and periodicals, repair, cleaning and maintenance services generally, holiday accommodation, certain

photographic supplies, restaurant services, provision of commercial sporting facilities and works of art, collectors' items and antiques in certain circumstances.

21.5%: all other goods and services not specified as exempt or liable at other rate.

## **27. Are there any exemptions?**

Exempt goods and services consist principally of financial, medical and educational activities as well as admissions to and promotion of certain live theatrical and musical performances. Exemption from VAT means that the persons engaged in the exempt activities are not liable for VAT on their receipts and are not entitled to a credit or deduction for VAT borne on their purchases.

## **28. Are there any other taxes such as debit or financial transactions taxes enforced in you jurisdiction?**

Encashment Tax: Bankers and paying agents in Ireland who collect foreign dividends belonging to others are obliged to deduct and account for income tax at the standard rate, currently 20%, when they cash the foreign dividend for their client.

Stamp Duty on Financial Cards: Stamp duty is collected in arrears at a rate of €2.50 per year per ATM or debit card, or €5 for a combined ATM and debit card. Stamp duty is collected in arrears on 1 April, unless the account is closed during the year, on credit cards and charge cards at a rate of €30 per card.

Stamp Duty on Bills of Exchange: Cheques and drafts drawn on an Irish account are charged to stamp duty at a fixed rate of €0.50.

## **PARAFISCAL CONTRIBUTIONS**

### **29. Are there any parafiscal contributions (i.e. social security, science and/or technology)?**

Yes - Pay Related Social Insurance (PRSI) and Health Levy Contributions.

### **30. How do they operate?**

Employers and employees are liable to make contributions in respect of insurable employments exercised in Ireland. Non-insurable employments include employment by family members, casual employment and employment under community schemes. PRSI and health levy contributions must be submitted by employers along with income tax deducted under the PAYE system within fourteen days of the end of the income tax month. Certain small businesses may remit on a quarterly basis.

Self-employed persons remit their contributions under the self-assessment system which applies for income tax. An employer who makes payments to a self-employed contributor must remit PRSI and health levy contributions at the self-employed rates to the Revenue.

### **31. How is the taxable base determined?**

PRSI and health levy contributions are calculated on an employee's total earnings including benefits in kind such as company cars. Self-employed persons must pay contributions in respect of the aggregate of their income from all sources (including investment income) subject to a limited number of deductions such as pension contributions and capital allowances.

### **32. What are the applicable rates?**

An employee is liable to 8% on the first €75,036 of his earnings (consisting of employee PRSI contributions of 4% and a health levy of 4%). Earnings in excess of €75,036 are subject to a health contribution of 5%. The employer PRSI contribution is 10.75% on all of an employee's reckonable earnings from that employer and is not subject to any cap. However, there is a lower rate applied where the employee's earnings are €356 or lower per week.

Self-employed individuals must make PRSI contributions of 3% and health contributions of 4% on all income up to €75,036. Income in excess of €75,036 is subject to a health contribution of 5% and PRSI of 3%

### **33. Are there any exemptions?**

The first €127 per week of an employee's income is usually exempt from employee PRSI as are any annual earnings over €75,036.

There is a small income exemption from the health levy for those earning less than €6,000 p.a..

## **INHERITANCE AND GIFT TAXES**

### **34. Are there inheritance taxes, gift taxes or any other taxes like Wealth Tax, etc.?**

Yes

**35. If you answered yes to the question above, please describe what triggers the requirement for the tax, what the rate of tax is, and what is included in the taxable base.**

Capital Acquisitions Tax (CAT) is a tax on both gifts and inheritances and applies at the rate of 25%. Gifts or inheritances of all property situated in Ireland are subject to CAT. Gifts or inheritances of non-Irish situated property, are generally liable to tax where either the disponer or the beneficiary is resident or ordinarily resident in Ireland. Non-domiciled individuals are deemed to be outside these charging provisions (except in the case of property situated in Ireland) unless they been resident in Ireland for five consecutive tax years preceding the year in which the benefit is taken, and are also resident in the year in which the benefit arises.

The taxable value of the benefit for the purposes of CAT is the market value of the benefit less any liabilities, costs and expenses properly payable out of the benefit and less the value of any consideration paid for the benefit. If the benefit is a gift then an annual Small Gift Exemption (currently €3,000) may be deducted from gifts from each different disponer.

The CAT payable depends on the relationship between the disponer and the beneficiary as various thresholds apply below which no CAT is payable. It also depends on any prior benefits taken from any disponers in relation to whom the beneficiary bears the same relationship he does to the current disponer as these are aggregated. CAT is payable at 25% on the excess of the taxable value of the current benefit above the applicable threshold.

Various reliefs which reduce the amount of CAT payable are available, for example reliefs on agricultural and business property and benefits transferred between spouses are exempt from CAT.

### **OTHER MATTERS**

**36. Are there any tax incentives granted for various matters such as research and development, investment in certain industries/ areas, etc.?**

Yes

**37. If so, please indicate if there are any of the following: anti-deferral regimes; transfer pricing provisions; tax avoidance measures like legislated General Anti-Avoidance Rules, etc.; controlled foreign companies regulations; thin capitalization rules**

Anti-deferral regimes: Ireland has certain limited 8 year deemed disposal provisions which apply where an Irish resident invests in an Irish investment undertaking (authorised collective investment scheme) or in certain regulated collective

investment schemes in EU Member States and countries with which Ireland has a double taxation treaty.

**Transfer pricing provisions:** Ireland has only very limited transfer-pricing legislation. There is a provision in Irish tax legislation which seeks to prevent transfer pricing between a resident and a non-resident person where the non-resident person controls the resident and the profits of the resident are either nil or less than the ordinary profits which might be expected to arise from that business. This is not a provision that is often invoked in practice.

**Anti-avoidance measures:** Ireland has a general anti-avoidance provision which enables the Revenue Commissioners in Ireland to recharacterise any transaction (or part of a transaction) which gives rise to a tax advantage and which the Revenue believe was undertaken primarily to give rise to the tax advantage. It should be noted that the Revenue rarely invokes this provision. Whilst there is no requirement on taxpayers to voluntarily notify any scheme there is a facility for taxpayers to notify schemes that they believe may be at risk of being recharacterised. If the Revenue subsequently recharacterise the scheme the penalties that the taxpayer would suffer would be substantially mitigated as a result of the fact that the taxpayer had notified the Revenue of the scheme.

**Controlled Foreign Companies (CFC) Legislation:** Ireland has no CFC legislation and therefore an Irish company would not be subject to Irish corporation tax on the profits of any subsidiaries. In addition, the lack of CFC legislation reduces the burdens and costs of compliance which are associated with countries which operate CFC rules.

**Thin capitalisation rules:** Ireland does not have thin capitalisation rules.

**38. List the countries in which there are tax treaties. This could impact the withholding taxes on various distributions and to the extent possible, please itemize them below. Please include the impact upon withholding on compensation, interest, dividends or other distributions for each country listed.**

The table below lists countries with which Ireland has agreed a double taxation treaty and sets out the source country limits applicable to dividends, interest and royalties.

Maximum Source Country Tax Rates (% of gross payment)(for split rates, please consult the relevant article in the treaty)

Country	Year	Dividends	Interest	Royalties
AUSTRALIA	1984	15	10	10
AUSTRIA	1964	10	0	0/10
BELGIUM	1973	15	15	0
BULGARIA	2002	5/10	0/5	10
CANADA	2006	5/15	0/10	0/10
CHILE	2009	5/15	5/15	5/10

<b>Country</b>	<b>Year</b>	<b>Dividends</b>	<b>Interest</b>	<b>Royalties</b>
CHINA	2001	5/10	0/10	6/10
CROATIA	2004	5/10	0	10
CYPRUS	1952	0	0	0/5
CZECH REP.	1997	5/15	0	10
DENMARK	1994	0/15	0	0
ESTONIA	1999	5/15	0/10	5/10
FINLAND	1990	0/15	0	0
FRANCE	1966	10/15	0	0
GEORGIA	Not yet in force	0/5/10	0	0
GERMANY	1959	15	0	0
GREECE	2005	5/15	5	5
HUNGARY	1997	5/15	0	0
ICELAND	2005	5/15	0	0/10
INDIA	2002	10	0/10	10
ISRAEL	1996	10	5/10	10
ITALY	1967	15	10	0
JAPAN	1974	10/15	10	10
KOREA REP.	1992	10/15	0	0
LATVIA	1999	5/15	0/10	5/10
LITHUANIA	1999	5/15	0/10	5/10
LUXEMBOURG	1968	5/15	0	0
MACEDONIA	2010	0/5/10	0	0
MALAYSIA	2000	10	0/10	8
MALTA	2010	5/15	0	5
MEXICO	1999	5/10	0/5/10	10
NETHERLANDS	1965	0/15	0	0
NEW ZEALAND	1989	15	10	10
NORWAY	2002	0/5/15	0	0
PAKISTAN	1968	10/no limit	no limit	0
POLAND	1996	0/15	0/10	10
PORTUGAL	1995	15	0/15	10
ROMANIA	2001	3	0/3	0/3
RUSSIA	1996	10	0	0
SLOVAK REP.	2000	0/10	0	0/10
SLOVENIA	2003	5/15	0/5	5
SOUTH AFRICA	1998	0	0	0
SPAIN	1995	0/15	0	5/8/10
SWEDEN	1988	5/15	0	0
SWITZERLAND	1965	10/15	0	0
TURKEY	Not yet in force	5/10/15	10/15	10
UK	1976	5/15	0	0
UNITED STATES	1998	5/15	0	0
VIETNAM	2009	5/10	0/10	5/10/15
ZAMBIA	1967	0	0	0



THE WORLD'S LEADING ASSOCIATION OF INDEPENDENT LAW FIRMS

Negotiations for new agreements with Albania, Azerbaijan, Bosnia Herzegovina, Kuwait, Moldova, Serbia, and Thailand have been concluded and are expected to be signed shortly.

Negotiations for new agreements with Argentina, Armenia, Egypt, Morocco, Singapore, Tunisia, and Ukraine are at various stages.

It should be noted that many Irish domestic exemptions are available to countries which have concluded a double taxation treaty with Ireland, even though the treaty may not yet be in force.