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Interview with Shane Wallace, 50th President of the Irish Tax Institute

Irish Tax Institute

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Interview with New Institute President, Shane Wallace

On 4 September Shane Wallace was inaugurated as the Irish Tax Institute's 50th President. Shane has been a Council Member since 2015 and over the course of the decade has sat on a number of internal committees, including the Policy and Technical, Professional Affairs, and Finance and Administration Committees. At an earlier stage in his career Shane worked for a short term with the Institute's Policy and Representations team.

A law graduate from UCD, his interest in tax was sparked by a course module that he took as a trainee solicitor. Having worked as a junior solicitor in corporate law, Shane realised he had a natural leaning towards tax, and he decided to take the Institute's exams with a view to specialising in tax.

Shane started his career in tax advisory in Deloitte, where he worked in the private client team, specialising in stamp duty, group restructuring and succession planning. He is now a Tax and Legal Partner with the firm, working with a broad range of clients across varied sectors. He advises on all corporate tax matters, specialising, in particular, in mergers and acquisitions, real estate tax and corporate restructuring transactions.

Before taking up his role as President, Shane sat down with Donal O'Donovan, Business Editor at the *Irish Independent*, who hosts the Institute's Tax Talk podcast series. He spoke about his career to date, his outlook on working in tax and what he hopes to achieve in his year as President.

Ahead of his inauguration Shane paid tribute to the outgoing Institute President, Aoife Lavan, for her work and dedication over the past 12 months and congratulated his fellow Council Members Brian Brennan and Ian Collins on their appointments as Deputy President and Vice-President, respectively.

You can listen to Shane's podcast interview here, and below is an edited transcript of that interview.

Donal O'Donovan: You're listening to Tax Talk, a podcast series from the Irish Tax Institute which

Shane Wallace, Institute President with Aoife Lavan, Immediate Past Institute President and Martin Lambe, Institute Chief Executive

explores current issues in the world of taxation. I'm your host, Donal O'Donovan. Around this time every year the Institute elects a new president, and here to talk to me today is Shane Wallace, who will shortly become the 50th president of the Irish Tax Institute. Shane is a tax partner at Deloitte. His expertise includes international tax, tax structuring, mergers and acquisitions, capital taxes and real estate taxes. He's a Kilkenny man based in Dublin. Good afternoon, Shane.

Shane Wallace: Thank you, Donal, it's great to be here.

Donal O'Donovan: Just tell us a bit about yourself to start off. What is your day job? What's the profile of your clients?

Shane Wallace: The predominant focus of my practice is what I call transactional taxes. I do a lot of mergers and acquisitions and real estate. I have a number of core clients that keep me busy on a day-to-day level, both international and large domestic companies. I'm privileged to have a very good team. A lot of my role is overseeing the work of the team, delegating and communicating with clients, but every day is different, which is probably a large element of why I really enjoy the job.

Donal O'Donovan: And what's the profile of those clients? Who do you interact with on the client side?

Shane Wallace: It's a mixed bag. A lot of my clients are based abroad, which is just the nature of the transactional work. They could be some of the private equity funds in a number of instances, which may or may not have a head of tax, depending on the private equity house itself. A lot are based in London, but also in varying different jurisdictions. I act for a number of domestic developers as well. So that's a very different profile. They could be family-run companies for years, and you're interacting with various generations. And then I've a few larger tech and pharmaceutical clients. So a very varied practice.

Donal O'Donovan: And in terms of the transactional focus, is that particularly on property deals?

Shane Wallace: It's a mixed bag, with the M&A it could be anything. It could be whatever is hot at the time. I've done a lot of nursing home transactions that could be through share deals or asset deals. Over recent times I've acted on hospital transactions, tech companies and hotel groups. It's a huge variety, and it really depends.

Donal O'Donovan: And right now, in September, we're in the maelstrom of big changes in the world in terms of tariffs and Donald Trump and the reshaping of trade. What kind of advice are people coming to you for now?

Shane Wallace: I actually can thankfully say I haven't really got hugely involved on the tariff side within Deloitte. We're big enough that we've created a specialist group, but invariably it's companies looking at their supply chain, and they're thinking 'are we manufacturing in Ireland and exporting to the US? Do we need to change that and actually start pulling some of that back to the US?'. They're looking at where their intellectual property (IP) is. I think there's still a lot of uncertainty in that space, though. A lot of companies haven't really pressed the trigger on fundamental changes yet. They're really just looking at the 'what ifs' so far.

Donal O'Donovan: And are they asking you about the 'what ifs'?

Shane Wallace: It's not a huge part of my practice, but it comes up, and the likes of Pillar Two, for example, is a huge change coming as well. Companies are now having to start to become a little bit more real, and there's a little bit more focus on it. Up to now, I think there's been a little bit more star-gazing and it's been a little bit abstract. It's now becoming more practical and a lot more 'alright, what do we actually need to do?'. We've a team internally that are specialising to make sure we're offering the best advice we can, though, and my job really is to pull them in when I know it's needed.

Donal O'Donovan: You're at an interesting place if you're at the intersection, in a way, between London, private equity, US multinationals, Irish developers and the Irish property world. How do those cultures work? How do they mesh? Have you had to negotiate cultural issues there?

Shane Wallace: I'd be very honest – some of the London-based clients can be very demanding. They expect answers yesterday, but I've grown up with that. I'm well used to it over the years as I've done transactional work for a long time. The learning curve for me has been learning to enjoy the quieter times when transactions aren't as busy. But it can be different. It's demanding, but that comes with the territory.

Donal O'Donovan: And on the flip side, are there quirks to the Irish client base that are tricky to negotiate?

Shane Wallace: It depends on the nature of the transactions. On the M&A side, if you're acting more for family businesses, their approach is different. You have to remember that this isn't what they do, day in, day out. Your role really is to make their life easy, to try and work them through the transaction. Obviously, if you're on the other side, acting for the private equity is very different. That's what they do, day in, day out. So there's a whole different focus there. You have to have a different mindset going into the transaction.

Donal O'Donovan: What is your own background? How did your career get started?

Shane Wallace: It's very different to many tax practitioners. I'm not an accountant: I'm a solicitor. When I was in college I wouldn't have ever seen tax as a future career. But when I was a trainee solicitor one of my modules was on tax. I just found it came naturally to me, and I thought it was interesting. When I qualified I did what then was an obligatory year away, and when I came back I joined a commercial practice. I was a corporate solicitor, working in M&A, and I realised I preferred to be on the other side of the fence, structuring the transactions and telling the lawyers what to draft rather than the other way around. I find it a lot more interesting to get into the weeds of how to pull the deal together and structure it, and the hours were a lot more favourable, if I am honest. I just had a natural leaning towards the tax, and I found it very interesting from an early stage. The law firm I was in didn't really practise in tax, but I did well in the tax exams when I was a junior solicitor. After three years there I just decided 'You know what? I think I want to specialise', and I joined Deloitte and went into what was then called the private client team, which was a little bit more transactional. I would have worked mainly on stamp duty, group restructurings and an element of M&A. I was only a junior at that stage but very quickly progressed through the ranks. I really enjoyed what I was doing.

Donal O'Donovan: And did you know that making the change was the right decision fairly quickly?

Shane Wallace: Very quickly, but I still have my solicitor's practising cert. Do I practise law?

I still say "yes" because tax is an interpretation of the law. I genuinely believe that the legal background lends itself better, in my view, to what I do than an accountancy one would. There's this misapprehension that it's all about numbers and everything. It's not. My job is really more about spotting opportunity, problem solving and interpreting the law.

Donal O'Donovan: And presumably there are complementary skills as well? There are people working with you who'd have come from the accounting background?

Shane Wallace: Absolutely. There's no point in giving a detailed Excel spreadsheet to me, but I have number of people that work with me who have that as their skillset. I think that's the real benefit of being within one of the Big Four. We have people with specialised skills from a whole variety of backgrounds, and I think my job is very much to act as a conductor pulling all those skills together to best serve the client.

Donal O'Donovan: You mentioned that at college you weren't really aware of tax as a career. Was there any kind of professional services – tax, law or accounting – in the background at home when you were growing up?

Shane Wallace: No. My dad is an insurance broker. My mum worked at home. But, in fairness, my parents would have backed us. Whatever we wanted to do, they would have supported us. I think the challenge I had was that my dad grew up on a farm and always wanted to do law, but the funds weren't there to support him. And I think he tried to live vicariously through me, which was always challenging when you were in a car on a Friday afternoon going home to Kilkenny and being asked multiple questions about lectures you mightn't have been at! But he showed a huge interest in what I was doing and always encouraged us through whatever path we all wanted to go. The support was there.

Donal O'Donovan: I was looking at your CV. You've jumped around a bit in terms of your career. You've worked for a couple of different places.

Shane Wallace: Yes and no. I trained in a corporate law firm, and when I came back from Australia I rang my master, who I trained for, and asked for a CV reference. I got offered a job. So I worked there for three years, and then I specialised. But throughout I've been fairly consistent, I suppose. I left Deloitte and joined the Irish Tax Institute for 18 months in the downturn. I was doing transactional work for Deloitte, but there were no transactions in 2008/2009, so I needed to find something to keep me really busy. It was a two-year fixed contract in the Institute with a guarantee of going back to Deloitte. So it was equivalent of a secondment. But I really broadened my network in those two years. Then a former Tax Institute President approached me at a tax dinner and asked if I wanted a job in William Fry. I went there for five years as a tax partner and got really brilliant exposure. I had a slightly different angle to the M&A taxes. But, ultimately, I really had to broaden out my experience. My name was going at the bottom of the page on VAT issues, on stamp duty, on corporate tax. After about four or five years Deloitte came back, looking for me to rejoin, which I think was a compliment. I haven't looked back; it was a fantastic decision. I've been really, really happy since I've rejoined the fold. Now, I think big challenge across all the Big Four is holding on to newly qualified staff. It's a combination of two things – first, people going travelling. And personally, I did it. When someone comes into me and says 'I'm going to Australia', I find it hard to say 'Oh, don't, you're throwing it all away'. I did it; it was a great experience; and,

if anything, it probably broadened my horizons and maybe gave me a different outlook. The second aspect is people thinking that the grass is greener on the other side. And people are going to industry, given that at that level it can pay better. People are attracted to that. But then I think we are getting a lot of people coming back too. They might spend three or four years in industry and then realise they want to actually go back to practise as they preferred it. We've trained people very well. They're very intelligent people. Ideally, we'd love to keep them, but it's the reality that they're looking, and they know full well that if it doesn't work out, it's an employee's market, and they can come back or they can join another firm if needs be. So it's a very, very different place than the one I grew up in.

Donal O'Donovan: But you did move around, and it sounds like you picked up valuable skills and valuable networks.

Shane Wallace: I gradually progressed over time with each role. I started as a corporate lawyer and then developed my tax skills. I would argue I was quite niche when I was more junior, and I progressed very quickly with the niche skills. I was probably too niche, but I have a very general, broad practice now, which I enjoy. But each role I've had over time has helped me to broaden my skills, and I'd like to think I still am learning.

Donal O'Donovan: And you see that as a strategic thing as well?

Shane Wallace: I think within the Big Four, as people progress, they do become niche. And one of the things that attracted me back to Deloitte was that, with my general experience, I could come back in and run all aspects of a transaction or all aspects of a client relationship. I'm not going to be arrogant to say I know the answers to everything, but I know the people that I need to add to the team when I need to. I've learned as well how to conduct the orchestra or how to pull together the skillsets that are needed over time.

Donal O'Donovan: So you've got a very busy job. It sounds like you have the sort of a job that you enjoy. Why have you taken it upon yourself to come back into the Institute and take on the role of President?

Shane Wallace: It's a good question. I've always really enjoyed and benefited from my involvement with the Institute. I worked with the Institute for 18 months a long time ago now, over 15 years ago, but it really broadened my network, and I really saw the benefit. When I went back into Deloitte I ensured that I stayed involved, initially through some committees, and then I joined Council. And I can honestly say I have always enjoyed being a Council Member. We have a varied group on Council, be it Big Four versus small practice and industry. You get to see a lot of different viewpoints. And I've always really enjoyed and appreciated that. So I think it was a natural progression for me, ultimately, to move on to the role of President.

Donal O'Donovan: Does your firm appreciate that? Because it takes time and commitment.

Shane Wallace: I'm lucky in that we have a broad team, not just people working for me but also amongst the partner group, so that I think there's an appreciation that this year I may have to step back a bit or take on less within our own practice. Deloitte really supports the Institute. We see the benefit that we get from the education side of the Institute, and from the policy side. So we've always tried to ensure we stay involved, encourage our juniors to stay involved – or get involved, probably more importantly – but again, internally, it's viewed entirely as a positive for me to have the role. And there have been a number of others that have come before me in the same role, and they have also benefited from that support.

Donal O'Donovan: What would you like to get done in your year as President?

Shane Wallace: I'm quite passionate about ensuring that the Institute is a voice for everyone. I want to ensure that we get out amongst the members and that we listen to them. So, again, I think it's basically trying to make sure that I get down to Cork, Galway and around the country, and get the viewpoints from people that are in very different practices to my own. I fully appreciate that the majority of our members will have a very different client base or a very different practice to what I have. And I want to ensure that I'm there and I listen and make sure the Institute is there to support that broader membership.

Donal O'Donovan: What would you like to see happening in Budget 2026?

Shane Wallace: I think has to be a multi-pronged approach. At the moment there's a huge amount of change internationally, be it with the US tariffs, be it Pillar Two on the international side, that's putting a huge pressure in Ireland to remain competitive. We have always been competitive, but others are really catching up and sometimes

maybe even passing us. I think it's very important that we focus on ensuring that the likes of our R&D credits are best in class. I think we need to ensure we have a lot more certainty in our tax system. So, if I selfishly focus on one of my own main areas, real estate, we have to really ensure there is a clear plan in place. The greatest impediment to investment is uncertainty, and I think we've shot ourselves in the foot recently with knee-jerk legislative changes, with stamp duty as a prime example where I don't believe the changes fit. The residential rate has gone up to 15%, which is effectively retrospective tax on a number of these funds, because when they go to sell, a buyer has to pay those taxes, and that's factored into the price they'll pay. And I know from listening to my clients that uncertainty in Ireland is a big impediment for them at the moment. Historically, we prided ourselves on stability, and I think we've gone away from that. The other key area is to focus on our SMEs. These companies need support, and I don't think we do enough to encourage and incentivise investment. We have to look at incentivising debt investment rather than perhaps just equity. But we also have to look at our capital gains tax rate. We pride ourselves on being competitive on tax, yet we have a 33% rate on CGT. A big step would be reducing that just for entrepreneurial gains as a starting point. When you tell clients it's a 12.5% rate on certain types of income but when you come to sell it's 33%, you get a jolt from them. We do have reliefs, but as a starting point that rate is very, very high, and I'd like to see that coming down.

Donal O'Donovan: Are you optimistic that there'll be changes to any of those things?

Shane Wallace: I'm certainly hopeful. I don't have a crystal ball. I am optimistic that we will look at evolving some of our existing incentives. I am optimistic that the R&D tax credit regime will get the attention it deserves. Another area that has evolved and become very messy over time is interest relief. It's a core issue. We have a very complex regime to start with on getting interest relief, be it against rental income, be it acquisition finance. And we have international tax requirements layered on top of that. We've got transfer pricing. We've interest limitation rules. I know the Department of Finance and Revenue plan on looking at it, but it needs simplification. It is far too complex. It may not be for this year, but I would hope it will be in the near future.

Donal O'Donovan: Well that seems like a good place to wrap things up. So thanks to my guest, Shane Wallace, incoming president of the Irish Tax Institute. This has been Tax Talk, and I'm Donal O'Donovan.

Chief Executive's Pages

Martin Lambe
Irish Tax Institute Chief Executive

The Institute's Annual General Meeting took place on 4 September, and Shane Wallace became our 50th President. Shane has been on Council since 2015 and has served on a number of Committees, including Finance & Administration, Policy and Technical, and the Professional Affairs Committee.

He is a tax partner with Deloitte and advises multinationals on investing in Ireland with significant expertise in mergers and acquisitions, corporate restructurings, real estate and intellectual property.

Before taking office Shane spoke to Tax Talk podcast host Donal O'Donovan about his career in tax advisory so far and his keen interest in real estate and outlined his priorities for the year ahead, including meeting members around the country. *Listen to the episode* or read the edited transcript in this issue of *Irish Tax Review*.

Council 2025–2026

Shane takes over from Aoife Lavan, who during her term, provided the Institute with rich insight into the opportunities to simplify pensions, the challenges faced by the self-employed, and the advantages and pitfalls of auto-enrolment.

On behalf of Council, the Institute and the wider membership, I want to thank Aoife for her commitment to the Institute, both during her time on Council, and her term as President. Brian Brennan steps into the role of Deputy President, and Ian Collins, has been appointed Vice-President.

Shane Wallace, Institute President with Aoife Lavan, Immediate Past Institute President and Martin Lambe, Institute Chief Executive

We also welcome two new members to Council – Marty Murphy of IFAC and James Quirke of McCann FitzGerald.

After years of dedication Laura Lynch steps down from Council. We would like to thank her for her insightful guidance and commitment since 2017. We wish Laura the best of luck in the future.

Education

Registration is open for our Autumn 2025 courses–Diploma in Tax, Tax Technician and Chartered Tax Adviser (CTA), with strong enrolment so far. Lectures start in late September and the start of October.

Students who completed their exams in August, will receive their results in the coming weeks, and we wish you the very best of luck.

The 23rd edition of our third-level textbook, *Irish Taxation: Law and Practice*, was published earlier this month. This textbook remains a vital asset for lecturers in third-level institutions across Ireland and is the basis for our Tax Trainee Induction Programme. The book is edited by Dr Patrick Mulcahy and Laurence May and authored by Christopher Crampton, Sean Cogill, Raymond Holly, Paul Murphy, Margaret Sheridan and Martina Whyte. I want to thank them for their contributions to this two-volume publication.

Our work to promote the career in tax advisory continues. Over a number of weeks in September and October a team of Institute representatives will be busy attending career fairs for third-level students to put tax advisory in their minds when they are choosing a career and pointing them to our new dedicated webpage on *taxinstitute.ie* for graduate opportunities in tax advisory. After the announcement of Budget 2026, undergraduates with the support of their lecturers will engage with our Fantasy Budget competition, putting themselves in the shoes of the Minister for Finance.

Budget 2026

Irish Tax Institute representatives meeting with Minister for Finance, Paschal Donohoe TD.

L-R: Brian Brennan, Vice President, Anne Gunnell, Director of Tax Policy and Representations, Minister for Finance, Paschal Donohoe TD, Aoife Lavan, President, and Stephen Gahan, Council member.

The Institute was invited to meet the Minister for Finance, Paschal Donohoe TD, to discuss our Pre-Budget 2026 Submission. At the meeting, on 27 August, we emphasised the reality that tax is a key consideration for prospective investors and is also one of the few variables that the Government can control in a small, open economy such as Ireland's. Our Director of Tax Policy and Representations, Anne Gunnell, raised the same point at the National Economic Dialogue in June.

We presented arguments for our key recommendations, including:

- reforming the R&D tax credit;
- improving the participation exemption for foreign distributions;
- simplifying the interest deductibility rules;
- introducing a foreign branch exemption;
- simplifying the operation of share-based remuneration – in particular, the retention and enhancement of the Key Employee Engagement Programme (KEEP);
- retaining the option of private hearings at the Tax Appeals Commission;
- imposing proportionate sanctions for errors; and
- investing adequately in Revenue systems to ensure that IT and frontline services are fit for purpose.

We believe these recommendations will make Ireland more attractive for foreign direct

investment (FDI), the SME sector, improve taxpayer protections, and boost investment in tax collection.

Representations

Cost of Business Advisory Forum

The Minister for Enterprise, Tourism and Employment, Peter Burke TD, established a new group led by the Department of Enterprise, *the Cost of Business Advisory Forum*. The forum brings together regulators, business owners, retailers, tourism operators, professional bodies and representative groups with the aim of reducing the cost of running a business and addressing delays that may impact business operations in Ireland. The Institute was pleased to be invited by the Minister to participate in this group, and our Director of Tax Policy and Representations, Anne Gunnell, attended the first two meetings of this forum, in June and July. The Institute will continue to participate and contribute our expertise in line with our role as an organisation that supports the administration and practice of taxation in Ireland.

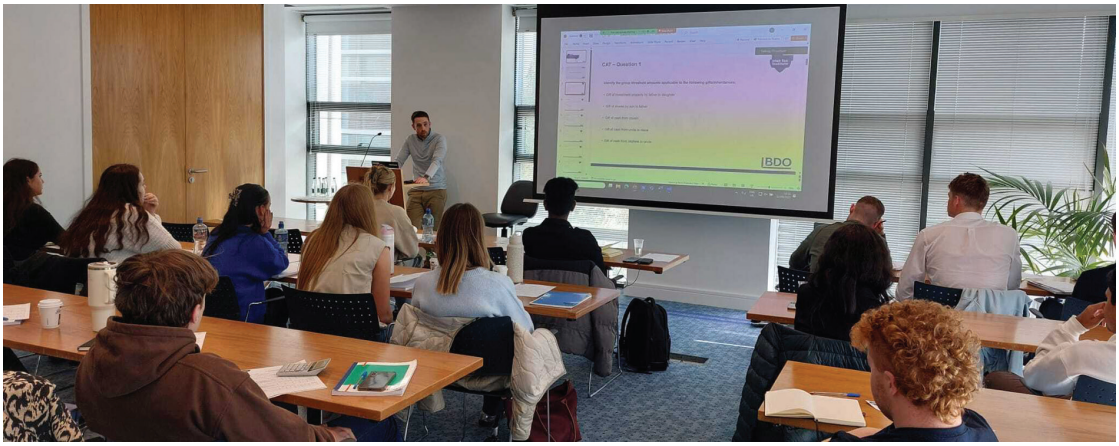
FISC: European Parliament Subcommittee on Tax Matters

In July the Institute was invited to attend a European Parliament Subcommittee meeting on Tax Matters. We were represented by our Director of Tax Policy and Representations, Anne Gunnell, our incoming President, Shane Wallace, and Tax Policy Committee member, Peter Reilly.

We welcomed the opportunity to participate in this very timely dialogue with MEPs who travelled to Dublin, and we highlighted the need for greater simplification of tax rules and for a special emphasis to be placed on competitiveness across the EU.

Professional Services

The Tax Trainee Induction Programme, designed to give trainees the tools and knowledge to get started in their careers, went live earlier this month with its on-demand content. We held a live hybrid workshop at the Institute on 12 September. It is available on demand for recruits who will be starting their roles later in the year.



Our ever-popular Certificate in VAT started on 4 September and will cover seven modules through to mid-October. It provides expert tuition on the A to Z of VAT issues in 2025 and beyond. It will also be available on demand for those who join late or want to avail of it later in the year.

The Global Tax Policy Conference is fast approaching. With the speaker calls finishing over the next few days, it is shaping up to be an incredible conference. There are limited spaces left, which you can book at taxinstitute.ie.

On the publications side, two important annual titles were published. *Finance Act 2024 – The Professional's Guide*, which used to be known as *FINAK,* provides expert section-by-section commentary on the latest Finance Act. My thanks go to our authors, Fiona Carney and Brendan Murphy, and to the editor, Denis Herlihy, who ensure that this publication remains informative and of high quality.

Taxation Summary, an essential guide to Irish tax for tax advisers and other professionals who encounter tax, is expertly authored by David Fennell and David Shanahan. A digital copy of this publication is available to all members as part of your subscription.

Policy and Representations Monitor

Lorraine Sheegar
Tax Manager – Tax Policy and Representations, Irish Tax Institute

News Alert

Institute submission on SARP and FED

The Department of Finance is evaluating the Special Assignee Relief Programme (SARP) and the Foreign Earnings Deduction (FED) as part of its regular review of tax expenditures that are due to sunset and sought feedback from the Institute. The Institute responded to a questionnaire from the Department on 6 June. To help us formulate our response we carried out a survey of members and businesses in May 2025. In our response we made the following 12 key recommendations.

Institute recommendations on SARP

1. The SARP is a critical part of Ireland's competitive offering to attract foreign direct investment and the relocation of high-value employment to the State. Retaining the SARP and continually benchmarking the relief against the incentives offered by key competitor countries are essential to enable Ireland to compete for talent on a global stage.
2. The 90-day timeframe for the employer to certify and submit the Form SARP1A to Revenue should be removed from the part of the legislation that defines a "relevant employee". This would ensure that the automatic "penalty" applied to an employee on refusal of SARP relief due to a failure by the employer to lodge the notice within 90 days of the employee's arrival would not arise.
3. The 90-day timeframe for the employer to certify and submit the Form SARP1A to Revenue should also be extended.
4. The SARP should be extended beyond its expiry date of 31 December 2025 for a ten-year period to December 2035 to assist businesses to plan for longer-term projects with the knowledge that the SARP will remain a core offering under the Irish personal tax system.
5. To qualify for the SARP an individual must have been employed by their employer or an associated company for at least six months immediately before arriving in Ireland. In an environment where there are high employment levels and skills shortages in some key areas, consideration should be given to allowing "new hires" to qualify for the SARP.
6. Extend the timeframe to file the annual SARP Employer Return to later in the tax year.
7. Section 825C TCA 1997 should be amended to ensure that SARP relief can be considered as part of the gross-up calculation in tax equalisation cases. If policy-makers do not consider this to be feasible, it is essential that the reduced value of the SARP in tax equalisation cases is taken into account when benchmarking the SARP against the offerings in other jurisdictions.

Institute recommendations on FED

8. The FED plays an important role in encouraging and incentivising Irish businesses to export to new markets. Given the heightened need for Irish SMEs to diversify and develop new export markets

in the current, uncertain geopolitical environment, it is essential that the FED is retained.

9. The attractiveness of the FED to eligible employees should be improved by increasing the level of relief available, in line with the recommendation of Indecon.

10. The range of qualifying countries for the FED should be extended.

11. Employers should be permitted to apply the FED at source to an employee's salary where the relevant conditions are satisfied. This would reduce the administrative burden and the delays experienced by employees in obtaining the FED.

12. A "qualifying day" must be one of at least three consecutive days spent in a qualifying country. Consideration should be given to allowing the day of departure from Ireland and the day of arrival back in Ireland to be qualifying days, as these are an unavoidable part of any business journey to a qualifying country.

The Institute's submission is available on our website, www.taxinstitute.ie.

Finance (Local Property Tax and Other Provisions) (Amendment) Act 2025 signed into law

The Finance (Local Property Tax and Other Provisions) (Amendment) Act 2025 was signed into law by the President on 2 July and provides for a new approach to calculating LPT liabilities before the new valuation period, set to commence in 2026, with reference to the self-assessed market values as of 1 November 2025.

The new approach is as follows:

- All valuation bands are widened by 20%.
- The fixed charge for Band 1 will be increased from €90 to €95 and for Band 2 from €225 to €235.
- The basic rate of LPT is set to be decreased from 0.1029% to 0.0906%, which will apply to properties valued at up to €1.26m.
- For properties in Bands 12 to 19, that part of the mid-point value that is below €1.26m is charged at the rate of 0.0906% and that part of the mid-point value that is above €1.26m is charged at the higher rate of 0.25%, with both amounts aggregated to determine the LPT liability.
- For properties valued at over €2.1m, that part of the value below €1.26m is charged at the rate of 0.0906%, that part of the value between €1.26m and €2.1m is charged at the rate of 0.25% and that part of the value exceeding €2.1m is charged at the rate of 0.3%, with the three amounts aggregated to determine the LPT liability.

In respect of the Local Adjustment Factor (LAF) the Act allows local authorities to vary LPT upwards by up to 25% while retaining their ability to vary LPT downwards by a maximum of 15%. It also provides for Eircodes to become a mandatory field in LPT returns. The annual income thresholds below which a liable person is eligible for a deferral are amended. These amendments are made to keep pace with inflation and growth in wages and State payments since 2021.

The Act also provides for the expansion of the LPT exemption for properties damaged by defective concrete blocks to ensure that properties in Counties Clare, Limerick and Sligo that are so affected will become eligible for this time-limited exemption. This amendment brings the LPT exemption in line with properties covered by the revised Remediation of Dwellings Damaged by the Use of Defective Concrete Blocks (Amendment) Regulations 2024 (SI 621 of 2024).

On 18 July the Minister for Finance, Paschal Donohoe TD, signed SI 341 of 2025, Finance (Local Property Tax and Other Provisions) (Amendment) Act 2025 (Commencement) Order 2025, which provides that the changes to LPT will come into effect

from **21 July 2025**, apart from the change to the LAF, which will come into effect from **1 January 2026**.

Other legislative amendments in the LPT Act 2025

- Section 13 of the Act introduces a technical amendment to the outbound-payments defensive measures contained in Chapter 5 of Part 33 TCA 1997. The amendment expands the criteria for determining which entities are considered associated for the purposes of the outbound-payments defensive measures to prevent potential avoidance opportunities.
- Section 14 of the Act amends s46 of the Value-Added Tax Consolidation Act 2010 and confirms the extension of the 9% rate of VAT for the supply of gas and electricity until 31 October 2025, which was adopted via Financial Resolution on 2 April 2025.

ROS Agent Notification for Demands and Final Demands

With effect from 30 June 2025, notifications are being generated to the ROS inbox of agents on Monday mornings where a client has been issued with a Demand (i.e. a Request for Payment) in the previous week or where a client will receive a Final Demand notice that day. An agent may receive two separate notifications if they have both clients who received Demands and clients who received Final Demands. The Notifications will have a priority message flag, which will be highlighted by a gold star appearing in the last column on the right of the agent's ROS inbox.

The Institute engaged with the Collector-General's Division at TALC and the Branch Network about a mechanism to notify tax agents promptly when Final Demands have issued to clients.

Policy News

Government publishes Summer Economic Statement

On 22 July the Minister for Finance, Paschal Donohoe TD, and the Minister for Public Expenditure, Infrastructure, Public Service Reform and Digitalisation, Jack Chambers TD, published the Summer Economic Statement 2025, which sets out the fiscal parameters within which discussions will take place ahead of Budget 2026.

In a press release on the same day Minister Donohoe confirmed that Budget 2026 will be presented to the Dáil on **Tuesday, 7 October 2025**. Budget 2026 is the first of the Government's five financial statements and will have public investment spending as its centrepiece. The Government will submit a new medium-term fiscal and structural plan to the EU in the autumn, setting out sustainable budgetary plans for the next five years.

The Statement sets out an overall budgetary package of €9.4bn, comprising additional public spending of €7.9bn and taxation measures of €1.5bn. If there is a deterioration in the tariff landscape, the Government will recalibrate its fiscal strategy and reduce the quantum of the budgetary package.

Budget 2026 Tax Strategy Group Papers published

On 24 July the Department of Finance published the Budget 2026 Tax Strategy Group (TSG) papers, which outline various tax policy issues and options for consideration in the budgetary process. The TSG papers cover income tax; social welfare; corporation tax; enterprise tax supports; capital taxes; stamp duty, pensions and property taxes; VAT; excise duties; energy, environmental and vehicle taxation; and the Irish economic situation and outlook.

Commission launches consultation on 28th Regime

The European Commission has launched a call for evidence and public consultation on a proposed 28th regime, which will set out a new

EU corporate legal framework covering a wide range of key issues for companies, building on online procedures and digital tools in EU company law.

The Commission's Competitiveness Compass announced a 28th regime as part of a comprehensive set of actions to enhance the competitiveness of the European economy, with an aim to make it possible for innovative companies to benefit from a single, harmonised set of EU-wide rules, including any relevant aspects of corporate, insolvency, labour and tax law.

It is envisaged that the 28th regime will provide a single set of rules, potentially in a progressive and modular way. It will include an EU corporate legal framework, based on digital-by-default solutions, and will help companies to overcome barriers in setting up, scaling up and operating companies across the Single Market.

The objective of the proposal is to contribute to the growth and competitiveness of companies – in particular, innovative ones, start-ups and scale-ups – by facilitating their setting up and operations in the Single Market and by reducing barriers to cross-border investments through a new EU corporate legal framework. The deadline to respond to the consultation and call for evidence is Tuesday, 30 September 2025

Commission launches consultation on review of State Aid General Block Exemption Regulation

The European Commission has launched a call for evidence and public consultation to seek input on the scope and content of its review of the General Block Exemption Regulation (GBER). The aim of the review is to reduce red tape for businesses, as well as for Member States, and facilitate necessary support for industry. At the same time, EU State Aid rules should continue to protect and level the playing field within the EU. The deadline to respond to the consultation and call for evidence is Monday, 6 October 2025.

Commission modernises Tobacco Taxation Directive

The European Commission has proposed an update to the EU's Tobacco Taxation Directive. The package of proposals includes amendments to Council Directive 2011/64/EU on the structure and rates of excise duty applied to manufactured tobacco ("the Tobacco Taxation Directive") and Council Directive 2020/262/EU laying down the general arrangements for excise duty.

The main changes in the revised Tobacco Taxation Directive are:

- Increased minimum tax rates to reduce disparity in rates applied by Member States. In practice, the EU minimum rate will be adjusted according to the economic situation in each individual Member State, based on general price levels.
- Extending the scope of the Directive to new products (e.g. e-cigarettes, heated tobacco and nicotine pouches). These products will be covered with new minimum taxes. Swedish snus remains outside the scope of the Directive, as stated in Sweden's EU Accession Treaty.
- Better controlling measures concerning raw tobacco, which is subject to substantial fraud. The existing electronic system for recording and monitoring the movement of excise goods within the EU will also apply to raw tobacco. This will help Member States to better detect and fight the illicit trade in tobacco products.

The revised Directive will apply from 2028. A four-year transitional period will be implemented to ease the introduction of the new excise duty rates for certain products, allowing Member States to adapt to the changes. The legislative proposals will be sent to the Council for agreement and to the

European Parliament and the Economic and Social Committee for consultation.

Council formally adopts new rules simplifying tax collection for imports

The Council of the European Union has formally adopted Council Directive (EU) 2025/1539 amending Directive 2006/112/EC as regards VAT rules relating to taxable persons who facilitate distance sales of imported goods and the application of the special scheme for distance sales of goods imported from third territories or third countries and special arrangements for declaration and payment of import VAT.

The new VAT rules for distance sales of imported goods will improve collection of VAT on imported goods by ensuring that suppliers are always liable for VAT paid on imports, rather than the EU consumer, and should encourage suppliers outside the EU to use the VAT Import One-Stop Shop (IOSS) for VAT reporting and collection.

Non-EU traders or platforms will be made liable for VAT on imported goods, paid in the Member State of final destination of the goods, which will encourage them to use the IOSS, as it is necessary to register in only one Member State, even when making sales throughout the EU. Foreign traders or platforms that do not use the IOSS will need to register in each EU Member State in which they sell goods. The IOSS also moves the burden for VAT collection from customers to platforms.

The Directive was published in the *Official Journal of the European Union* on 25 July and entered into effect on 14 August. The rules will apply from 1 July 2028.

Commission updates list of high-risk countries for AML/CFT

The European Commission updated its list of high-risk jurisdictions presenting strategic deficiencies in their national regimes for anti-money laundering and countering the financing of terrorism (AML/CFT) on 10 June 2025.

EU entities covered by the AML framework are required to apply enhanced vigilance in transactions involving these countries.

Ten third-country jurisdictions were added to the list: Algeria, Angola, Côte d'Ivoire, Kenya, Laos, Lebanon, Monaco, Namibia, Nepal and Venezuela. Eight jurisdictions were delisted: Barbados, Gibraltar, Jamaica, Panama, the Philippines, Senegal, Uganda and the United Arab Emirates.

The updated list takes into account the work of the Financial Action Task Force, in particular, its list of "Jurisdictions under Increased Monitoring". Article 9 of the Fourth Anti-Money Laundering Directive mandates the Commission to update the list of high-risk third-country jurisdictions regularly.

New Clean Industrial Deal State Aid framework adopted

On 25 June the European Commission adopted a new State Aid framework supporting the Clean Industrial Deal (CISAF), enabling Member States to advance the development of clean energy, industrial decarbonisation and clean technology. The CISAF sets out the conditions under which Member States can grant support for certain investments and objectives in line with EU State Aid rules. Under the framework the Commission will authorise aid schemes introduced by Member States to boost clean industry, enabling the swift roll-out of individual aid.

The CISAF will be in place until 31 December 2030, giving Member States and businesses long-term predictability. It replaces the Temporary Crisis and Transition Framework, which was in place since 2022. The framework simplifies State Aid rules in five main areas:

- the roll-out of renewable energy and low-carbon fuels;
- temporary electricity price relief for energy-intensive users to ensure the transition to low-cost clean electricity;
- decarbonisation of existing production facilities;

- the development of clean-tech manufacturing capacity in the EU; and
- the de-risking of investments in clean energy, decarbonisation, clean tech, energy infrastructure projects and projects supporting the circular economy.

Commission recommendations on tax incentives to accelerate clean industrial transition

The European Commission put forward a Recommendation on Tax Incentives to support the Clean Industrial Deal (CID) on 2 July. The initiative outlines a comprehensive framework for Member States to design cost-effective tax measures that stimulate investment in clean technologies and industrial decarbonisation.

The Recommendation advocates for two core instruments to drive clean investment.

Accelerated depreciation up to immediate expensing: This allows companies to deduct the full cost of eligible clean-technology investments (for example, renewable-energy systems, energy-efficient machinery) faster, or even in the year of purchase or lease. This effectively reduces initial tax liabilities, improving cash-flow and lowering barriers to green investment. Where possible, accelerated depreciation should be accompanied by appropriate rules for carrying losses forward.

The Recommendation encourages the use of tax incentives in full alignment with the CISAF, which permits such measures to be combined with other State Aid or EU funds without requiring a gross grant equivalent calculation.

Targeted tax credits: Direct reductions in corporate tax liabilities create a strong incentive for investments in strategic sectors such as manufacturing of clean technologies and industrial decarbonisation projects. Where feasible, Member States are encouraged to make the tax credits refundable or allow them to be offset against other national taxes.

Under the CISAF, tax credits for projects are capped at a specific amount per project and subject to maximum aid intensities.

To ensure that tax measures are cost-effective, simple and timely, the Recommendation focuses on the following principles:

- **Targeted support:** Incentives apply only to clean technologies and industrial decarbonisation and exclude fossil fuel-related investments.
- **Simplicity and certainty:** Measures must be easy for companies and tax authorities to implement, with clear eligibility criteria.
- **Timely:** Incentives should provide timely support to companies making investment decisions.

The Commission has requested Member States to report on their adoption of relevant measures, with the Commission's facilitating exchanges on best practices and regularly monitoring and reporting on how tax incentives are delivering clean investment and contributing to the broader goals of the CID. This will help in the evaluation of the effectiveness of tax incentives.

G7 statement on global minimum taxes

On 28 June the G7 issued a statement on global minimum taxes that refers to a proposal, set out by the US Secretary of the Treasury earlier this year, for a "side-by-side" solution under which US-parented groups would be exempt from the Pillar Two income inclusion rule (IIR) and undertaxed profits rule (UTPR) in recognition of the existing US minimum tax rules to which they are subject.

The statement notes that discussions on the issue were informed by analysis of the respective minimum tax regimes, including consideration of recently proposed changes to the US international tax system based on the Senate amendment of the US Budget

reconciliation Bill, known as the "One Big Beautiful Bill Act" (OBBBA), the removal of s899 of the OBBBA and consideration of the success of qualified domestic minimum top-up tax implementation and its impact.

The G7 statement confirms that, after discussions, there is a shared understanding that a side-by-side system could preserve important gains made by jurisdictions in the Inclusive Framework in tackling base erosion and profit shifting and provide greater stability and certainty in the international tax system moving forward. According to the statement, the understanding is based on the following accepted principles:

- A side-by-side system would fully exclude US-parented groups from the UTPR and the IIR in respect of both their domestic and their foreign profits.
- A side-by-side system would include a commitment to ensure that any substantial risks that may be identified with respect to the level playing field, or risks of base erosion and profit shifting, are addressed to preserve the common policy objectives of the side-by-side system.
- Work to deliver a side-by-side system would be undertaken alongside material simplifications being delivered to the overall Pillar Two administration and compliance framework.
- Work to deliver a side-by-side system would be undertaken alongside considering changes to the Pillar Two treatment of substance-based non-refundable tax credits that would ensure greater alignment with the treatment of refundable tax credits.

The statement observes that delivery of a side-by-side system will facilitate further progress to stabilise the international tax system, including a constructive dialogue on the taxation of the digital economy and on preserving the tax sovereignty of all countries. Recognising that these issues have relevance to a wider group of jurisdictions, the G7 looks forward to discussing and developing this understanding, and the principles on which it is based, within the Inclusive Framework with a view to expeditiously reaching a solution that is acceptable and implementable to all.

Finally, the statement acknowledges that the removal of s899 of the OBBBA is crucial to the overall agreement and to providing a more stable environment for discussions to take place in the Inclusive Framework.

US Budget reconciliation Bill passed by Senate and House of Representatives

The US Budget reconciliation Bill, known as the "One Big Beautiful Bill Act" (OBBBA), was passed by both the Senate and the House of Representatives in early July and signed into law by the US President, Donald Trump, on 4 July 2025. The OBBBA increases the foreign-derived intangible income (FDII) and the global intangible low-taxed income (GILTI) rates to an effective tax rate of 14% and the base erosion anti-abuse tax (BEAT) rate to 10.5%.

The OBBBA had contained a measure titled "Enforcement of remedies against unfair foreign taxes", which sought to introduce a new s899 to the Internal Revenue Code to target individuals and companies in jurisdictions that impose an "unfair foreign tax", which includes the undertaxed profits rule under Pillar Two. The provision, which sought to respond to unfair taxes by increasing the rate of tax generally applicable to certain taxpayers connected to the foreign jurisdiction, was removed from the final version of the OBBBA.

EU and US agree tariff and trade deal

Readers will recall that the "reciprocal tariffs" announced by the US President, Donald Trump, on 2 April were suspended for a period of 90 days until 9 July. On 7 July President Trump signed an Executive Order titled "Extending the Modification of the Reciprocal Tariff Rates", determining that certain tariff rates due to expire on 9 July would expire on 1 August 2025 instead. President Trump also sent tariff letters

to certain countries informing them of new reciprocal tariff rates, taking effect on 1 August.

However, on 12 July President Trump sent a letter to the President of the European Commission, Ursula von der Leyen, proposing 30% tariffs on EU products sent to the US, to apply from 1 August 2025. The letter stated that the 30% rate is "far less than what is needed to eliminate the Trade Deficit disparity we have with the EU". In the letter President Trump stated "If for any reason you decide to raise your Tariffs and retaliate, then, whatever the number you choose to raise them by, will be added onto the 30% that we charge".

In a statement on the same day Commission President von der Leyen took note of the letter sent by President Trump and confirmed that the EU remained ready to continue working towards an agreement by 1 August. However, President von der Leyen stated "At the same time, we will take all necessary steps to safeguard EU interests, including the adoption of proportionate countermeasures if required. Meanwhile, we continue to deepen our global partnerships, firmly anchored in the principles of rules-based international trade."

After the announcement by the US of proposed 30% tariffs, Member States agreed a €93bn countermeasure package, which was set to take effect on 7 August in the event that no deal was reached with the US by 1 August.

Subsequently, Commission President von der Leyen met President Trump on 27 July and confirmed that a deal had been reached with the US and that a single 15% tariff rate would apply to the vast majority of EU exports. President von der Leyen confirmed that this rate would apply across most sectors, including cars, semiconductors and pharmaceuticals.

Key commitments made include:

- Establishing a single, all-inclusive US tariff ceiling of 15% for EU goods. It is an "all-inclusive tariff rate" and represents a ceiling, including the US most-favoured nation (MFN) tariff that was previously stacked on top of additional tariffs introduced by the US.
- The 15% ceiling applies to nearly all EU exports currently subject to reciprocal tariffs, to cars and car parts, currently subject to a tariff rate of up to 25% tariff, and to any potential future tariffs on pharmaceuticals and semiconductors, including those based on s232 of the US Trade Expansion Act of 1962.
- Eliminating EU MFN tariffs on industrial goods from the US.
- Providing special treatment for strategic products. A zero-for-zero tariff was agreed on a number of strategic products, including all aircraft and component parts, certain chemicals, certain drug generics, semiconductor equipment, certain agricultural products, natural resources and critical raw materials. President von der Leyen confirmed that the EU will keep working to add more products to this list.
- Joining forces to protect the steel, aluminium and copper sectors from unfair and distortive competition. There was no change to the 50% tariff applying to steel and aluminium, and President von der Leyen confirmed that the EU and the US face the common external challenge of global overcapacity and will "work together to ensure fair global competition. And to reduce barriers between us, tariffs will be cut. And a quota system will be put in place."
- Providing better access to the EU market for limited quantities of US fishery products, subject to tariff rate quotas (TRQs).
- Providing better market access for certain non-sensitive US agriculture exports worth €7.5bn, including products such as soya bean oil, planting seeds, grains and nuts, as well as processed foodstuffs such as tomato ketchup, cocoa and biscuits, subject to TRQs.
- Reducing non-tariff barriers, including via cooperation on car/automotive standards and sanitary and phytosanitary measures and by facilitating mutual recognition of conformity assessments in additional industrial sectors.
- Promoting and facilitating mutual investments on both sides of the Atlantic. The White House Fact Sheet notes that the EU will

invest $600bn in the US over the course of President Trump's term. This new investment is in addition to the more than $100bn that EU companies already invest in the US every year.

- Significantly increasing purchases of US energy exports to $750bn through 2028. This will contribute to replacing Russian gas and oil on the EU market.
- Significantly increasing purchases of US military equipment.
- Purchasing €40bn worth of US artificial intelligence chips, essential to maintaining the EU's technological edge.

The political agreement of 27 July 2025 is not legally binding. Beyond taking the immediate actions that were committed to, the EU and the US will further negotiate, in line with their relevant internal procedures, to implement the political agreement fully.

On 31 July President Trump signed an Executive Order titled "Further Modifying The Reciprocal Tariff Rates", which modifies the reciprocal tariff rates for certain countries to further address the US goods trade deficits and includes the agreed 15% tariff rate for the EU to take effective from 7 August.

Recent Revenue eBriefs

Lorraine Sheegar
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Revenue eBriefs Issued from 1 May to 31 July 2025

No. 091 Stamp Duty Manual – Section 8C: Expression of Doubt

Revenue published a new stamp duty manual "Part 2: Section 8C – Expression of Doubt", which provides guidance on s8C of the Stamp Duties Consolidation Act 1999 (SDCA 1999). Section 8C SDCA 1999 makes provision for an accountable person who has a genuine doubt about the stamp duty treatment of an instrument to submit an expression of doubt to Revenue.

No. 092 Stamp Duty Manual – Section 31D: Cancellation Schemes of Arrangement

Revenue updated the stamp duty manual "Part 5: Section 31D – Cancellation Schemes of Arrangement" to reflect the increase in the rates of stamp duty applying to the acquisition of residential property, which were amended by Finance Act 2024. The manual gives guidance on s31D SDCA 1999, which provides for stamp duty to be charged where there is an agreement to acquire a company using a court-approved scheme of arrangement, in accordance with the Companies Act 2014.

No. 093 Investment Undertakings

Revenue has updated the "Investment Undertakings" manual at section 7 to confirm that a refund of exit tax is available where the income arises or is derived from the investment of a relevant payment by a relevant woman (as defined in s2 of the CervicalCheck Tribunal Act 2019) and to include reference to the manual "Tax Treatment of CervicalCheck Payments".

No. 094 Updates to Computation of Case I and II Profits or Gains of a Company (Corporation Tax)

Revenue has updated the manual "Computation of Case I and II Profits or Gains of a Company (Corporation Tax)" to include a new Example 5c in section 11.8 (regarding the correction of errors). Example 5c relates to the correction of an error with a tax impact where the error has been identified before the filing deadline for the corporation tax return. Some other miscellaneous minor revisions have been made throughout the manual.

No. 095 Participation Exemption for Certain Foreign Distributions

Revenue published a new manual titled "Participation Exemption for Certain Foreign Distributions", outlining the corporation tax exemption available under s831B TCA 1997 for certain dividends and other distributions received by a parent company from a foreign subsidiary. The participation exemption was introduced by Finance Act 2024 and allows companies to claim an exemption from corporation tax on certain distributions made by foreign subsidiaries on or after 1 January2025.

No. 096 Filing a Return

Revenue has updated the stamp duty manual "Chapter 4: Filing the Return – Filing and Paying Stamp Duty on Instruments" as follows:

- Paragraph 4, "Amending a filed return on ROS", clarifies what is required if someone

other than the original filer is to amend the return.

- Paragraph 5.1, "Using ROS Offline", has been removed as the ROS Offline application no longer supports stamp duty forms and developments. The Return Preparation Facility (RPF) is the offline facility through which stamp duty returns can be prepared.

No. 097 Stamp Duty Manual – Part 2: Charging and Stamping of Instruments

Revenue has updated the stamp duty manual "Part 2: Charging and Stamping of Instruments" to include additional guidance on the operation of s2 to s17A of the Stamp Duties Consolidation Act 1999, which provide for the charging and stamping of instruments.

No. 098 Guidance on Pillar Two – Administration

Revenue has updated the manual "Global Minimum Level of Taxation for Multinational Enterprise Groups and Large-Scale Domestic Groups in the Union – Administration" , which contains an overview of the administration of Pillar Two. Sections 8 and 11 have been updated to outline how the undertaxed profits rule (UTPR) and qualifying domestic top-up tax (QDTT) group recovery provisions will be applied where a securitisation entity is part of a UTPR group or a QDTT group.

Revenue also updated the manual "Global Minimum Level of Taxation for Multinational Enterprise Groups and Large-Scale Domestic Groups in the Union", which provides guidance on the operation of the Pillar Two rules.

Section 115(2) of Finance Act 2024 provides that certain amendments to Part 4A TCA 1997 shall apply in respect of a fiscal year (within the meaning of s111A TCA 1997) or an accounting period, as the case may be, commencing on or after 31 December 2024. The updated manual confirms that Revenue is prepared to accept the application of those provisions, at the discretion of the taxpayer, to a fiscal year or an accounting period, as the case may be, that commences before 31 December 2024.

No. 099 Guidelines for Charging Interest on Late Payment through Revenue Debt Management Systems (DMS)

Revenue has revised the manual "Guidelines for Charging Interest on Late Payment through Revenue Debt Management Services (DMS)" to remove the reference to fixed direct debit systems from the title. References to charging interest on capital acquisitions tax have also been added to the manual. References to charging interest on fixed direct debit and balloon payments have been removed. Appendix 4, "Due Dates for Self-Assessed Taxes (IT, CT and CGT)", has been updated to reflect current practices.

No. 100 Agent's Guide to the Collector General's Division

The following paragraphs of the manual "Agent's Guide to the Collector-General's Division" have been amended, deleted or added:

- Paragraph 3.4, "Non-Resident Repayment of Relevant Contracts Tax", has been added to the manual.
- Paragraph 4, "International Claims", has been added to the manual.
- Paragraph 8, "Direct Debit: Reference to Fixed Direct Debit", has been deleted from the manual.
- Paragraph 10.1, "e-Linking process for Agents and Taxpayers: Information in relation to the new e-linking process", has been added to the manual.
- Paragraph 10.4, "Notification of representation of properties for LPT", has been amended to include further information.
- Paragraph 15, "Late Payments and Interest Charges: Information", has been updated to reflect current work practices (for example, to include a reference to interest on TWSS/ EWSS repayments).
- Paragraph 20, "Tax Relief at Source (Mortgage Interest and Medical Insurance)", has been updated to clarify that mortgage interest relief/TRS can no longer be claimed

retrospectively for 2020 based on the four-year rule.

- Paragraph 23, "EU VAT Modernisation", has been added to the manual. (This paragraph includes information on the EU VAT SME Scheme, VIES, VAT MOSS/OSS/IOSS).
- Paragraph 24, "Unregistered VAT Repayments", has been amended to include updated information and delete obsolete material.
- Appendix 1, "Due dates for submission of returns and payments", has been updated

No. 101 High-Income Individuals' Restriction Tax Year 2010 onwards

Revenue has updated the manual "High-Income Individuals' Restriction: Tax Year 2010 Onwards" to reflect an amendment in s44 Finance Act 2024 that deleted s485C(1B) TCA 1997 and removed reference numbers 15C and 15D from Schedule 25B. The amendments to s485C TCA 1997 and Schedule 25B were consequential amendments arising from the removal of obsolete provisions from s403 TCA 1997.

Appendix 3, "List of specified reliefs", has been updated to remove references to reference numbers 15C and 15D of Schedule 25B. The table listing specified reliefs deleted from Schedule 25B has also been updated.

The examples throughout the manual have been updated to the calendar year 2024, with the 2024 credit values and rate bands applied.

No. 102 Corporation Tax: General Background

Revenue has updated the manual "Corporation Tax: General Background" to include Finance Act 2024 amendments to start-up relief (in s486C TCA 1997) and information on the new participation exemption for foreign distributions (in s831B TCA 1997).

No. 103 Sub-Postmasters & Social Welfare Branch Managers – Taxation and PRSI

The manual "Sub-Postmasters & Social Welfare Branch Managers – Taxation and PRSI" has been updated as follows:

- Section 1 confirms that the five-step framework set out in the Supreme Court judgment in *Revenue Commissioners v Karshan (Midlands) Ltd. t/a Domino's Pizza* [2023] IESC 24 should be used to establish the employment status of these individuals for tax purposes. It also references the "Revenue Guidelines for Determining Employment Status for Taxation Purposes", which outline the process and steps to be followed in applying the framework, together with examples.
- A new section 2 has been inserted to confirm how tax and PRSI should be returned in the case of an employee.
- Section 3 has been amended to remove a reference to the option for Social Welfare Branch Managers to seek to have their PRSI liability reassessed for years pre-2015, subject to the four-year time limit, as this is now outside the time limit and is no longer applicable.
- Section 4 has been updated to specify the appropriate location on the income tax return Form 11 where self-employed income should be reported. In addition, the examples have been updated to reflect the new PRSI rates effective from 1 October 2024.

No. 104 RZLT Information Sessions

Revenue produced a series of general information sessions relating to residential zoned land tax (RZLT) before the pay and file deadline of Friday, 23 May 2025. The information sessions, which were recorded, are designed to provide additional guidance to assist taxpayers to fulfil their obligations in relation to RZLT. The recorded presentations, which are available on Revenue's RZLT Hub, provide a step-by-step guide to the following topics:

- how to register for RZLT,
- how to file an RZLT return,
- how to claim a deferral of the payment of RZLT,
- how to claim an exemption from RZLT and
- how to make a payment with your RZLT return.

Revenue has published guidance on RZLT and the operation of the tax and a quick start guide that provides key information on RZLT for taxpayers and agents, available on Revenue's website.

No. 105 Pension Manual Chapter 7 Amended

Revenue has updated "Chapter 7: Lump Sum Benefits and Commutation" of the pensions manual at the following sections:

- Section 1: to provide greater clarity and detail regarding the topics covered in the manual;
- Section 2: to provide additional detail on maximum lump sums;
- Section 3: to provide greater clarity and detail on commutation factors; and
- Section 6: to set out that a deferred scheme member who suffers serious ill-health is subject to the deferred scheme rules as published in the Pension Manual, "Chapter 12: Withdrawal from Service (Leaving a Pension Scheme)".

No. 106 Pensions Manual – Chapters 1, 24 and 31 Updated

Revenue updated the following three chapters in the pensions manual after a review of their contents and to reflect Finance Act 2024 amendments.

"Chapter 24: Personal Retirement Savings Accounts"

- Paragraph 24.1, "Introduction", has been updated to provide clarity on the use of previous Revenue guidance and precedents.
- Paragraph 24.3, "Contributions by Employers", has been updated to include details of the introduction of a new limit on employer contributions made on or after 1 January 2025 to an employee's PRSA, including eight worked examples. The new employer limit refers to the maximum amount that an employer can contribute to an employee's PRSA without the contribution's being considered a benefit-in-kind (BIK) for the employee and is set at 100% of the employee's emoluments in the year of assessment.

"Chapter 31: Pan-European Personal Pension Product (PEPP)"

- Paragraph 31.3 has been inserted to provide guidance on the new limit on employer contributions to an employee's PEPP (i.e. the maximum amount that an employer can contribute to an employee's PEPP without the contribution's being considered a BIK for the employee is 100% of the employee's emoluments in the year of assessment).

"Chapter 1: Introduction"

- This manual, which serves as an introduction and table of contents to the pensions manual, now includes a reference to the new Chapter 2E of Part 30 TCA 1997, on the Automatic Enrolment Retirement Savings System. Chapter 2E is subject to a Commencement Order by the Minister for Finance.
- In addition, paragraph 1 has been updated to remove a reference to guidance on s125B of the Stamp Duties Consolidation Act 1999, which was repealed by s93 Finance Act 2024.

No. 107 Charities and Sports Bodies On-line Applications for Tax Exemption

Section 7 of the manual "Charities and Sports Bodies On-line Applications for Tax Exemption" has been updated to reflect Finance Act 2024 amendments to the Charitable Donations Scheme. With effect from 1 January 2025 the two-year waiting period for eligibility for the scheme no longer applies.

No. 108 Agents Guide to the Collector-General's Division

The following paragraphs of the manual "Agent's Guide to the Collector-General's Division" have been amended:

- Paragraph 4, "Dividend Withholding Tax", and paragraph 9.2, "Value Added Tax (Variable)", have been added to the manual.

- Paragraph 21.1, "Tax Relief at Source for Qualifying Medical Insurance Premiums", has been updated to note that the High Wealth and Financial Services Division (HW&FSD) deals with TRS medical insurance queries from medical insurers.
- Appendix 1, "Pay and File Extension Date 2025", and Appendix 2, "Contact Information for Stamp Duty", have been updated.

No. 109 Guidelines for Registration for IT, CT, RCT, PREM and Certain Other Taxheads (Part 38-01-03a)

Revenue's manual "Guidelines for Registration for IT, CT, RCT, PREM and Certain Other Taxheads" has been updated to include a new section 2.3, "The Central Register of Beneficial Ownership of Trusts (CRBOT)", providing guidance on the CRBOT. In addition, section 4.1.4, "Agent links and taxhead/agent linking", has been updated to include a link to Revenue's "Guidelines for Agents and Customers Regarding the Agent e-Linking Process".

No. 110 iXBRL – Notification of Withdrawal of Facility to Upload Draft Financial Statements in iXBRL Format and Taxonomies Update

Revenue updated the manual "Submission of iXBRL Financial Statements as Part of Corporation Tax Returns" to confirm that from 1 January 2026 it will no longer be acceptable to upload draft financial statements in iXBRL format.

The concession in paragraph 3.1.4 of the manual regarding the filing of draft financial statements in iXBRL format states that, in certain limited circumstances, Revenue recognises that it may be necessary to file draft/provisional financial statements. If the filer is satisfied that the only issue pending is that the financial statements have not been signed off by the director(s), then it is in order to file the draft/provisional financial statements without prior permission from Revenue. In these circumstances there is no need to resubmit the iXBRL financial statements when they are signed off later (unless the draft statements are different from the final statements submitted).

Where there are any other issues giving rise to the draft/provisional financial statements, filers must contact the Revenue Operational Branch that handles their affairs, via MyEnquiries, to outline the reason(s) for the draft financial statements and to request permission to submit draft financial statements on that basis. If this is agreed with the Revenue Branch, then the final signed-off set of financial statements must also be submitted in iXBRL format.

If the Revenue Branch does not agree with the request to submit draft financial statements, then the obligation to file iXBRL financial statements remains, and the company is required to file either signed financial statements or draft financial statements where it is satisfied that the only issue pending is that the financial statements have not been signed off by the director(s). Failure to do so before the due date for filing the iXBRL financial statements results in the Form CT1 return's being deemed late, which may give rise to a surcharge and/or restriction of loss relief.

Paragraph 3.1.4 of in the manual has been updated to note that Revenue will no longer accept draft financial statements in iXBRL format from 1 January 2026. From that date companies experiencing genuine difficulties in meeting iXBRL filing deadlines should contact their Operational Branch, as set out in paragraph 7.1 of the manual.

In addition, as set out in paragraph 1.6 of the manual, the 2025 Irish extension taxonomies for FRS 101, FRS 102 and EU IFRS will be accepted from 1 July 2025 and the FRS 101 + DPL, FRS 102 + DPL and EU IFRS + DPL taxonomies with a date of 2017-09-01 will no longer be accepted from 1 July 2025.

No. 111 Euroclear and Crest Electronic Share Trading – Tax and Duty Manual Updates

Revenue has updated the following manuals to reflect current work practices and to provide greater clarity throughout:

- "Euroclear Manual – Electronic Share Trading: Rules, Procedures, Practices, Guidelines and Interpretations" and
- "CREST – Electronic Share Trading: Rules, Procedures, Practices, Guidelines and Interpretations".

No. 112 Vehicle Registration Tax Manual Section 3

Revenue's "Vehicle Registration Tax Manual: Section 3 – Repayment Schemes and Procedures for Processing Repayment Claims" has been revised in section 2, "Vehicles for People with Disabilities Tax Relief Scheme", to reflect amendments made through SI 217 of 2024 and SI 731 of 2024.

No. 113 Overview of EU VAT SME Scheme

Revenue published a new manual, "Guidelines for Cross-Border Operation of EU VAT SME Scheme (VSME)", to provide guidance on the new EU VAT SME Scheme, which came into effect on 1 January 2025. SI 69 of 2025, European Union (Value-Added Tax) Regulations 2025, transposed into Irish law Council Directive (EU) 2020/285 on the special VAT scheme for small enterprises.

The scheme will allow small enterprises to sell goods and services without charging VAT to their EU customers (i.e. VAT exemption) and alleviate their VAT compliance obligations. SMEs choosing the EU VAT SME Scheme will lose the right to deduct VAT on goods and services used to make exempt supplies. To be eligible to use this scheme in another Member State an Irish business must not exceed the Union Annual Threshold of €100,000.

Participation in the scheme is optional for small enterprises. Where a business chooses not to avail of the scheme, the standard VAT regime will apply. SMEs choosing the scheme are required to file a quarterly report of turnover via the VSME Portal on ROS for supplies made in all Member States in that calendar quarter. The quarterly report must be submitted to Revenue within one month from the end of the calendar quarter.

No. 114 Guide to Excise Licences – Gambling Act 2024

The manual "Guide to Excise Licences" has been updated to reflect the Gambling Regulation Act 2024 ("the Act"), which provides for the establishment of the Gambling Regulatory Authority of Ireland (GRAI). Once fully established, the GRAI will be the sole body responsible for the regulation and licensing of gambling in Ireland. In the interim Revenue will continue to issue licences under the Betting Act 1931 and the Gaming and Lotteries Act 1956.

The Act reduced the licence term for bookmakers and intermediaries from two years to one. Queries on the role of the regulator or the new licensing framework should be directed to GRAI@justice.ie. Queries on existing licences can be forwarded to the National Excise Licensing Office.

No. 115 Guidelines for Phased Payment Arrangements

The "Guidelines for Phased Payment Arrangements" manual has been amended to include updated information on PPA terms, for example, payment breaks and consolidations. In addition, section 1, "Key Messages for Debt Warehouse Customers", has been removed as it related to the 1 May 2024 deadline and is therefore now obsolete.

No. 116 Guidance Manual on Simplified Procedures

Revenue updated the manual "A Guide to Customs Simplified Procedures" with reference to the expected release date of Centralised Clearance at Import. The manual is also updated with details of Simplified Procedures at Export. Certain references to the Simplified Procedures during the Transitional Arrangements have been removed from the manual.

No. 117 Level 1 Compliance Programme – Debt Warehousing Scheme

Revenue has removed the manual "Level 1 Compliance Programme – Debt Warehousing Scheme" as the opportunity to make a disclosure under the terms of

the debt warehousing scheme has expired. Therefore, the contents of the manual are no longer relevant.

No. 118 The Adoption of the Directive on Administrative Cooperation in the Field of Taxation (DAC) as Amended and OECD Equivalent Frameworks into Irish Legislation

The manual "The Adoption of the Directive on Administrative Co-operation in the Field of Taxation (DAC) and OECD Equivalent Frameworks into Irish Legislation", which provides a roadmap of the domestic transposition of the DAC, has been updated to change the name of the manual from Part 38-03-36 to Part 38-03-37 owing to a numbering conflict. The manual has also been updated to incorporate other international automatic exchange-of-information frameworks, which are equivalent to the DAC, including details on their adoption into Irish legislation.

No. 119 Schedule 1 – Consanguinity Relief

Revenue has published a new stamp duty manual, "Schedule 1 – Reduced Rate of Stamp Duty on Transfers of Land Between Certain Related Persons ('Consanguinity Relief')". Schedule 1 to the Stamp Duties Consolidation Act 1999 specifies the rates of stamp duty that apply in relation to each instrument listed in the schedule. Schedule 1 provides for a reduced rate of 1% to apply to conveyances and transfers of land between certain related persons, which is generally referred to as consanguinity relief.

This new manual provides detailed guidance on the operation of consanguinity relief. It contains material that was previously contained in the manual "Schedule 1 – Stamp Duties on Instruments" and that has now been removed from that manual.

No. 120 The Taxation of Deposit Interest Income: Source, Rates Applicable and Reporting Obligations

Revenue has published a new manual titled "The Taxation of Deposit Interest Income: Source, Rates Applicable and Reporting Obligations" to provide guidance on an Irish-resident individual's liability to Irish income tax on their foreign-sourced deposit interest income, including the tax rates and reporting obligations that apply

No. 121 Taxation of Children's Pensions Payable under Pension Schemes

The manual "Taxation of Children's Pensions Payable under Pension Schemes" has been updated at section 5 to include reference to Jobseeker's Benefit (Self-Employed) and Jobseeker's Pay-Related Benefit as payments where additional amounts in respect of dependent children are not assessable on the parent or guardian.

No. 122 Taxation of Short-Term Illness Benefit and Occupational Injury Benefit from the Department of Social Protection

Paragraph 2 of the manual "Taxation of Short-Term Illness Benefit and Occupational Injury Benefit from the Department of Social Protection" has been updated to confirm that the Department of Social Protection provides details of these claims to Revenue, so that the employee's tax credits and rate band can be amended.

No. 123 Permanent Health Benefit Contributions

Revenue has updated the manual "Relief for Contributions to Permanent Health Benefit Schemes and Tax Treatment of Benefits Received under Permanent Health Benefit Schemes" to move information on how to seek approval for group schemes from paragraph 1 to paragraph 2. The address of the relevant Revenue Branch with responsibility for approvals has been updated. The manual has also been updated at paragraph 4 (now renamed "Claiming the relief") to include additional narrative on how to claim relief on contributions.

No. 124 Waiver of Exemption – Transitional Measures

Revenue's manual "Waiver of Exemption – Transitional Measures" sets out the transitional

measures that apply to waivers of exemption for the short-term letting of property that were in place before 1 July 2008 under the "old" rules for VAT on property.

The manual has been revised after the judgment of the High Court in *Killarney Consortium v The Revenue Commissioners* [2024] IEHC 732. That judgment upheld a Tax Appeals Commission (TAC) determination (40TACD2023) that dealt with the cancellation of the sum payable after the automatic cancellation of a waiver of exemption, triggered by a sale of property, where the excess input VAT was claimed over the output VAT accounted for. The question at issue was whether the domestic provision imposing the VAT liability, in s96(12) of the Value-Added Tax Consolidation Act 2010, was in breach of EU law, and the TAC had determined that it should be disapplied on the basis that it was contrary to EU law.

The manual confirms that "with effect from 20 December 2024, Revenue will no longer collect the payment of a cancellation amount that may have been due on the cancellation of a waiver". The manual notes that this updated position regarding the collection/payment of a cancellation amount does not change the circumstances in which a waiver cancellation occurs.

No. 125 Real Estate Investment Trusts (REITs) January 2026 Filing and Updated REIT Forms

Real estate investment trusts (REITs) with accounting periods ending between 1 January 2025 and 31 December 2025 are required to file a Form REIT 3 on or before 28 February 2026, in accordance with s705M TCA 1997. Revenue has updated its website to include a new version of the Form REIT 3.

If a company intends to become a REIT, it must notify Revenue by completing the Form REIT 1. If a company is the principal company in a group, it must complete the Form REIT 2. If the group of companies change, a Form REIT 2A must be completed. Revenue has also published new versions of the Form REIT 1, Form REIT 2 and Form REIT 2A.

All forms are available on the "Related Forms" panel of the "Real Estate Investment Trusts (REITs)" webpage.

No. 126 Relevant Contracts Tax

The manual "Relevant Contracts Tax: Relevant Operations" has been updated at section 3.1 to confirm the RCT position for contracts that include both the construction of property and the sale of land and the position in relation to deployment of temporary installations on a site.

Section 3.1(a) of the manual notes that the question of whether a contract entered into by a principal contractor (including a local authority or an approved housing body) for the acquisition of a property is a relevant contract will depend on the terms and wording of each individual contract. Examples of wording included in contracts that may indicate there is a relevant contact in place have been included in section 3.1(a).

Section 3.1(a) has been updated to confirm the following:

> "Where a contract provides for both construction services and the supply of land, only the construction services provided for in the contract are subject to RCT. Section 16(3) VATCA 2010 provides that the supply of the construction services is subject to the VAT reverse charge. Where the contract provides for a single consideration to cover both the construction services and the sale of the land, then, in order to determine the amount applicable to the construction services, the consideration needs to be apportioned by the principal. RCT and the VAT reverse charge apply to the consideration for construction services. RCT and the VAT reverse charge do not apply to the consideration for the sale of the land. In every case, it is necessary to examine the actual contract in order to determine the position."

Section 3.1(e) of the manual has also been updated to clarify the position in relation to the deployment of temporary installations on a site.

The manual notes that whether the deployment of temporary plant and machinery, such as power generators and water pumps, on a site comes within the definition of construction operations will depend on the nature and extent of the work involved in installing and deploying the equipment, and each case needs to be examined on its own merits.

No. 127 VAT Treatment of Admission to Events

A new manual titled "VAT Treatment of Admission to Events" has been published, providing guidance on the VAT treatment of admission to events and explaining a new place-of-supply rule that came into effect from 1 January 2025 for events that are streamed or otherwise made virtually available to a non-taxable person.

From 1 January 2025 the changes include:

- **For business-to-business (B2B) supplies:** VAT arises where the customer is established (or has a fixed establishment receiving the services). The customer may be required to self-account for reverse-charge VAT in their EU country of establishment if the supplier is not established in the jurisdiction where the VAT is due.
- **For business-to-consumer (B2C) supplies:** VAT arises where the non-taxable person is established, has their permanent address or usually resides. The supplier will be responsible for collecting and remitting VAT in the EU country where the non-taxable person is located.

Revenue has also updated the manual "VAT Treatment of Education and Vocational Training" to include a consequential amendment arising from the new place-of-supply rules above.

No. 128 Vehicle Registration Tax Manual Section 10

Revenue's "Vehicle Registration Tax Manual Section 10 – Authorised Trader Manual" has been updated as follows:

- Section 3.5, "Registration Marks", has been revised on foot of SI 268 of 2025. These Regulations introduce a green stripe on registration plates for vehicles that do not emit CO_2 tailpipe emissions.
- Section 4, "Payment of VRT", has been updated to delete references to electronic funds transfer (EFT) payments as these are now discontinued. The list of offices for EFT top-up deposits has also been deleted.

No. 129 Collection Tax and Duty Manuals (TDMs) Updated

Revenue has updated the following Collection manuals.

"Tax Clearance for Standards in Public Office Applicants" has been revised to reflect the replacement of the Judicial Appointments Advisory Board with the Judicial Appointments Commission. The address and contact details have also been updated.

"Using Online Methods to Make a Payment to Revenue" has been updated, at paragraph 4.1, to confirm that Revenue will no longer accept commercial debit cards from 1 September 2025. A warning message will be displayed if a card type that is no longer accepted is entered.

"Property Searches: Stamp Duty Return (ST21) – Performing a Search in Land Registry and Registry of Deeds: Property Valuation" reflects the fact that the Property Registration Authority of Ireland (PRAI), Valuation Office and Ordnance Survey Ireland are all now incorporated under Tailte Éireann. All references to PRAI in the document have been amended to Tailte Éireann.

"Agent's Guide to the Collector-General's Division" has been updated, at paragraph 7.3, to confirm that from 1 September 2025 Revenue will no longer accept commercial debit cards. In addition, paragraph 7.5, "Single Debit Authority (SDA)", has been amended to reflect that Revenue has removed the option to pay tax liabilities by SDA from several paper returns and will continue to do so. This payment method is being removed primarily for

security reasons as it is not recommended to send handwritten bank details by post. Several alternative payment options are outlined on the Revenue forms.

No. 130 Addresses in Company Cases

The "Addresses in Company Cases" manual has been updated to provide more detailed guidance on updating a company's official and/or business addresses through ROS (or myAccount). Companies are required to update their address details through ROS (or myAccount) or via their tax agent. Revenue cannot accept requests submitted by email or post; all updates must be submitted via ROS to maintain information security.

Information on the update process for individuals, partnerships and companies is included in the "How to Update Your Address Helpsheet". Information for tax agents is included in the "How to Update Your Client's Address Helpsheet". Links to the Helpsheets are included in the manual.

The Companies Registration Office must be informed of a change in the address of a company's registered office within 14 days of the change.

No. 131 Filing Guidelines for DAC2–Common Reporting Standard

Revenue has updated the manual "Filing Guidelines for DAC2–Common Reporting Standard (CRS)" to clarify, in paragraph 7.5, Revenue's position on CRS XML Schema Version 3.0 and User Guide 4.0, recently published by the OECD. Paragraphs 3, 3.3, 4.3, 7.1.2 and 7.4 have also been updated to include a link to CRS Schema information under Annex 3 of Standard for Automatic Exchange of Financial Account Information in Tax Matters.

No. 132 Updates to Horticultural Production Relief Guide, Solid Fuel Carbon Tax Manual and Natural Gas Carbon Tax Manual

Revenue has updated the following manuals to include the revised rates of mineral oil tax (MOT), solid fuel carbon tax (SFCT) and natural gas carbon tax (NGCT) with effect from 1 May 2025.

The "Horticultural Production Relief Guide" has been updated as follows:

- Paragraph 3.2, "Rates of Repayment", reflects updated MOT rates in effect from 1 May 2025. The previous rates that applied are included in Appendix 1.
- Paragraph 5, "Central Repayments Office", includes updated contact details.

The "Solid Fuel Carbon Tax (SFCT)" manual has been updated as follows:

- Paragraph 2, "Rates for Solid Fuel Carbon Tax (SFCT)", reflects carbon charge rates in effect from 1 May 2025. The rates replaced are included with historical rates in Appendix I.
- Paragraph 6.1.1, "Rates of Relief for Biomass Products", has been updated with the revised rates of relief applicable to solid fuel products containing biomass from 1 May 2025. Appendix II includes the previous rates of relief.
- To reflect the complete scope of the manual, the title is amended from "Solid Fuel Carbon Tax Compliance Procedures" to "Solid Fuel Carbon Tax".

The "Natural Gas Carbon Tax (NGCT)" manual has been updated as follows:

- Paragraph 2, "Rates for Natural Gas Carbon Tax (NGCT)", reflects carbon charge rates in effect from 1 May 2025. Appendix I includes the previous rates of relief.
- To reflect the complete scope of the manual, the title is amended from "Natural Gas Carbon Tax Compliance Procedures" to "Natural Gas Carbon Tax".

No. 133 Provision of Services in Irish

Revenue's manual "Provision of Services in Irish" has been updated to reflect the most up-to-date position regarding the provision of Irish services within Revenue. This is to ensure that Revenue's obligations under the Official Languages Act 2003 and the Official Languages Act (Amended) 2020 are met.

No. 134 PAYE Settlement Agreements

Revenue has published a new manual, "PAYE Settlement Agreements", to clarify the methodology for calculating the grossed-up minor and irregular benefits that may be included in PAYE settlement agreements (PSAs) in accordance with s985B TCA 1997. The manual includes an example of the calculation of the tax due to be settled via a PSA.

The manual further states that a PSA facilitates an employer's paying tax due on employee benefits that are minor in value and irregular in their frequency. PSA arrangements do not apply to relevant incentives that are exempt from tax by virtue of the small-benefit exemption (SBE) in s112B TCA 1997. A small benefit to which s112B TCA 1997 applies is a reportable benefit for the purposes of the enhanced reporting requirements (ERR).

Revenue notes that when a qualifying incentive, as defined by s112B TCA 1997, is exempt from tax, an employer cannot opt to tax that qualifying incentive to facilitate an employee's availing of the SBE later in the year when further benefits are granted. Equally, an employer cannot opt to bypass the SBE and include a qualifying incentive in a PSA at the end of the year.

Revenue contends that the provisions of s112B and s897C TCA 1997 do not impact the operation of PSAs. They are unrelated concepts, in that:

- the SBE provides for relevant incentives to be made without the deduction of tax and to be reported under ERR on or before the grant of the incentive; and
- PSAs relate to taxable payments that are both minor and irregular.

No. 135 Update to TDM 38-04-15 Schedule of Powers

Revenue has amended the "Schedule of Revenue Powers" manual as follows:

- The wording in Schedule 1 has been updated in respect of s530T and s909 TCA 1997.
- Schedule 3 has been updated to provide further clarity on the powers in s128 and s128B of the Stamp Duties Consolidation Act 1999.
- Schedule 4 has been updated to provide further clarity around powers to make enquiries or authorise inspections under the Capital Acquisitions Tax Consolidation Act 2003.
- A new Schedule 7 has been included, giving a summary of the powers in the Customs Act 2015.
- A new Schedule 8 has been included, outlining the powers under the Mercantile Marine Act 1955.
- A new Schedule 9 has been included, outlining the powers under the Merchant Shipping (Salvage and Wreck) Act 1993.
- The reference to Regulation 23 of the Income Tax Regulations 2000 has been deleted from Schedule 10.

No. 136 Stamp Duty Manual – Part 11 Management Provisions – Updated

The stamp duty manual "Part 11: Management Provisions" has been updated to clarify that the Property Registration Authority was dissolved by the Tailte Éireann Act 2022 and its functions are now under the remit of Tailte Éireann. The functions of the Commissioner of Valuation were transferred to Tailte Éireann by the Tailte Éireann Act 2022.

Guidance on s159A and s159B of the Stamp Duties Consolidation Act 1999 (SDCA 1999) has been removed from the manual as this is now covered in the stamp duty manual "Part 11: Stamp Duty Repayment Provisions".

Guidance on s159D SDCA 1999 has been updated to include additional detail on how interest is calculated under this section.

No. 137 Part 41A-05-01 Full Self-Assessment – Consideration of Standards of Proof When Making or Amending Revenue Assessments

Revenue has amended the manual "Full Self-Assessment – Consideration of Standards of

Proof When Making or Amending Revenue Assessments" to illustrate how the various sections of Part 41A of TCA 1997 apply.

No. 138 Part 04-01-22 Guidance on Taxation of Income from Social Media and Promotional Activities

Revenue has published a new manual, "Taxation of Income from Social Media and Promotional Activities (Income Tax and Corporation Tax)", providing an overview of the tax treatment of income derived from social media and certain promotional activities. Practical examples and information on the related tax compliance obligations are included in the manual.

The manual notes that income earned from social media or promotional activities is chargeable to tax even if this activity is conducted on only a casual basis and is not the individual's or company's main business or main source of income. Profits derived from social media or promotional activity are chargeable to tax under Schedule D, and the facts and circumstances of each case will determine whether such activities are chargeable to tax under Schedule D Case I/II or Case IV.

The manual provides guidance on deductible and non-deductible expenses for such activities; for example, it notes that clothing and grooming expenses are generally not deductible expenses. Grooming expenses include such items as make-up, skincare and beauty treatments, shaving products, hairdressing and hair products.

Section 4 of the manual provides guidance on particular sources of income, such as voluntary receipts, monetary versus non-monetary receipts, brand ambassadorships and crowdfunding platforms. In respect of monetary or non-monetary receipts the guidance notes that an individual may receive payments to promote goods or services or may receive items in return for the promotion of goods or services, depending on their profile or celebrity status. Where an item other than money is received as consideration for services, it is treated as income and will be taxed on the value of the item received.

An individual may also receive unsolicited goods and services in circumstances where the individual is not obliged to provide any service in return. The manual confirms that whether the receipt of such goods and services is within the charge to income tax will depend on the particular facts and circumstances, including whether the goods and services are, in fact, promoted by the individual. Where a charge to income tax does not arise, the receipt of the goods or services may constitute a taxable gift for capital acquisitions tax purposes.

Section 5 of the manual provides guidance on the tax compliance obligations under income tax and corporation tax and information on the determination of employment versus self-employment status for taxation purposes. The manual also includes information on the requirement to maintain proper books and records.

No. 139 Outbound Payments Defensive Measures

Revenue has amended the manual "Outbound Payments Defensive Measures" to reflect amendments to s817U TCA 1997 implemented by the Finance (Local Property Tax and Other Provisions) (Amendment) Act 2025. The amended provisions of s817U TCA 1997 are effective from 1 January 2026.

The amendment to s817U TCA 1997 updates the definition of associated entities to capture entities that are associated with the same individual or connected individuals, within the meaning of s10 TCA 1997, and to ensure that the legislation operates as intended.

Section 3.4, "Associated entities", has been updated to include two new examples. Example 5.1.4 has been updated to include additional guidance in respect of the amendments to s817U TCA 1997. Miscellaneous minor revisions have also been made to the manual.

No. 140 The VAT Treatment of Social Media Influencers

Revenue has published a new manual titled "The VAT Treatment of Social Media

Influencers", providing guidance on the application of various VAT rules to the activities of influencers, includes practical examples and information on the related VAT obligations. Social media or promotional activity is subject to ordinary VAT rules. Therefore, there may be an obligation to register for and charge VAT if the turnover from social media or promotional activities exceeds the VAT registration thresholds.

No. 141 State Aid Transparency Requirements

The manual "State Aid Transparency Requirements: Publication of Information Regarding State Aid Granted to Individual Taxpayers" has been amended to update the list of notified State Aid schemes and State Aid schemes that fall under the General Block Exemption Regulation (GBER) and the Agricultural Block Exemption Regulation (ABER).

The manual also reflects changes made in the General De Minimis Regulation and the Agricultural De Minimis Regulation, including the new transparency requirements that will apply from 1 January 2026 and 1 January 2027.

No. 142 Intellectual Property Rights

The manual "Customs Enforcement of Intellectual Property Rights" has been amended at paragraph 2 to include reference to the latest EU Implementing Regulation.

No. 143 Representative Church Body Cost of Living Accommodation Allowance

Revenue has updated the manual "Representative Church Body Cost of Living Accommodation Allowance" to include the allowance for 2024. The examples in paragraph 3 have been updated accordingly.

No. 144 Stamp Duty Manual – Levies on Financial Cards and Bills of Exchange

Revenue has published a new stamp duty manual titled "Part 9: Sections 123B, 124 and 123D – Levies on Financial Cards and Bills of Exchange". The manual provides guidance on the stamp duty levies provided for by the following provisions of Part 9 (Levies) of the Stamp Duties Consolidation Act 1999 (SDCA 1999):

- s123B SDCA 1999 – Cash, combined and debit cards;
- s124 SDCA 1999 – Credit cards and charge cards; and
- s123D SDCA 1999 – Bills of Exchange.

No. 145 Surcharge for Late Submission of Income Tax, Corporation Tax and Capital Gains Tax

Revenue has updated the manual "Surcharge for Late Submission of Income Tax, Corporation Tax and Capital Gains Tax Returns" to add a new paragraph 2 outlining the interaction of statutory interest in s1080 TCA 1997 and the late-filing surcharge in s1084 TCA 1997. For the purposes of calculating interest on overdue tax, the amount of the late-filing surcharge is treated as tax and is liable to interest in accordance with s1080 TCA 1997.

Paragraph 5 has been updated to clarify that where the capital gains tax (CGT) panels of the Form 11 are left blank, a taxpayer is deemed not to have filed a CGT return and will be liable to the late-filing surcharge under s1084 TCA 1997 if the taxpayer has a CGT liability. If there are entries on the CGT panels, the taxpayer is deemed to have filed a CGT return. If it transpires later that the CGT liability is incorrect, as provided for in s1084(1)(b) TCA 1997, the taxpayer is deemed not to have filed a return in time for CGT purposes and will be liable to the late-filing surcharge.

No. 146 Code of Practice on Determining Employment Status

The manual "Code of Practice on Determining Employment Status (Employed or Self-Employed)" has been updated to reflect the publication of the revised Code of Practice on Determining Employment Status, which

was updated by an interdepartmental group comprising the Department of Social Protection, the Office of the Revenue Commissioners and the Workplace Relations Commission in November 2024.

The manual "Revenue Guidelines for Determining Employment Status for Taxation Purposes" contains further guidance on the determination of employment/self-employment status for taxation purposes.

No. 147 Part 5: Section 31E – Stamp Duty on Certain Acquisitions of Residential Property (15% Rate)

Revenue has updated the stamp duty manual "Part 5: Section 31E – Stamp Duty on Certain Acquisitions of Residential Property". The manual contains guidance on the application of s31E of the Stamp Duties Consolidation Act 1999 (SDCA 1999), which provides for stamp duty to be charged on certain acquisitions of residential property at a higher rate of 15%.

The manual has been revised throughout and includes the following updated guidance:

- A new paragraph 5 has been added to provide guidance on the application of s31E SDCA 1999 when property is acquired using a trust structure.
- Paragraph 6 (previously paragraph 5) provides updated guidance clarifying the operation of s31E(12) SDCA 1999.
- Paragraph 8.3 (previously paragraphs 7.3–7.5) provides updated guidance clarifying the operation of s31E(19) SDCA 1999.

No. 148 Income Tax Return 2024 – ROS Form 11

In this eBrief Revenue provides an overview of the updates made to the manual "Income Tax Return Form 2024: ROS Form 11" since January 2025. The ROS Form 11 2024 has been available since 1 January 2025 and was updated in mid-2025. The Form 11 is updated on an ongoing basis to include additional prefilled information from third parties.

The offline version of the 2024 Form 11 is available in the Return Preparation Facility (RPF). Information on the RPF is on the website and in the "ROS – Return Preparation Facility (RPF)" manual.

The manual "Income Tax Return Form 2024: ROS Form 11" was updated in January to include:

- the removal of Start Your Own Business Relief;
- an update to the Irish Rental Income panel (paragraph 4) to include updated guidance and screenshots on: Retrofitting for Landlords; Residential Premises Rental Income Relief (RPRIR), including a link to the new "Residential Premises Rental Income Relief" manual; and Non-Resident Landlord Withholding Tax (NLWT), including the removal of the section in relation to R185 (Tenants);
- the removal of the Home Renovation Incentive Scheme (HRI) section (paragraph 6.4);
- updates to the personal tax credits panel (paragraph 9), including updated values of credits and guidance on the wording of the Rent Tax Credit with screenshot (paragraph 9.5.1); and
- information on the PRSI changes that came into effect from 1 October 2024 (paragraph 10).

It was updated in mid-June to include:

- updated guidance on allowable deductions incurred in employment to remind filers to input the relevant percentage of the costs incurred – which is 30% of the broadband and/or utility cost, not the full amount incurred (paragraph 6.2);
- updated guidance on 2024 Department of Social Protection payment information not pre-populated until after mid-January 2025;
- updates to the personal tax credits panel (paragraph 9) to reflect some amendments for EII/SURE changes and screenshots;

- rewording of Non-EU Deposit Interest, with the inclusion of UK Deposit Income here (paragraph 7 and figure 17); and
- the removal of Gross amount of Rents payable to Non-Residents in the Charges & Deductions panel (paragraph 8).

Revenue also reminded filers that if the ROS return is inactive for 30 minutes, it will time out, and unsaved work will be lost. Therefore, filers are advised to save regularly to avoid time-out and progress panels in the return to reset the timer.

No. 149 Taxation of Partnerships

Revenue published a new manual titled "Taxation of Partnerships", setting out information on the nature of Irish partnerships and how they are treated for tax purposes.

No. 150 Global Minimum Level of Taxation for Multinational Enterprise Groups and Large-Scale Domestic Groups in the Union

Revenue has updated the manual "Global Minimum Level of Taxation for Multinational Enterprise Groups and Large-Scale Domestic Groups in the Union" to reflect certain clarifications with respect to the operation of the Pillar Two legislation in Part 4A TCA 1997. The changes to the manual include updated guidance in respect of the following:

- insurance investment entities in section 5.1;
- Section 111P, "Adjustments to determine qualifying income or loss", as it relates to intra-group financing arrangements, in section 7.2;
- Section 111AB, "Post-filing adjustments and tax rate change", as it relates to covered taxes relating to pre-transition fiscal years and the application of outcomes arising from mutual agreement procedures, in section 8.9;
- Section 111AJ, "Transitional CbCR safe harbour", as it relates to the calculation of simplified covered taxes relating to pre-transition fiscal years, in section 9.8;
- Section 111AM, "Constituent entities joining and leaving MNE groups or large-scale domestic groups", as it relates to mergers, in section 10.2; and
- Section 111AO, "Joint ventures", as it relates to interactions with the undertaxed profits rule, scope of application, unaligned accounting periods and the domestic top-up tax, in section 10.4.

A number of other minor amendments have been reflected throughout the manual, including the correction of typographical errors.

No. 151 Pensions Manual Chapter 21 – Retirement Annuity Contracts

Revenue has updated the pensions manual "Chapter 21 – Retirement Annuity Contracts" to include a new paragraph 21.6, "Transfers to PRSAs", to indicate that a retirement annuity contract (RAC) may provide for its cancellation and the transfer of benefits to a personal retirement savings account (PRSA). The subsequent paragraphs have been renumbered.

The manual has also been amended to include updated guidance on vested RACs in paragraph 21.10, "Retirement benefits not taken on or before age 75 years", relating to benefit crystallisation events and accessing benefits after an RAC holder's 75th birthday.

Direct Tax Cases: Decisions from the Irish Courts and Tax Appeals Commission Determinations

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	Topic	Court
01	**Tax Treatment of Income from Emergency Accommodation Provision: *Hade v Revenue Commissioners* [2025] IEHC 385**	High Court
02	**DTA Non-Discrimination Clause and Fiscally Transparent Entities: *Susquehanna International Securities Ltd & Ors v Revenue Commissioners* [2025] IECA 123**	Court of Appeal
03	**Appeals Raising Common or Related Issues – s949AN TCA 1997/Deduction for RWHT: 157TACD2025 and 162TACD2025**	Tax Appeals Commission
04	**Unexplained Income: 159TACD2025**	Tax Appeals Commission
05	**Artists' Exemption for Non-Fiction Works: 169TACD2025 and 181TACD2025**	Tax Appeals Commission

01 Tax Treatment of Income from Emergency Accommodation Provision: *Hade v Revenue Commissioners* [2025] IEHC 385

The High Court (Ms Justice Nessa Cahill) heard an appeal from the Tax Appeals Commission (TAC) (09TACD2020) concerning the circumstances in which the provision of accommodation should be treated as a trade (Case I) and when it should be treated as rental income (Case V).

The appellant (Mr Hade) owned a property that was used from 2003 onwards to provide emergency accommodation under an agreement with Dublin City Council (DCC). The property included 8 bedrooms (14 beds) with shared facilities. DCC paid Mr Hade monthly based on bed availability, not occupancy.

Initially, for the years 2003 to 2007, Mr Hade declared the income as trading income (Case I). However, in the years 2008 to 2012 he declared the income as rental income (Case V) and sought to use s23 TCA 1997 relief to shelter that income. Revenue disagreed with that Case V treatment, reclassified the income as trading income (thereby preventing his use of s23 relief, which could be used only against Case V income) and raised additional tax assessments for 2010 and 2011.

The appellant unsuccessfully appealed those assessments before the TAC, which upheld Revenue's position, finding that the

arrangement was not a lease, the payments were not rent and the services provided went beyond those of a typical landlord:

> "the Appellant was engaged in a trading activity as the level of services that the Appellant was contractually obligated and actually did perform were significantly more extensive than the type of services required to be performed by a landlord under a landlord and tenant relationship." (paragraph 96)

The questions before the High Court were:

- Whether the TAC had erred in interpreting s96(1) TCA 1997, particularly the definition of "rent".
- Whether the TAC had erred by misinterpreting the High Court decision in *Twomey v Hennessy* [2011] 4 IR 395.

The court held, in dismissing the taxpayer's appeal, that:

- Section 96(1) applies Case V treatment to "any payment in the nature of rent". The question is not what the payment is called but whether it is in the "nature of rent". The TAC had correctly interpreted "rent" to mean payments made in the context of a landlord–tenant relationship. It followed that the core question for the TAC to determine was whether a "landlord and tenant relationship" existed.
- The TAC had found as a matter of fact that a "landlord and tenant" relationship did not exist between the parties, and in this regard the High Court gave heavy weight to the Commissioner's finding of fact that:
  - Mr Hade had not given up exclusive possession of the property;
  - Mr Hade had maintained control of the property; and
  - Mr Hade had provided services that went beyond the scope of a landlord's activities and that necessitated a permanent presence at the property (hiring of staff and incurring of day-to-day expenses).
- The High Court concluded that the TAC had correctly applied the approach set out by Laffoy J in *Twomey* (which the court also affirmed as the "correct approach") to interpreting the term "rent".

02 DTA Non-Discrimination Clause and Fiscally Transparent Entities: *Susquehanna International Securities Ltd & Ors v Revenue Commissioners* [2025] IECA 123

Mr Justice Allen delivered the judgment of the Court of Appeal (Butler J and McDonald J concurring) in this appeal against a decision of the High Court. (The High Court's judgment was considered in *Irish Tax Review*, Issue 4 of 2024).

The taxpayers were Irish-resident companies (Susquehanna International Securities Limited and Susquehanna International Group Limited) whose ultimate parent company was a Delaware limited liability corporation called Susquehanna International Holdings LLC (SIH LLC). SIH LLC was managed and controlled from the US and was treated as a "disregarded entity" under US tax law, meaning that it was fiscally transparent.

The taxpayers sought to avail of group relief under s411 TCA 1997 to surrender losses between them. The difficulty that they faced was that s411 confines group membership to companies resident in a Member State of the EU or EEA, whereas they traced their group membership through the US LLC (SIH LLC). However, the taxpayers argued that the English Court of Appeal's decision in *Revenue and Customs Commissioners v FCE Bank plc* [2013] STC 14 was authority for the proposition that

the non-discrimination article in the double taxation agreement (DTA) between the US and Ireland required the group relief provision to be interpreted in a manner that was consistent with the treaty, such that they should be treated no less favourably than if their parent were Irish resident.

The *FCE Bank plc* case dealt with two UK companies that were ultimate subsidiaries of the Ford Motor Co. in the US and that had sought to avail of the UK equivalent of group relief . In that English case Rimer LJ (Black LJ and Pill LJ concurring) held:

> "38...The purpose and effect of art 24(5) are to outlaw the admittedly discriminatory tax treatment to which (but for the convention) FCE would be subject as the directly held subsidiary of a US resident company as compared with the more favourable tax treatment to which it would be entitled if it were the directly held subsidiary of a UK resident company. That shows, in my judgment, that the only reason for the difference in treatment in the present case is the fact of FMC's US residence."

Revenue conceded that the *FCE Bank plc* case represents the law in Ireland. (paragraph 4). However, it argued that the taxpayers could not rely on it because the DTA did not apply to the taxpayers' parent company (SIH LLC) as it was fiscally transparent. Therefore the core question before the Irish Court of Appeal was whether the fact that the SIH LLC was fiscally transparent for the purposes of US tax law brought it outside thescope of the DTA.

The court held, in dismissing the taxpayers' appeal, that the taxpayers could not rely on Article 25.4 of the DTA based on SIH LLC's ownership. The DTA applies only to persons who are "liable to tax" within the meaning of Article 4 of the DTA. The court held that SIH LLC was not "liable to tax" under US law because it was a disregarded entity and did not file tax returns or pay tax itself. Its income was taxed in the hands of its ultimate owners. It followed that the taxpayers could not rely on the provisions of the DTA. The court rejected the argument that SIH LLC could have been liable to tax had it elected to be so liable (i.e. elected to be treated as opaque rather than transparent under US tax law) as conflating the "potential" and "actual" position. The court distinguished the Canadian case of *TD Securities LLC v Her Majesty the Queen*, noting that the income in that case was taxed in the hands of a corporation, unlike SIH LLC, where it was taxed in the hands of individuals. The court emphasised that the DTA applies to persons liable to tax, not to income that is taxed (paragraph 76).

The court further held that the taxpayers could not rely on Article 25.4 of the DTA based on indirect ownership by US residents. Although the appellants were indirectly owned by US residents, the court held that this did not entitle them to rely on Article 25.4 unless the parent entity (SIH LLC) was itself liable to tax. The court found that the discrimination claim failed because the appellants could not identify a valid comparator enterprise. It applied the comparator test from Vogel's commentary on the OECD Model Convention and found that the appellants were not treated less favourably than other fiscally transparent entities. After considering a number of hypothetical scenarios, the court concluded that Revenue's refusal of group relief was based on SIH LLC's fiscal transparency, not the residence of its owners.

03 Appeals Raising Common or Related Issues – s949AN TCA 1997/ Deduction for RWHT: 157TACD2025 and 162TACD2025

The determination 157TACD2025 provides an insight into the approach of the Tax Appeals Commission (TAC) to determining "appeals raising common or related issues" on the basis of prior decisions rather than by way of holding a hearing.

The substantive tax issue concerned whether a trading deduction could be claimed under s81 TCA 1997 for foreign royalty withholding tax (RWHT). It is not proposed to outline the TAC's rationale for that substantive decision here because:

- The matter was determined by reference to the TAC's prior decision 128TACD2023, which dealt with the same core tax issue.
- Determination 128TACD2023 is in the process of being appealed to the High Court, so further clarification on the substantive tax issue is likely to follow soon. *Irish Tax Review*, Issue 2 of 2025, contained a note on a High Court judgment in *The Revenue Commissioners v Getty Images International ULC* [2025] IEHC 268, which concerned procedural questions on the formulation of the case stated rather than the substantive tax issues that were in dispute in 128TACD2023, but it is evident that both parties are actively pursuing the High Court appeal.
- The reader can review a note on 128TACD2023 in Cian O'Sullivan's article "Deductibility of Royalty Withholding Tax" in *Irish Tax Review*, Issue 4 of 2024.
- Finally, s81 TCA 1997 was amended by Finance Act 2019 to insert s81(2)(p), which disallows any sum in respect of "any taxes on income", so the substantive issue is only of historical interest at this point.

The procedural issues raised in 157TACD2025 are perhaps of more interest. In the determination the Commissioner noted that the TAC had already issued a determination concerning the same core tax issue (deductibility of RWHT under s81) in another tax appeal (128TACD2023) – albeit that the latter determination is the subject of an appeal to the High Court. The Commissioner noted that s949AN TCA 1997 enabled the TAC to determine an appeal having regard to a previous determination that addressed similar issues. The Commissioner noted that she had followed that procedure in the instant case and that in May 2024 she had transmitted a redacted copy of the determination in 128TACD2023 to the appellant and respondent, setting out her intention to determine their matter pursuant to s949AN, and requested responses within 21 days. Naturally, the appellant was in favour of determining its appeal on the basis of 128TACD2023; however, Revenue objected, setting out its view that 128TAC2023 had been incorrectly decided and that the proceedings in the current matter should be stayed pursuant to s949W TCA 1997, pending the decision of the High Court on the 128TACD2023 appeal. On 2 July 2024 the Commissioner wrote to the parties to inform them that she was exercising her discretion under s949AN to decide the appeal on the basis of the TAC's prior determination 128TAC2023 (as it related to common or related issues) without holding a hearing. The Commissioner notes that she had previously refused Revenue's request to stay proceedings in accordance with s949W, although the determination provides no further detail on that process. The Commissioner's determination is being appealed to the High Court.

The Commissioner adopted a similar approach to another RWHT case (162TACD2025), refusing Revenue's application to stay her decision, and made her determination per s949AN having regard to 128TAC2023. That decision is also being appealed to the High Court.

This is not the first time that the TAC has used the s949AN machinery to determine cases on the basis of its past determinations without a hearing. For example, in the three-month period 1 May to 31 July 2025 the TAC determined 81 cases on this basis concerning the Liberty Syndicates (the underlying issues were considered by the Court of Appeal – see *Brendan Thornton v Revenue Commissioners/ Paul McDermott v Revenue Commissioners* [2023] IECA 316, *Irish Tax Review* Issue 1 of 2024) and a further three cases concerning offshore funds (determined on the basis of similar case 42TACD2024 – see *Irish Tax Review*, Issue 4 of 2024).

However, in those two sets of grouped appeal cases the appeal to the higher courts had been

concluded (or abandoned) and the appellants had not objected to the TAC's determining their matters by way of s949AN, so the TAC could dispose of the appeal under s949AN(3)(a) (i.e. "no response received").

In contrast, in these RWHT matters the appeal to the High Court against the TAC's determination in 128TACD2023 is still to be heard, and Revenue had objected to the matter being determined under s949AN, pending the conclusion of that appeal. Therefore, the Commissioner must have disposed of the matter under s949AN(3)(b), i.e. " a response is received but the Appeal Commissioners are not persuaded that it would be appropriate to disregard the previous determination referred to in subsection (1)".

Given the live High Court appeals in 157TACD2025 and 162TACD2025 whereby Revenue are challenging the TCA decision, in hearing those appeals, an opportunity may be afforded to the High Court to consider the TAC's application of s949AN, in particular s949AN(3)(b).

04 Unexplained Income: 159TACD2025

In this determination the Tax Appeals Commission (TAC) considered an appeal from an individual against tax assessments raised by the Criminal Assets Bureau (CAB) under s58 TCA 1997. Section 58 allows income tax to be charged under Case IV of Schedule D on profits or gains from unknown or unlawful sources.

The CAB identified unexplained lodgements totalling €421,552 across 20 bank accounts and raised assessments against the appellant under s58 totalling €235,331 for the years 2011–2019.

The appellant was employed throughout the relevant years and claimed that all income came from wages, tips and historical cash holdings. He stated that when the 2008 banking crisis occurred he became concerned about the security of the banks and withdrew the money from his accounts, later depositing it across 20 banks when the €100,000 bank guarantee was introduced. He further gave evidence that he did not use debit or credit cards, and preferred to spend cash. He argued that the assessments were excessive and did not reflect his actual income. The question before the TAC was whether the appellant had met the burden of proof in establishing that the CAB was not entitled to raise the Notices of Assessment under s58.

The TAC held, in dismissing the appeal, that the appellant had not submitted any documentary supports and/or evidence to show how he was able to make lodgements to his bank accounts in the amount of €421,552 (in the period 2011–2019) when his annual salary from was in the range of €32,177 to €37,003.

05 Artists' Exemption for Non-Fiction Works: 169TACD2025 and 181TACD2025

The Tax Appeals Commission (TAC) considered the application of the artists' exemption (s195(3)(a) TCA 1997) to works of non-fiction in two unrelated appeals. In each case the question before the TAC was whether the non-fiction works satisfied the criteria set out in paragraph 7 of the guidelines published by the Minister for Arts, Heritage, Gaeltacht and the Islands pursuant to s195(12). Paragraph 7 sets out specific criteria to be applied to non-fiction works and provides that the work must fall within particular categories to qualify for the exemption.

In 169TACD2025 the appellant's works consisted of non-fiction personal essays that

the appellant argued fell within the "belles-lettres" category in paragraph 7.2(a)(v) of the guidelines. The appellant's essays had won first prize in a creative non-fiction personal essay competition, and the author had been granted an Agility Arts Award under the literature category by the Arts Council to work on her creative personal essay collection. The author had also successfully previously claimed the artists' exemption in respect of her poetry and fiction writing.

The Commissioner held, in allowing the appellant's appeal, that the works were:

- original and creative;
- of artistic merit, enhancing the canon of work;
- within the "belles-lettres" category; and
- pioneering and offering unique insight, meeting the criteria in paragraph 7.2(a)(v).

In reaching that decision the Commissioner placed emphasis on the fact that the appellant had been granted the Agility Arts Award by the Arts Council under the literature category for her personal essays.

In 181TACD2025 the appellant appealed Revenue's refusal to grant her the artists' exemption for scripts written for a nationally broadcast radio programme. The appellant argued that the scripts covered multiple categories in paragraph 7.2(a), including arts criticism, history, literary translation and diaries, and were original and creative, forming the backbone of a culturally significant programme. The programme featured interviews with artists and critics, contributing to national and international culture. The appellant had a PhD related to the subject matter of the work in question and was a published author, and she submitted that the scripts drew on the archives held by University College Dublin and RTÉ and were generally recognised as having cultural and artistic merit.

The Commissioner held, in allowing the appellant's appeal, that the scripts were original and creative works of artistic merit and fulfilled the criteria of paragraph 7.2(a) of the Guidelines.


Direct Tax Cases: Decisions from the UK Courts

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	Topic	Court
01	**CGT – Relief for Principal Private Residence**	First-tier Tribunal
02	**CGT – Entrepreneur Relief**	First-tier Tribunal
03	**Treaty Interpretation – Place of Effective Management**	England and Wales Court of Appeal

01 CGT – Relief for Principal Private Residence

In *Eyre and another v HMRC* [2025] UKFTT 461 (TC) the First-tier Tribunal (FTT) held that a couple who bought, renovated and disposed of a property for £27m were not doing so as a "venture in the nature of trade". Furthermore, they were entitled to claim private residence relief (PRR).

The couple owned a house in London. In September 2010 they bought another house in London for £9.75m. They demolished that property and built a new house on the same site, which they sold for £27m. The couple filed their tax returns on the basis that the property had been their principal private residence. HMRC disagreed, arguing that the purchase, redevelopment and sale were a "venture in the nature of a trade". Additionally, HMRC argued that the property was not their principal residence.

The FTT confirmed that the taxpayers' conduct did not constitute a "venture in the nature of trade", placing significant emphasis on the fact that the property was purchased without a "present intention to sell".

They couple intended to refurbish the house and move into it, as they had done with their previous homes. They also intended to sell the house that they had been living in before. The FTT also accepted that the amount of time that they had spent in making the property suit their needs was "entirely inconsistent with an intention to buy, develop and sell at a profit". HMRC had relied on the fact that the couple did not, in fact, sell their other London property. However, the tribunal noted that the property had been on the market and that viewings took place. This supported the taxpayers' claim that they intended to sell it.

On the "main residence" point, the FTT held that the taxpayers had shown the necessary degree of permanence and continuity to turn "mere occupation into residence". Evidence to support this included moving personal possessions, registering for council tax, inclusion on the electoral roll and contracting for the supply of utilities.

Accordingly, the taxpayers' appeal was allowed.

02 CGT – Entrepreneur Relief

In *Moffat v HMRC* [2025] UKFTT 663 (TC) the First-tier Tribunal (FTT) rejected a claim by the taxpayers for entrepreneur relief (now named business asset disposal relief in the UK) on the disposal of shares in a company as the company was not the holding company of a trading group. However, the FTT allowed their appeal against penalties imposed by HMRC.

The company, Chelsea Marine Limited (CML), held (indirectly) all of the shares in Chelsea Yacht and Boat Company Limited (CYBCL), which operated a pier (under a licence from the Port of London Authority and a lease from the Royal Borough of Kensington and Chelsea) and provided moorings to boatowners in consideration of a licence premium and annual mooring fees, together with boat maintenance (and related) services, as well as additional optional services, including the provision of boat repairs and renovation.

The first issue for the FTT was whether the activities of CYBCL "to a substantial extent" involved non-trading activities. Ultimately, the FTT found that the company was not a trading company for entrepreneur relief purposes. UK tax legislation provides that a right to use a houseboat at one location is property income. The onus was therefore on the taxpayers to show that, rather than exploiting a property right (non-trading), the company was engaged in a single trading activity of providing moorings together with maintenance and other services to the boat owners. This was a question of "fact and degree". Many of the services provided by the company were conditions of its licence. Complying with the licence conditions was not to be considered trading activity. The remaining services provided by the company were similar to those routinely provided by a property business and did not indicate trading activity. The accounts showed that the non-trading activities of the company were "substantial", with over 68% of income being non-trading.

The taxpayers also appealed against penalties that HMRC had imposed on the basis that the directors had not taken reasonable care in completing their tax returns. HMRC said that the taxpayers should have obtained formal written advice or contacted HMRC to ascertain the correct tax treatment. The FTT did not accept this, noting that the taxpayers had obtained advice orally from an adviser. The taxpayers' appeal against the penalties was therefore allowed.

03 Treaty Interpretation – Place of Effective Management

In *Haworth v HMRC* [2025] EWCA Civ. 822 the England and Wales Court of Appeal found that a trust's "place of effective management" was located in the UK, where general management of the trust was undertaken, and not in the overseas jurisdiction, where the trustees had been appointed.

The case relates to a trust established by Mr Haworth for the benefit of himself and his family that held shares in a company. To avoid capital gains tax on the disposal of shares held by the trust, Mr Haworth was advised that the existing Jersey trustees should resign in favour of trustees resident in Mauritius. This arrangement, known as a "round-the-world" scheme, was designed to take advantage of a double taxation treaty between the United Kingdom and Mauritius. Article 4(3) of the treaty provided a tie-breaker test for determining the treaty residence of a person who was liable to tax in both contracting states. It stated that a person "shall be deemed to be a resident of the contracting state in which its place of effective management is situated". If the "place of effective management" was in

the UK, then the trust had to pay capital gains tax on the disposal of the shares; if it was in Mauritius, it did not.

HMRC argued that the scheme was fraudulent, as the commercial reality pointed to the effective management's being in the UK, negating the tax benefits claimed. The taxpayer appealed but lost both appeals at the First-tier Tribunal and the Upper Tribunal. The Court of Appeal case focused on the proper interpretation of the "place of effective management". The Court of Appeal found:

- The construction of the term "place of effective management" (POEM) is not to be approached in the same way as if the words appeared in UK domestic legislation. The phrase has an autonomous meaning and falls to be construed in a manner that is "international, not exclusively English".
- POEM can potentially be in a place other than that in which, applying the *Wood v Holden* approach, central management and control would be located.
- An entity may have more than one place of central management and control, but it can have only one place of effective management at any one time.
- Although the Mauritius trustees genuinely made decisions and, in doing so, complied with their responsibilities, there was every reason to believe that they would decide as they in fact did and so further the "overall plan". Even, therefore, during the period in which the Mauritius trustees were in office, "effective" or "realistic, positive" management was elsewhere.
- The decisions that the Mauritius trustees made had been preordained, and the Mauritius trustees were doing no more than the settlors had (with good reason) foreseen. The Mauritius trustees were (without impropriety) playing their parts in a script that had been written by others.
- POEM should not be determined by reference only to the circumstances at the "moment of disposal" or on *Wood v Holden* principles.
- The key management and commercial decisions that were necessary for the conduct of the trust's business were in substance made in the UK.

Accordingly, the taxpayers' appeal was dismissed.


International Tax Update

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01 BEPS: Pillar Two Recent Developments

G7 announcement on Pillar Two

On 26 June the United States Treasury announced a shared understanding with the other G7 countries regarding the interaction of Pillar Two and the US tax system and the application of the OECD Pillar Two rules to US-parented multinational enterprises (MNEs).

The G7 published a statement on 28 June describing the framework for the shared understanding. The statement outlines the following core components of the proposed new architecture of global minimum taxation:

- A side-by-side system would fully exclude US-parented groups from the undertaxed profits rule (UTPR) and the income inclusion rule (IIR) in respect of both US and non-US profits in recognition of the existing US minimum tax rules to which they are subject.
- A side-by-side system would include a commitment to ensure that any substantial risks that may be identified with respect to the level playing field, or risks of base erosion and profit shifting, are addressed to preserve the common policy objectives of the side-by-side system.
- Work to deliver a side-by-side system would be undertaken alongside work to simplify the Pillar Two compliance and administrative framework.
- Work to deliver a side-by-side system would be undertaken alongside considering changes to the Pillar Two treatment of substance-based non-refundable tax credits that would ensure greater alignment with the treatment of refundable tax credits.

The announcement does not contain any proposed changes to the application of qualified domestic top-up taxes (QDMTTs) to subsidiaries of US-parented MNEs. Therefore, it appears that US-parented MNEs would still

be subject to the QDMTT on the profits of their subsidiaries in jurisdictions with a QDMTT.

After the G7 announcement the US Senate responded by removing proposed s899 of the Internal Revenue Code from the pending "One Big Beautiful Bill Act" that the US President subsequently signed into law on 4 July 2025.

The G7 countries cannot themselves change the applicability of the Pillar Two rules to US-parented MNEs. The approach is not binding on the OECD Inclusive Framework and does not change countries' existing enacted laws.

The proposed side-by-side solution will now be considered by the OECD/G20 Inclusive Framework countries with a view to enabling widespread adoption by countries that have implemented Pillar Two.

The OECD Secretary-General welcomed the G7 approach in a statement on 28 June 2025. Manal Corwin, Director for the OECD's Centre for Tax Policy and Administration, said of the G7 announcement: "The G7 statement represents an understanding among seven countries about a proposed way forward for a side-by-side minimum tax system. That proposal, as explicitly contemplated in the statement, would have to be discussed, and agreed by the Inclusive Framework before having broad effect."

A European Commission spokesperson, in a press conference on 1 July 2025, indicated that an agreed solution could be implemented by a safe harbour, and therefore changes would not be required to the EU Directive on global minimum taxation.

It remains to be seen when and how the understanding will make its way into law in the countries that have adopted Pillar Two rules and whether it would be effective for accounting periods commencing on or after 31 December 2023 (i.e. the first year for which the IIR was applicable) or a later period. In accordance with the OECD rules, the tax return deadline for the year ended 31 December 2024 should be 30 June 2026 (although some countries have earlier deadlines).

As it stands, the exact manner and timing of changes are unclear.

Pillar Two information returns: signatories to multilateral exchange agreement

The OECD released a list of jurisdictions that have signed the Multilateral Competent Authority Agreement on the Exchange of GloBE Information (GIR MCAA). Initially published in January 2025, this agreement is akin to previous multilateral exchange agreements, such as those for sharing country-by-country reports. The GIR MCAA serves as the legal framework for tax authorities to exchange Pillar Two information returns (GIRs) based on the agreed method.

Jurisdictions that have signed the agreement must inform the OECD of the other jurisdictions with which they wish to exchange information to establish an exchange relationship. Eventually, the OECD will maintain and publish online lists of jurisdiction pairs with active exchange relationships for information returns.

As of the list published on 6 August 2025, 14 countries have signed the GIR MCAA, consisting of the UK, Austria, Belgium, Denmark, France, Ireland, Italy, Japan, Luxembourg, New Zealand, Portugal, Slovakia, South Korea and Spain.

HMRC publishes Pillar Two guidance manual

HMRC has issued a Pillar Two guidance manual, which includes technical guidance outlining HMRC's perspective on the application of multinational top-up tax and domestic top-up tax, as part of the UK's adoption of the OECD Inclusive Framework's Pillar Two global minimum tax regulations.

This publication follows four previous public consultations on draft manual guidance, conducted between June 2023 and January 2025. The manual's introduction mentions that HMRC is in the process of finalising additional pages on various specific Pillar Two topics, which are expected to be released "shortly". HMRC continues to welcome feedback on an ongoing basis and will update the manual in response to received comments and any new relevant legislation.

Constitutional Court refers validity of Belgian UTPR rules to Court of Justice of the European Union

On 17 July 2025 the Belgian Constitutional Court (BCC) decided to refer a preliminary question to the Court of Justice of the European Union (CJEU) regarding the validity of the undertaxed profits rule (UTPR) implemented in Belgium through the transposition of the Pillar Two Directive.

The BCC did not annul or suspend the contested Belgian UTPR immediately. Consequently, the UTPR remains in effect, alongside other Pillar Two regulations, such as the IIR and the QDMTT.

Within the Pillar Two legislative framework the UTPR acts as a backstop, imposing an additional cash tax expense on a constituent entity of an MNE group equivalent to its share of top-up tax not charged under the IIR or QDMTT for the group's low-taxed constituent entities.

The court case was initiated in July 2024 by the American Free Enterprise Chamber of Commerce, a US non-profit organisation dedicated to defending the collective interests of US corporations and government agencies. Several other, state-oriented non-profit organisations, such as the California Business Roundtable and the Arkansas State Chamber of Commerce, supported the organisation in the lead-up to the proceedings.

The applicants argue that the Belgian UTPR places a disproportionate burden on Belgian entities of multinational groups by requiring them to pay tax on profits of entities outside Belgium, even when those profits have no direct connection to Belgium and should therefore be annulled. To support this position the applicants refer to several fundamental rights included in:

- the Belgian Constitution,
- the Treaty on the Functioning of the European Union and
- the Charter of Fundamental Rights of the European Union.

In response, the Belgian Government asserts that the UTPR serves a legitimate purpose (combating tax avoidance and profit shifting by multinational groups) and is proportionate, emphasising that the UTPR functions as a backstop rule.

The BCC acknowledged that the contested Belgian UTPR is based on the Pillar Two Directive. Given that the applicants not only challenged the domestic transpositions but also questioned the validity of the underlying EU Directive itself (and its compatibility with EU legal principles and EU primary law), the BCC referred a preliminary ruling request to the CJEU. Specifically, the preliminary ruling request seeks the CJEU's position on the compatibility of the European UTPR (Articles 12 to 14 of the Pillar Two Directive) with the EU fundamental rights and principles raised by the applicants.

The BCC has suspended its proceedings pending the CJEU's decision. However, a decision from the CJEU is not expected soon, as procedures typically take around 18 months. Once the CJEU has provided a decision, any party can request the BCC to present its arguments on this judgment, after which the BCC will deliver its final judgment.

02 OECD Tax Developments

OECD publishes updated transfer pricing country profiles

On 22 July 2025 the OECD announced the release of a set of updated transfer pricing country profiles for 12 jurisdictions. Similar to the initial batch released in May 2025, these new profiles include sections on the simplified and streamlined approach for baseline marketing and distribution activities (stemming from the work on Amount B of Pillar One of the two-pillar solution addressing tax challenges from the digitalisation and globalisation of the

economy), as well as sections on the transfer pricing treatment of hard-to-value intangibles.

The profiles reflect the current legislation and practices of each jurisdiction, with updates for Austria, Belgium, Canada, Ireland, Latvia, Lithuania, Mexico, the Netherlands, New Zealand, Singapore, South Africa, and Spain.

In total, the profiles now cover 78 jurisdictions. They contain information provided by the jurisdictions in response to a questionnaire focusing on their domestic legislation regarding key aspects of transfer pricing, including the arm's-length principle, transfer pricing methods, comparability analysis, intangible property, intragroup services, cost contribution agreements, transfer pricing documentation, administrative approaches to avoiding and resolving disputes, safe harbours, etc. Additionally, the profiles address the transfer pricing treatment of financial transactions and the application of the "authorised OECD approach" to attribute profits to permanent establishments.

The OECD announcement also indicates that further updates to the transfer pricing country profiles will continue to be released in batches throughout 2025.

OECD releases updated Crypto-Asset Reporting Framework schema and Pillar Two Status Message XML Schema

On 30 July 2025 the OECD released an updated version of its XML schema for the Crypto-Asset Reporting Framework (CARF). The CARF and its schema are designed to enable the reporting and automatic exchange of tax information on crypto-asset transactions in a standardised format. The OECD notes that the updated schema "includes several technical adjustments based on the previous user guide approved in 2024".

Alongside the updated schema, the OECD published two revised "frequently asked questions" (FAQs) documents, providing additional guidance on the CARF and the Common Reporting Standard.

Additionally, the OECD introduced a Pillar Two Status Message XML Schema for tax authorities. This schema pertains to the automatic exchange of Pillar Two Information Returns between tax authorities, allowing receiving authorities to report any errors in Information Returns back to the sending authority in a standardised, structured manner.

03 US Tax Developments

The new legislation informally known as the "One Big Beautiful Bill Act" was signed into law by President Donald Trump on 4 July 2025. This article focuses on the tax elements of the Act, which are aimed at ensuring the continuation of numerous tax benefits for both businesses and individuals that were previously expired or set to expire at the end of 2025. Besides extending existing provisions, the legislation introduces new tax cuts aimed at alleviating burdens on working Americans and boosting economic competitiveness and further investment in the United States. It also makes significant amendments to international tax rules and includes revenue-generating measures, such as the repeal or phase-out of certain clean-energy tax credits, to mitigate the fiscal impact of the law.

These changes represent another shift in the tax landscape,. Although some provisions are permanently integrated in the tax code, others are temporary, necessitating careful attention to timing and strategy.

Key takeaways

Permanent provisions

The new law permanently incorporates several provisions in the tax code. For businesses, it permanently extends 100% bonus depreciation (and extends bonus depreciation for a limited time to "qualified production property"), reinstates the immediate deduction for domestic R&D expenses (it had been amortised over 5 years and now generally compares favourably to foreign R&D expenses, which

are amortised over 15 years) and retains EBITA rather than EBIT for the interest limitation rule.

International tax

The package introduces a number of measures such that companies should consider the impact of the new rules on international structures.

The Act modifies the Global Intangible Low-Taxed Income (GILTI) regime to remove the reduction to GILTI related to a taxpayer's qualified business asset investment (QBAI). As part of this change, the Act requires a taxpayer to include its net CFC tested income (NCTI) (rather than GILTI). The Act lowers the percentage deductions related to a taxpayer's NCTI inclusion and related s78 gross-up to 40% for taxable years beginning after 31 December 2025. The current deduction related to GILTI is 50% and was scheduled to be reduced to 37.5% in 2026 under the previous law. When combined with the modifications to the foreign tax credit rules (the "haircut" is reduced from 20% to 10%), this should generally result in an effective tax rate related to NCTI of between 12.6% and 14%. The Act also specifies that no amount-of-interest expense or research and experimental expenditure is allocated and apportioned to an NCTI inclusion for foreign tax credit limitation purposes. Any deductions that would have been allocated and apportioned to an NTCI inclusion are instead allocated and apportioned to US-source income.

The Act modifies the Foreign-Derived Intangible Income (FDII) regime to remove the impact of a corporation's QBAI, and generally allows a deduction of 33.34% of the corporation's entire foreign-derived deduction eligible income (FDDEI) (rather than FDII). Broadly. this will result in an effective tax rate related to FDDEI of 14%. Similar to GILTI, the Act eliminates any allocation or apportionment of interest expense or research and experimental expenditure for purposes of computing deduction eligible income (DEI) (and FDDEI).

The Act modifies Base Erosion and Anti-Abuse Tax (BEAT) provisions by increasing the BEAT rate to 10.5% (11.5% for certain banks and securities dealers) from 10% (11% for certain banks and securities dealers). If no action had been taken, the rate would have risen to 12.5% (13.5% for certain banks and securities dealers) starting in 2026.

The Act permanently extends the CFC look-through rule of s954(c)(6).

New tax cuts

Fulfilling several prominent campaign promises, the law introduces temporary tax relief measures effective until 2028. These include new deductions for tipped wages, overtime pay and certain car loan interest payments. Additionally, a new deduction for senior citizens offers targeted relief for older Americans.

Changes to clean-energy provisions

The Act revises clean-energy incentives, with some expanded and others reduced, creating a new strategic landscape for businesses in the sector. Companies must reassess their investment plans and project timelines to align with the updated eligibility criteria. Those who adapt swiftly may find new opportunities for growth, innovation and competitive advantage in a rapidly changing policy environment.

04 EU Tax Developments

Outcomes of 20 June 2025 ECOFIN meeting

On Friday, 20 June, EU Finance Ministers convened in Luxembourg for their final meeting under the Polish Presidency of the Council of the EU. During this session the Polish Presidency presented an overview of the advancements made concerning the Customs reform package.

The ECOFIN Council endorsed the customary report to the European Council on tax matters,

summarising the progress accomplished under the Polish Presidency. The report highlighted tax achievements over the past six months, including the formal adoption of the VAT in the Digital Age (ViDA) package, proposals for the electronic VAT exemption certificate, the Directive amending Directive 2011/16/EU on administrative cooperation in taxation (DAC9), and a general approach on the Directive concerning VAT rules for distance sales of imported goods and import VAT related to the incentivisation of the Import One-Stop Shop.

Additionally, the report recalls the adoption of Council conclusions on tax simplification and discussions aimed at enhancing administrative cooperation in the gambling sector. It also provides a status update on other tax matters, such as the UNSHELL Directive, aimed at combating the misuse of shell entities. It notes that during the last technical meeting many delegations believed that the objectives of the UNSHELL proposal could be met through clarifications or amendments to hallmarks in DAC6. As a result, Member States agreed to pause further analysis of the UNSHELL proposal until the Commission completes its analysis and submits a potential new legislative proposal on DAC.

Lastly, the ECOFIN Council approved conclusions on the progress made by the Code of Conduct Group for Business Taxation and acknowledged a progress report on the revision of the Energy Taxation Directive, as well as a progress report on the adjusted package for the next generation of own resources.

Danish Presidency of the Council of the EU unveils programme and priorities

On 1 July Denmark assumed the Presidency of the Council of the European Union for the eighth time, under the motto "A Strong Europe in a Changing World". The Danish Presidency has set two main priorities: ensuring a secure Europe and fostering a competitive and green Europe.

Regarding taxation, the Danish Presidency will focus on initiatives to combat tax evasion and tax avoidance, aiming to promote and ensure fair taxation at the international level. This includes updating the EU list of non-cooperative tax jurisdictions and further developing the tools used by the Code of Conduct Group to identify harmful tax competition. The Presidency will also advocate for strengthening administrative cooperation, including revising or expanding the Directive on Administrative Cooperation (DAC). "A revision will enhance rules and procedures for information exchange between tax authorities and encourage good governance within and beyond the EU," it states.

To bolster European competitiveness, the Presidency will support the EU's tax simplification agenda to alleviate burdens on businesses and authorities. It also seeks to advance, and potentially conclude, negotiations on revising the Energy Taxation Directive. Additionally, the Presidency will prioritise strengthening the Carbon Border Adjustment Mechanism and is prepared to support a revision of the Tobacco Taxation Directive if a proposal is presented.

Finally, the Danish Presidency will continue negotiations on the Customs reform package to reach a final agreement with the European Parliament and will persist in discussions on a possible revision of the Council Decision on own resources.

European Commission makes recommendations on tax incentives to support clean industrial transition

On 2 July 2025 the European Commission issued its recommendations, along with a press release, regarding tax incentives supporting the Clean Industrial Deal (CID) and the Clean Industrial Deal State Aid Framework (CISAF). The CID is an initiative of the European Commission aimed at fostering a competitive, climate-neutral industrial base within the European Union. The CISAF outlines the conditions under which State Aid for specific investments intended "to accelerate the roll-out of renewable energy, deploy industrial decarbonisation, and ensure sufficient capacity for clean tech manufacturing

in Europe", including selective tax incentives, would be compatible with the internal market. The purpose of these recommendations is to guide EU Member States in designing and implementing tax incentives that align with CID objectives.

The recommendations include the following tax incentives:

- tax credits to ensure sufficient manufacturing capacity in clean technologies and for industrial decarbonisation;
- enhanced tax credits for investment projects that contribute to resilience;
- accelerated depreciation for tax purposes to support demand for clean-technology equipment, up to full and immediate expensing; and
- enhanced accelerated depreciation for acquiring clean-technology equipment that contributes to resilience.

The recommendations also outline guiding principles for the effective design and implementation of these tax incentives:

- Targeted support: Tax incentives should exclusively apply to clean technologies and industrial decarbonisation, excluding any support for fossil fuel-related investments.
- Simplicity and certainty: Tax incentives must be straightforward for companies and tax authorities to implement, based on clear eligibility criteria.
- Timeliness: Tax incentives provided to companies making investment decisions must be timely.

The recommendations emphasise that the measures must comply with EU State Aid rules. EU Member States should consider the conditions set out in the CISAF when designing and introducing tax incentives that contribute to CID objectives. Additionally, EU Member States are invited to inform the European Commission by 31 December 2025 of any measures, whether introduced or announced, that aim to implement the recommendations, including any relevant existing measures and modifications. EU Member States are also encouraged to evaluate regularly the effectiveness of the tax incentives and share best practices.

05 Germany: Upper House Approves Law to Introduce Tax Incentives for Investment Boost

After the Bundestag (Germany's Lower House) gave its approval on 26 June 2025, the Bundesrat (Germany's Upper House) gave its approval on 11 July 2025 for the "Law for a tax-based immediate-action investment program to strengthen Germany as a business location". The law was signed by the President on 14 July 2025 and published in the federal gazette on 18 July 2025 (available in German only). This marks the first major initiative to stimulate the German economy by the new government, led by Chancellor Friedrich Merz, just two months after taking office.

The tax package, valued at approximately €46bn, incorporates measures already outlined in the coalition agreement between the governing parties, published earlier in 2025. Key measures in the law are:

- Reintroduction of the declining-balance depreciation method (an "investment booster") for movable fixed assets acquired or manufactured after 30 June 2025 and before 1 January 2028. The maximum amount of declining-balance depreciation is limited to three times the applicable straight-line depreciation rate, with a maximum of 30% annually. This method was previously available for assets acquired or manufactured between 1 January 2020 and 31 December 2022 (capped at 25%) and between 31 March 2024 and 1 January 2025 (capped at 20%).
- Increasing the price limit for tax-favourable treatment of electric company cars from €70,000 to €100,000 and introducing a special depreciation allowance for electric

vehicles (75% in the year of acquisition, 10% in the first following year, 5% in the second and third following years, 3% in the fourth following year, and 2% in the last year). This allowance applies to electric vehicles acquired between 1 July 2025 and 31 December 2027.

- Gradual reduction of the federal corporate income tax (CIT) rate, currently 15%, by 1% annually from 2028 to 2032, eventually reaching 10%. This reduction marks the first change in the tax rate since 2008, when the CIT rate was lowered from 25% to 15%. The local trade tax (TT) rate, which applies in addition to the federal CIT rate, varies by municipality and currently ranges from 7% to 17%. On average, a 14% TT rate is expected (higher in large cities such as Munich, Frankfurt and Berlin). The TT rate is determined by the respective municipalities, not the federal government. Consequently, the planned decrease in the federal CIT rate will reduce the combined CIT and TT rates from approximately 30% to about 24.5% by 2032.
- Increasing the cost basis for calculating the research and development tax incentive from €10m to €12m, effective from 1 January 2026, without any time limitation. The cost basis for eligible projects is expanded to include overhead and other operating expenses through a general 20% increase in eligible expenses, applicable to projects initiated after 31 December 2025.

VAT Cases & VAT News

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VAT Cases

01 Place of Supply of Services – Sales Through App Stores: CJEU AG Opinion

The opinion of the Advocate-General (AG) in the case of ***Finanzamt Hamburg-Altona v XYRALITY GmbH*** C-101/24 was delivered on 10 April 2025. The case concerned the supply of services by an app store, the place of supply of those services and whether the app developer is liable for VAT notwithstanding the invoicing role played by the app store. The questions referred related to the legislative position before the introduction of the e-services rules in 2015.

Between 2012 and 2014 Xyrality, a German company, supplied services by making available games apps for mobile devices. The apps were made available through a platform (an app store) operated by company X, an Irish company. End-users downloaded the games apps free of charge, and improvements and other additional services were paid for ("in-app purchases"). The in-app purchases were also made through the app store operated by X. When the app was downloaded, end-users were informed that Xyrality was the provider. In-app purchases were made on the app store platform, and company X confirmed the purchase and charged the amount payable. Xyrality was indicated only in the purchase confirmation issued to end-users by the app store.

Xyrality initially paid the VAT due as it regarded itself as the supplier of services to end-users, and it considered Germany to be the place of supply of services to non-taxable persons resident in the EU (by reference to Article 45 of the VAT Directive). In January 2016 Xyrality submitted corrected tax returns for prior

years and declared that services had been commissioned within the meaning of Article 28 so that the supplier of services to end-users had been company X. Therefore the supply of services had taken place solely in the territory of Ireland (under Articles 44 and 45), and VAT on those supplies was not due in Germany.

Article 28 of the VAT Directive provides that "where a taxable person acting in his own name but on behalf of another person takes part in a supply of services, he shall be deemed to have received and supplied those services himself". The German tax authority disregarded the corrected returns as it was of the view that company X was merely an intermediary and the actual supplier of services to end-users was Xyrality. After a number of appeals the referring court referred three questions to the Court of Justice of the European Union.

The AG noted that, from a legal point of view, app stores function as intermediaries in the supply of services between computer program developers and their end-users (legal fiction). The question arises of whether an app store should be considered to be the supplier of the mobile apps made available through the app store. Under the VAT rules before 2015, the identity of the supplier determines the place of supply of the services to non-taxable persons. The present case essentially concerns whether, and to what extent, an interpretation of the rules that came into effect on 1 January 2015 should be applied to this case.

Article 9a, which applies from 1 January 2015, provides:

> *"1. For the application of Article 28 of Directive 2006/112/EC, where electronically supplied services are supplied through a telecommunications network, an interface or a portal such as a marketplace for applications, a taxable person taking part in that supply shall be presumed to be acting in his own name but on behalf of the provider of those services unless that provider is explicitly indicated as the supplier by that taxable person and that is reflected in the contractual arrangements between the parties.*
>
> *In order to regard the provider of electronically supplied services as being explicitly indicated as the supplier of those services by the taxable person, the following conditions shall be met:*
>
> *(a) the invoice issued or made available by each taxable person taking part in the supply of the electronically supplied services must identify such services and the supplier thereof;*
>
> *(b) the bill or receipt issued or made available to the customer must identify the electronically supplied services and the supplier thereof."*

The first question referred sought to determine whether Article 28 is to be interpreted as applying to the supply of services by electronic means (before 1 January 2015) consisting in making mobile apps and additional services available through an app store, with the result that a taxable person operating an app store is treated as if it had received those services from an app developer and supplied them to end-users.

The AG opined that making the app available, whether on a paid basis or not, and the service of in-app purchases should be treated as inseparable parts of a single service for VAT purposes, with the main supply's being making the application available. By reference to Article 28 this means that the role of the various participants in the transaction must be assessed in the light of all of the relationships between them, beginning with the circumstances in which the app itself is made available, and not just seen through the prism of the circumstances in which the in-app purchase service is supplied.

The AG referenced previous interpretations of Article 28 by the court, where it was stated that the provision creates the legal fiction of two identical supplies of services provided consecutively: the intermediary first receives the services in question from the principal and then provides them to the end-user. In the case

of services comprising making mobile apps available through an app store, the economic and technical reality comes as close as possible to the fiction established by Article 28. The AG opined that Article 28 should be interpreted as applying to the supply, before 1 January 2015, by electronic means, of services consisting in making mobile apps and additional services available through an app store.

The AG referred to Article 9a of Implementing Regulation No. 282/2011 in the context of its introducing a presumption that an intermediary is acting in his own name but on behalf of another person, unless that other person is explicitly indicated as the supplier. Article 28 of Directive 2006/112 therefore applies in principle to such services. In addition, when the intermediary authorises the charge to the customer or the delivery of the services, or sets the general terms and conditions of the supply, that presumption becomes irrebuttable.

The AG proposed that the first question be answered as follows: Article 28 is to be interpreted as applying to the supply, before 1 January 2015, by electronic means, of services consisting in making available computer programs (mobile applications) and additional services through a portal (app store), with the result that a taxable person operating an app store is treated as if it had received those services from an application developer and supplied them to end-users.

The second question referred sought to determine whether Article 28 is to be interpreted as meaning that the place of supply of a fictitious service supplied by another person to a taxable person who takes part in the supply of services to non-taxable persons resident in a Member State is to be determined on the basis of Article 44 or on the basis of Article 45. The AG examined the two consecutive services supplied under Article 28, where the first supply is by a third party (the principal) to the taxable person (the agent) and the second supply is by the agent to the end-user.

The first supply is to a taxable person, and the place of supply of such a service is determined on the basis of Article 44 (i.e. the place of establishment of that taxable person). The second supply can be provided either to taxable persons or to non-taxable persons. If the end-users are non-taxable persons, then the place of supply of services is determined on the basis of Article 45 (i.e. the place of establishment of the supplier). In this case this means that the place of supply of both services is Ireland, where company X is established.

The AG opined that the answer to the second question is that the place of supply of a fictitious service (in line with Article 28) supplied by another person to a taxable person who takes part in the supply of services to non-taxable persons resident in a Member State is to be determined on the basis of Article 44.

The final question related to Article 203, which provides that anyone who enters VAT on an invoice is obliged to pay VAT. Is Article 203 to be interpreted as meaning that another person on whose behalf a taxable person taking part in the supply of services under Article 28 acts is liable to pay VAT on the grounds that the taxable person has designated that other person, with his consent, as the supplier of services and stated the amount of VAT in the purchase confirmations transmitted electronically to non-taxable end-users. The court has previously held that Article 203 does not apply in a situation where there is no risk of loss of tax revenue on the ground that the invoices in question were issued to non-taxable persons, who, by definition, have no right to deduct the VAT shown on those invoices. In this case end-users are mainly consumers, and only in very exceptional cases could they be taxable persons acting as such. Therefore, there is no risk of loss of tax revenue associated with the right to deduct VAT incorrectly shown on an invoice, and the AG noted that Article 203 does not apply.

This case highlights the need always to understand the supply chain at issue and the roles and responsibilities of each party in the supply. This applies not only in the case of straightforward arrangements between vendor and purchaser but also, particularly, in principal-and-agency type arrangements.

02 Taxable Amount – Parent Company Providing Services to Its Subsidiaries in the Context of Actively Managing Them: CJEU Judgment

The Court of Justice of the European Union delivered its judgment in the case of ***Högkullen AB v Skatteverket*** C808/23 on 3 July 2025. A preliminary ruling was sought in respect of the interpretation of Articles 72 and 80 of the VAT Directive in relation to the determination by the Swedish tax authority of the open-market value of services supplied by Högkullen to its subsidiaries in 2016.

Högkullen is the parent company of a real estate management group and is actively involved in the management of its subsidiaries. In 2016 it provided the subsidiaries with business management services, financial services, real estate management services, investment services, and IT and staff administration services for *c.* €204,200, and VAT was charged. Högkullen calculated the taxable amount by using the "cost-plus" method and included an amount relating to the costs incurred by it in purchasing and performing the services, together with a profit margin. It allocated a specific percentage of the costs borne by it for the running of the business and for items such as premises, telephones, information technology, corporate hospitality and travel as being attributable to the services provided to the subsidiaries. It treated "shareholder" costs, such as the costs of drawing up the annual accounts, auditing and the general meeting, as well as the costs of raising capital, as not having a connection with the services provided and excluded those costs from the calculation of the taxable amount.

In 2016 Högkullen incurred total costs of *c.* €2.5m (*c.* 50% of the costs were VATable, and the balance was a mix of exempt and non-VATable costs). Högkullen deducted all of the input VAT relating to the costs that it had incurred, which included VAT relating to "shareholder" costs.

The Swedish tax authority took the view that the services supplied were at a price lower than open-market value (OMV), and as, in its view, there were no comparable services freely available on the market, the taxable amount was determined to be the total amount of costs borne by Högkullen in 2016. The tax authority and Högkullen disagreed on the application of Article 72 of the VAT Directive to determining the OMV of services provided by a parent company to its subsidiaries. Article 72 sets out the definition for OMV.

Högkullen argued that the various services provided by a parent company to its subsidiaries must be assessed individually and that equivalent services may be acquired freely on the market. However, the Swedish tax authority argued that the active management of the subsidiaries by the parent company is a single joined-up service, which has no equivalent between independent parties on the open market. In its view, as the services are specific to the corporate group, their OMV must be determined under the second paragraph of Article 72 rather than the first paragraph. Högkullen and the tax authority also had differing views on the meaning of OMV under Article 72 (where it means an amount that is not less than the full cost to the taxable person of providing the service). Högkullen argued that the cost-plus method that it used to calculate the consideration in question results in that consideration's being at least equal to the costs that it incurred in providing the services. But the tax authority submitted that all of the costs incurred by the parent company constituted costs for the provision of the services provided to the subsidiaries.

The first question referred concerned whether Articles 72 and 80 of the VAT Directive must be interpreted as precluding the services provided

by a parent company to its subsidiaries in the context of the active management of those subsidiaries from being, in all situations, regarded by the tax authority as constituting a single supply which precludes determining the OMV of those services using the comparison method laid down in the first paragraph of Article 72.

The general rule set out in Article 73 provides that the taxable amount is to include everything that constitutes consideration obtained or to be obtained by the supplier, in return for the supply, from the customer or a third party, including subsidies directly linked to the price of the supply. The court noted that the taxable amount is therefore the consideration established between the parties and actually received by the taxable person, and not a value estimated according to objective criteria, such as the market value or a reference value determined by the tax authority.

Article 80(1)(a) is an anti-avoidance measure that establishes an exception to the general rule laid down in Article 73, in so far as it permits the inference that the taxable amount is the OMV of the transaction where that transaction is a supply of goods or services involving family or other close personal ties, management, ownership, membership, financial or legal ties; where the consideration is lower than the OMV; and where the recipient of the supply of goods or services does not have a full right of deduction of VAT. Högkullen's supply of services satisfied the first and third conditions, but there were doubts regarding the OMV condition.

OMV is defined in the first paragraph of Article 72 as "the full amount that, in order to obtain the services in question at that time, a customer at the same marketing stage at which the supply of services takes place, would have to pay, under conditions of fair competition, to a supplier at arm's length within the territory of the Member State in which the supply is subject to tax".

The tax authority argued that it is not possible, as a matter of principle, to determine a normal value, as the active management of the subsidiaries by a parent company constitutes a single joined-up service, which has no equivalent between independent parties on the open market. The court reiterated the principles applicable to determining whether a transaction comprises a single supply or a composite supply.

In this case the services provided by Högkullen to its subsidiaries were business management services, financial services, real estate management services, investment services, and IT and staff administration services. The court stated that, as a matter of principle, it cannot be concluded that such services are so closely linked that they form, objectively, a single, indivisible economic supply and, consequently, a single supply.

The court referenced the opinion of the Advocate-General, wherein it was stated the services, even if they are provided together, appear each to have their own character and to be identifiable. The fact that an overall price is paid by each of the subsidiaries to Högkullen for all of the services that it provides cannot be decisive in relation to intra-group supplies because, otherwise, the group would itself be able to influence the classification to be given to those supplies for VAT purposes by means of the remuneration arrangements agreed.

The court therefore held that Articles 72 and 80 must be interpreted as precluding the services provided by a parent company to its subsidiaries in the context of the active management of those subsidiaries from being, in all situations, regarded by the tax authority as constituting a single supply which precludes the OMV of those services from being determined using the comparison method laid down in the first paragraph of Article 72.

To answer the second question referred, an interpretation of the second paragraph of Article 72 was required. The question was based on the premise that there are no comparable services freely available on the market where a parent company provides services to its subsidiaries. However, as the answer to the first question was that the active management of subsidiaries does not in all

situations comprise a single supply, there was no need to answer this question.

This is one of a number of recent cases dealing with transfer pricing adjustments and their VAT implications. Understanding the nature and purpose of any adjustment is critical to assessing whether it falls within the scope of VAT as a supply or falls outside the scope of the tax.

03 Taxable Amount – Subsidies Directly Linked to the Price of a Taxable Transaction: CJEU Judgment

On 8 May 2025 the Court of Justice of the European Union published its judgment in the case of ***Dyrektor Krajowej Informacji Skarbowej v P. S.A.*** C615/23. The case centred on the taxable amount for VAT purposes with regard to the supply by P of collective public transport services. P is a public transport operator and will conclude contracts for the provision of collective public transport services transport with a local authority ("the organiser"). P will be remunerated for its activity by way of ticket sales (price to be determined by the organiser) and a compensation amount payable by the organiser (as the ticket sales will not cover the associated costs). The compensation will reflect the financial shortfall from operating the public transport services, and this will be based on a maximum amount payable over a specified period. P sought an advance ruling from the Polish tax authority on whether the compensation amount constituted part of the taxable amount (under Article 73 of the VAT Directive). P submitted that the compensation does not increase the taxable amount as it does not have a direct effect on the price of the services supplied but constitutes a contribution to all of the costs of the planned activity. The tax authority held a contrary view.

The question referred was whether Article 73 must be interpreted as meaning that the flat-rate compensation paid by a local authority to an undertaking providing collective public transport services and intended to cover the losses incurred in connection with the supply of those services is included in the taxable amount of that undertaking.

Article 73 provides that the taxable amount for the supply of goods or services "shall include everything which constitutes consideration obtained or to be obtained by the supplier, in return for the supply, from the customer or a third party, including subsidies directly linked to the price of the supply".

The court noted that the direct beneficiaries of the collective public transport services that the operator of those services intends to supply are the users of those services, who purchase a ticket as consideration for those services. The organiser paying the compensation to that operator is not regarded as the customer in receipt of that service, which means that the organiser is a "third party", as referred to in Article 73.

The court has held previously that the taxable amount includes certain subsidies paid to taxable persons, as Article 73 is intended to subject the full value of goods or services to VAT and prevent payment of a subsidy entailing a lower return from the tax. But it was noted that Article 73 applies where the subsidy is directly linked to the price of the supply in question, i.e. the subsidy must first be paid specifically to the subsidised operator to enable it to supply particular goods or services. The court also noted that it has to be ascertained whether the service users benefit from the subsidy. Does the fact that a subsidy is paid to the seller or supplier allow them to sell the goods or supply the services at a price lower than they would have to demand in the absence of the subsidy? The court stated that "subsidies directly linked to the price" include only subsidies that constitute the whole or part of the consideration for a specific supply of goods or services and that are paid by a third party to the seller or supplier.

In this case the subsidy is to cover the losses linked to the public transport activity, and therefore it does not directly affect the price (set by the organiser) of the transport services provided by the operator. The court indicated that it must be held that the subsidy is not paid to the operator specifically for it to carry out a transport service for a particular recipient of that service and has no influence on the price to be paid by that customer. This is because the price is not fixed in such a way that it diminishes in proportion to the compensation paid to the provider of that service. By reference to earlier case law, the court noted that the mere fact that financing may affect the price of the goods or services supplied by the body in receipt of that financing is not enough to make it taxable as a subsidy directly linked to the price, for the purposes of Article 73 of the VAT Directive.

Therefore, the court held that Article 73 must be interpreted as meaning that "the flat-rate compensation paid by a local authority to an undertaking providing collective public transport services and intended to cover losses incurred in connection with the supply of those services is not included in the taxable amount of that undertaking".

This case highlights the importance of examining closely the purpose and objective of the compensation amount payable to ascertain whether the amount forms part of the taxable amount or falls outside the scope of VAT.

04 Exemptions for Certain Activities in the Public Interest – Concepts of "Public Postal Service" and "Public Interest Service": CJEU Judgment

On 19 June 2025 the Court of Justice of the European Union (CJEU) delivered its judgment in ***Direktor na Direktsia 'Obzhalvane i danachno-osiguritelna praktika' Sofia pri Tsentralno upravlenie na Natsionalna agentsia za prihodite v 'Bulgarian posts' EAD, interested party: Varhovna administrativna prokuratura*** C-785/23. The key issue in this case was whether the postal services provided by Bulgarian Posts EAD qualified for exemption from VAT under Article 132 of the VAT Directive (and by reference to the legislative provisions relating to the development of the internal market of Community postal services and the improvement of quality of service – Directive 97/67). Exemption from VAT is provided for the supply by the public postal services of services, other than passenger transport and telecommunications services, and the supply of goods incidental thereto.

Bulgarian Posts is a Bulgarian company that holds an individual licence for the provision of the universal postal service in the entire Bulgarian territory. The company is subject to VAT as a universal postal service provider and has an entitlement to input VAT recovery in respect of its taxable activities. The company had exempted certain services that formed part of the universal postal service. The tax authority took the view that the services did not meet the definition of universal postal services and that some other services were not compliant with the Bulgarian legislation applicable to postal services. The company provided services under contracts that it had separately concluded with customers.

A number of questions were referred to the CJEU, and the court examined all of them together, as follows: whether Article 132(1)(a) of the VAT Directive 2006/112 together with Article 12 of Directive 97/67 must be interpreted as precluding supplies of postal services provided, in accordance with separate contracts, by a holder of an individual licence to provide the universal postal service from benefiting from the VAT exemption provided for in Article 132, where any or all of the following conditions are satisfied:

- the collection and delivery of postal items take place at the address of the customer

or at times agreed in advance with the customer;

- the services are provided without establishing that the price agreed covers the cost of the service;
- the services are provided under conditions different from those approved by the national authority designated in the Member State concerned to regulate the universal postal service or those provided for in the standards relating to that service.

The court examined the wording of Article 132 and commented that the words "public postal services" refer to the organisations that engage in the supply of the services to be exempted and therefore the services must be performed by a body that may be described as "the public postal service" in the organic sense of that expression. The words also imply that those organisations are subject to a special legal regime with specific obligations.

Therefore, in practice, only operators, whether public or private, who have undertaken to provide all or part of the universal postal service in a Member State, as defined in Article 3 of Directive 97/67, are entitled to benefit from the exemption provided for in Article 132(1)(a) of Directive 2006/112. But this does not mean that all of the services would qualify for exemption – it is only those services intended to meet the basic needs of the population that are capable of benefiting from the exemption.

The court noted that the supply of services provided by public postal services where the terms and conditions have been individually negotiated cannot be regarded as exempt from VAT, as such services meet the special needs only of the users concerned. This runs counter to the objective of the exemption. The court examined the provisions of Directive 97/67 and compared the requirements of the special regime set out therein with the services supplied by the company, and held that it will be for the referring court to ascertain whether the services are supplied to all users.

The court held that supplies of postal services provided, in accordance with separate contracts, by a holder of an individual licence to provide the universal postal service are precluded from benefiting from the VAT exemption provided for in Article 132 when such supplies, which are intended to meet the special needs of the persons concerned without being offered to all users, are provided under different, more favourable conditions than those approved by the national authority designated in the Member State concerned to regulate the universal postal service or those provided for in the standards relating to that service.

As noted in all CJEU cases relating to exemptions, these are strictly interpreted by the court, and this case provides an in-depth analysis of not only the VAT exemption but also the specific legal regime applicable to the public postal system and how the conditions to be fulfilled under the regime can have an impact on the VAT treatment.

VAT News

Ireland

Revenue published a number of eBriefs in the period May–July 2025.

Revenue eBrief No. 113/25, published on 4 June 2025, highlighted the creation of a new Tax and Duty Manual (TDM), "Guidelines for Cross-border Operation of EU VAT SME Scheme (VSME)". The new scheme is effective from 1 January 2025 (in accordance with SI 69 of 2025, European Union (Value-Added Tax) Regulations 2025). The eBrief indicates that the EU VAT SME Scheme will allow small enterprises to sell goods and services without charging VAT to their EU customers (VAT exemption) and will alleviate their VAT compliance obligations. SMEs choosing the EU VAT SME Scheme will lose the right to deduct VAT on goods and services used to make exempt supplies. To be eligible to use the EU VAT SME scheme in another Member State, an Irish business must not exceed the Union Annual Threshold of €100,000.

Revenue eBrief No. 124/25, published on 23 June 2025, indicated that the TDM "Waiver of Exemption – Transitional Measures" has been updated. This follows the High Court judgment in the case of *Killarney Consortium v Revenue Commissioners* [2024] IEHC 732, delivered on 20 December 2024. The TDM sets out the transitional measures that apply to waivers of exemption for the short-term letting of property which were in place before 1 July 2008 under the "old" rules for VAT on property. The TDM update details the rules which now apply to the cancellation amount with effect from 20 December 2024.

Revenue eBrief No. 127/25, published on 26 June 2025, outlined changes in respect of guidance on the VAT treatment of admission to events and of education and vocational training. A new TDM has been published, "VAT Treatment of Admission to Events", explaining the new place-of-supply rules (relating to streaming events) that came into effect from 1 January 2025. The TDM "VAT Treatment of Education and Vocational Training" has been updated to take account of the change to the place of supply for streaming services.

EU

The EU VAT Committee published the minutes of its 126th meeting, concerning the implementation of electronic invoicing rules and Import One-Stop Shop (IOSS) changes.

The Council of the European Union formally adopted Council Directive (EU) 2025/1539 amending Directive 2006/112/EC as regards VAT rules relating to taxable persons who facilitate distance sales of imported goods and the application of the special scheme for distance sales of goods imported from third territories or third countries and special arrangements for declaration and payment of import VAT.

On 24 July 2025 the European Commission published its 2025 Annual Report, which includes topics such as VAT compliance gaps, which amounted to €89bn in 2022; VAT missing-trader fraud, which continues to be a major concern; and digital reform and environmental taxes, in an indirect taxes context.

Accounting Developments of Interest

Aidan Clifford
Advisory Services Manager, ACCA Ireland

Private Equity Investing in Audit Firms

The Companies Act 2014 has some quite strict requirements in respect of the ownership of an audit firm. The law has been reflected in the audit firm ownership rules, with the underlying principle being that the audit firm must be controlled by statutory auditors. There have been suggestions that some of the recent private equity practice buy-out schemes in the UK and Ireland have stretched the definitions, with structures that include voting and non-voting shares. The regulators have also expressed concern about some of the legal structures being put in place. Audit firms holding a UK audit licence will also note the guidance issued by the Financial Reporting Council and the change in firm ownership requirements being implemented in the UK. Accountancy Europe has also published a research report on private equity investments in accountancy firms.

EU Sanctions Helpdesk

In light of the increasingly complex sanctions regime, the EU has set up the EU Sanctions Helpdesk. It offers one-to-one assistance for SMEs with questions on any of the EU sanctions. See The EU Sanctions Helpdesk Newsletter – May Edition for the latest newsletter.

Established in Russia

It is a breach of EU sanctions to provide "directly or indirectly, accounting, auditing, including statutory audit, bookkeeping or tax consulting services, or business and management consulting or public relations services to...legal persons, entities or bodies established in Russia". It has been unclear what "established" means. It could mean a residential house, a business/operation, or both of those things. Take the example of a HSE employee with modest private practice income in Ireland; they are a Russian national but have had no contact with Russia for 10 years; however, they still own a house there, where their family live. Can an Irish tax adviser do an Irish tax return for them? The Directive implementing this sanction is translated into every official EU language, and the author obtained an informal translation of the French version and the Irish version , both of which use words that mean a business and do not mean a domestic residence. On this basis, and while not offering a formal legal opinion, and in the absence of any guidance from the state authorities, it would appear reasonable to form a view that "established" means a business operation only. There does not appear to be a sanction applying where the only link with Russia is ownership of a domestic residence in Russia. However, it is recommended that legal advice is sought where this is a live issue.

Going Concern

The IFRS standard setter has published Going Concern – A Focus on Disclosure . This is a revised version of guidance first published in 2021. It covers the going-concern issues that need to be addressed to comply with IAS 8 and/or IFRS 18. Also on going concern, the International Auditing and Assurance Standards Board (IAASB) has published a list of Frequently Asked Questions to assist accountants as they implement International Standard on Auditing 570 (Revised 2024): Going Concern. ISA 570 will in due course be adopted into Irish auditing standards and will strengthen auditors' evaluation of managements' assessment of the ability of the entity to continue as a going concern, as well as communication and reporting on matters related to going concern. The use by the IAASB of the radioactive and biohazard symbols in the FAQ document is probably an indication of how important it thinks that going concern is, but it is somewhat disconcerting for the reader.

IAASA Consulting on Its Activities

The Corporate Sustainability Reporting Directive (CSRD) was, by some accounts, very rushed. The fact that companies were able to comply for 2024 financial statements (published in 2025) was somewhat astonishing as the detailed rules were only finalised in the middle of 2024. Generally, a change in an accounting standard allows a two-year implementation period as it can take that long to make the system changes to collect the required data to comply with the new standard. The CSRD required up to 1,100 data points to be collected, and those rules were finalised six months after they needed to be implemented. It was a big ask for companies in scope of wave 1. So it is not unreasonable for the Irish Auditing and Accounting Supervisory Authority (IAASA) to propose that in its supervision of those disclosures in the first year, it will identify the issues but not the issuer. This would allow companies to learn from each other and adopt each other's novel methods of clearly presenting, in an understandable way, those 1,100 data points. But it would not lead to individual companies' shortcomings being called out in public.

EFRAG Endorses IFRS 18

The European Financial Reporting Advisory Group (EFRAG) has submitted to the European Commission its endorsement advice on IFRS 18: Presentation and Disclosure in Financial Statements. The changes that IFRS 18 will bring are summarised at this link.

VSME: Sustainability Reporting by SMEs

Many Irish SMEs are being required by their customers, as a condition of being on an approved supplier list, and by bankers, as a condition for lending, to make certain sustainability discloses. The information is required in a different format by each stakeholder. Producing multiple reports in different formats with similar information was unnecessarily adding to businesses' costs. The Voluntary Sustainability Reporting Standard for SMEs (VSME) is being promoted as a solution. The plan is that the VSME will be a single EU-mandated fixed-format report with an accompanying EU mandate saying that customers and lenders may not ask for any sustainability information from SMEs in excess of what is in the VSME.

Developed by the European Financial Reporting Advisory Group (EFRAG), the VSME offers a streamlined framework for micro, small and medium-sized enterprises to report on sustainability

matters. It aims to simplify environmental, social and governance (ESG) reporting and facilitate SMEs' access to sustainable finance.

The VSME has two modules:

- Basic Module: Designed for micro-enterprises, this module includes 11 ESG data areas, covering general information, environmental metrics (e.g. energy use, emissions, pollution), social metrics (e.g. workforce characteristics, health and safety) and governance metrics (e.g. anti-corruption measures).

- Comprehensive Module: For SMEs seeking more detailed reporting, this module expands on the Basic Module by adding disclosures in areas such as climate risks, human rights policies and governance diversity ratios.

The VSME eliminates the need for a materiality assessment, adopting a "disclose if relevant" principle. It employs clear language, predefined templates and checklists to facilitate reporting. The EFRAG has released the materials from its "VSME in Action: Empowering SMEs for a Sustainable Future" event, held on 7 April 2025, as well as a series of 10 educational videos on the VSME, and the first version of the VSME Digital Template and accompanying VSME XBRL Taxonomy. The EFRAG has also reported on its roundtable titled "Practical Considerations of Connecting Financial and Sustainability Reporting".

Central Bank Urges Resilience Planning

The Central Bank of Ireland has highlighted the importance of credible transition plans as a means to build resilience in firms and contribute towards a sustainable net-zero economy in their guide Planning for the Transition to Net Zero.

Government's Legislative Plan for 2025

The Irish Government's summer legislative programme for 2025 has recently been published and mentions 23 Bills prioritised for publication during the summer session, 28 Bills scheduled for priority drafting and 63 additional Bills under development across various Departments.

Creditors' Voluntary Liquidation Statutory Meeting Handbook

A new Creditors' Voluntary Liquidation Statutory Meeting Handbook has been published by the Consultative Committee of Accountancy Bodies – Ireland. This is a compendium of statutory meeting templates and guidance on the various meetings required during a creditors' voluntary liquidation.

IAASA Commentary on Kingspan Group Plc Financial Statements

Kingspan was the subject of negative media reports in connection with the Grenfell Tower fire. The fire, in a multi-storey building in London in 2017, caused 72 deaths, and Kingspan-manufactured cladding was implicated in the rapid spread of the fire. The Irish Auditing and Accounting Supervisory Authority (IAASA) notes in a financial reporting decision that the issues "were not

discussed or addressed in the 2023 management report as part of the risks and uncertainties facing the business". Kingspan contended that "the same substantive issues and events [were] reported in prior years and had been addressed by the issuer in its annual reports for those earlier years". The IAASA decision notes that Kingspan's 2024 annual report stated that "(i) [it] had no role in the design of the cladding system on Grenfell Tower and that its product was misused on the exterior of the building, and (ii) the final report from the Grenfell Inquiry...explained that the principal reason for the fire spread was material neither made nor provided by the Kingspan group". Kingspan provided a voluntary undertaking that if the matter has "a material financial or reputational impact on" the group or represents "a principal risk and uncertainty", disclosures will be made in future reports. In related news the IAASA has provided an infographic illustrating its more significant financial reporting enforcement activities for public-interest entity financial statements for 2023 and 2024.

High-Risk Countries for AML Purposes

Article 9 of the Fourth Anti-Money Laundering Directive mandates the European Commission to update the list of high-risk third-country jurisdictions regularly. On 10 June the Commission updated its list of the countries that present strategic deficiencies in their national anti-money laundering (AML) and countering the financing of terrorism regimes. A designated person, such as an accountant in practice or a financial institution, is obliged to apply enhanced vigilance in respect of transactions involving these countries. In practice this means seeking an explanation from a client for such transactions, verifying that explanation and taking steps to ensure that the transaction is not money laundering or terrorist financing.

Algeria, Angola, Côte d'Ivoire, Kenya, Laos, Lebanon, Monaco, Namibia, Nepal and Venezuela were all added to the list. Barbados, Gibraltar, Jamaica, Panama, the Philippines, Senegal, Uganda and the United Arab Emirates were removed from the list. The full current list of high-risk countries is at this link.

Using Pro Forma Pre-completed ISQM and AML Documents and Audit Programmes

An audit firm needs to have the following policy and procedure manuals:

- ISQM 1 (only if you have an audit client),
- ISQM 2 (only if you have a listed or public-interest entity client),
- standard audit work programme (only if you have an audit client),
- anti-money laundering (AML) policy and procedures manual (all firms) and
- AML firm-wide risk assessment (all firms).

Some accountants are obtaining example pre-completed ISQM manuals, standard AML policy and procedures manuals and example AML firm-wide risk assessments, changing the practice name and presenting this as their firm's own manual. There was some tolerance for this, especially when ISQM first came out, but that tolerance has ceased.

ISQM is supposed to be an exercise in identifying the risk that your audits will not be compliant, and this is accompanied by a series of controls and risk-minimisation policies and procedures. It is inconceivable that any one firm will have the same risk profile as the example firm in the pre-completed manual. Although reading the example is helpful, simply copying it will most likely result in an audit monitoring fail. Even the superficial addition of a few lines of personalised text into a standard manual will most likely fail at monitoring. An ISQM manual is a half-day exercise for the audit compliance partner and spending less time than that is likely to see the manual fall short of the requirements. The audit regulators have emphasised the importance of a good ISQM manual, considering it more important than the actual audit files.

AML standard documentation is available as a free download from ACCA Ireland, including an example policy and procedures manual. Although AML policies and procedures are more standardised than an ISQM manual, these example policies and procedures will also require some tailoring. There is no firm-wide risk assessment example on the internet, owing mainly to the fact that this should be completely bespoke to each practice. A client risk assessment tool, internal suspicious-activity reporting form, fit-and-proper person form and AML monitoring review factsheet, all available to download from the link above, can be used without tailoring.

A very small number of firms are still using an example pre-completed audit file, claiming that they are removing and completely replacing the example text. I have yet to see a firm successfully do a 100% removal and replacement. Leaving any of the standard example text will likely result in an audit failure as it demonstrates a lack of review and control over the audit file. Although the example audit file is a useful document to read as it sets out how working papers should be laid out, it is very dangerous to use as a template. No two businesses will be the same, and therefore no two audit programmes should be the same. A properly planned audit would require extensive amendments to a standard programme.

Both the ISQM and the two AML documents need to be reviewed annually, and evidence of that review should be documented. Electronic documents will usually include an audit trail of the creation date and author and a table of amendments by date. These properties will be lost if the document is converted to PDF, something that is frequently done as it reduces the size of the document, making scanning and uploading easier. When manual documents or PDF documents are submitted, it is useful to include the review dates manually.

Grandfathering of SASP: Time Is Running Out

There is less than six months for accountants to obtain automatic “grandfathering” rights to being licensed as a Sustainability Assurance Service Provider (SASP). Grandfathering is available for any accountant who has obtained Responsible Individual (i.e. licensed auditor) status by the end of 2025. An auditor who qualifies for and wishes to avail of grandfathering can do so at any time, including after December 2025. For the avoidance of doubt, a person who is a statutory auditor before 31 December 2025 can use the grandfathering route to obtain an SASP licence for the first time in 2026 or later.

E-learning Modules to Support Implementation of ISSB Standards

The IFRS Foundation has launched new e-learning modules to support sustainability reporting under the S1 and S2 standards.

European Union (Gender Balance on Boards of Certain Companies) Regulations 2025

The legislation implements Directive (EU) 2022/2381 of the European Parliament and of the Council of 23 November 2022 and requires certain companies to address gender equality on their board. In summary, boards should be aiming for at least 40% of each gender, and the legislation is applicable from 2026. The penalty for non-compliance is publication on a "naughty list", which the Minister for Children, Disability and Equality is empowered to publish on a website. The rules apply only to an "applicable listed company", and micro, small and medium-sized enterprises are excluded, although slightly different size criteria to those in the Companies Act 2014 are used to define micro, small and medium. The legislation is seeking that "at least 40% of the non-executive directors of the...company concerned are members of the underrepresented sex" and publication of the steps that a company is taking to achieve compliance.

E-invoicing: Implementation Guidance

The European Federation of Auditors and Accountants has launched a new vodcast series on e-invoicing. Here is the link to the recording on YouTube and the link for audio-only listening. The episode features a conversation with Eilis Quinlan, principal of Quinlan & Co, Naas, and looks at moving from manual to digital invoicing processes; building the business case; implementation timeline and technology selection; overcoming technical challenges and staff or client resistance; and measurable benefits in terms of time savings and improved cash-flow. The vodcast includes essential tips for small and medium-sized practices starting their e-invoicing journey or selling e-invoice implementation to clients.

Using AI in Audits

The Financial Reporting Council in the UK has published guidance on the use of artificial intelligence (AI) in audits. It has also published a review of the six largest firms' processes to certify new technology used in audits. The guide deals with an example where an audit firm uses AI to test journals and how that process would be documented on the audit file.

Audit Exemption Changes

The legislation changes for audit exemption have been commenced, and the Companies Registration Office has confirmed that:

- Late annual returns filed up to midnight on 15 July 2025 will require an audit for the following two annual returns.

- Effective from midnight on 15 July 2025, audited financial statements are required if a company filed late twice in the last five years.

The five-year reference period is effectively starting from midnight on 15 July 2025 for companies that are not currently filing audited accounts owing to loss of audit exemption for late filing of annual returns preceding the enactment.

The facility to apply to the District Court to deem a return, or number of returns, on time is still available, but of course it has to be applied for before you file the return.

Assisted Decision-Making: Returns to the DSS

A decision-making representative must make an annual report to the Decision Support Service (DSS). This report will include a list of assets, liabilities, income and expenses for the person concerned. The DSS state that the report for the year to 30 June 2025 is due on 30 June 2025. It is unclear how instantaneous financial statements can be prepared for the person concerned and submitted on the same day as the period-end to which they are made up. However, the DSS has said that it is willing to consider an extension for report preparation if the decision-making representative submits a request, in writing, explaining why an extension is required. It also states that the representative can "include the relevant dates in the report and provide updated information as soon as possible – or where the timeframe is no more than one month prior to the report due date, the relevant information can be included in the following year's report".

Legal Monitor

James Quirke
Partner, McCann FitzGerald LLP

Selected Acts Signed into Law from 1 May to 31 July 2025

No. 6 of 2025: Finance (Local Property Tax and Other Provisions) (Amendment) Act 2025

Local property tax amendments

This Act amends the Finance (Local Property Tax) Act 2012, the Taxes Consolidation Act 1997 and the Value-Added Tax Consolidation Act 2010 to include wider LPT valuation bands, changes to the LPT rates payable and updates to the exemptions from LPT (including a broadening of the exemption for properties damaged by defective concrete blocks to include those in Counties Clare, Limerick and Sligo, in addition to Donegal and Mayo).

Outbound-payment defensive measures

The Taxes Consolidation Act 1997 was also amended to expand the criteria for determining associated entities for the purposes of outbound-payment defensive measures to reduce potential avoidance opportunities.

9% gas and electricity VAT rate

The Value-Added Tax Consolidation Act 2010 was amended to extend the 9% VAT rate on the supply of gas and electricity until 31 October 2025.

Selected Bills Initiated from 1 May to 31 July 2025

No. 31 of 2025: Taxes Consolidation (Rights of Performers and Film Workers) (Amendment) Bill 2025

This Bill aims to amend the Taxes Consolidation Act 1997 to ensure that the certificate required for s481 tax relief for investment in films is issued solely to qualifying companies that grant the same terms to Irish-resident performers, writers, composers, artists and other film workers in relation to intellectual property rights as to their overseas counterparts, which comply fully with the Copyright and Related Rights Act 2000 and Directive (EU) 2019/1970 and do not require performers and other film workers to sign "buy-out" contracts whereby rights to future residual payments for work on a qualifying film are removed.

No. 49 of 2025: Taxes Consolidation (Development of Regional Film Industry) (Amendment) Bill 2025

This Bill aims to amend the Taxes Consolidation Act 1997 to enable the Minister for Culture, Communications and Sport to identify regions of low audiovisual capacity and to include measures in the industry development test for s481 tax relief for investment in films to promote the development of audiovisual production outside existing major production hubs.

Selected Statutory Instruments from 1 May to 31 July 2025

No. 155 of 2025: Finance Act 2015 (Section 32(1)(B)) (Commencement) Order 2025

This Order appoints 19 May 2017 as the day on which s32(1)(b) of the Finance Act 2024 is deemed to have come into operation. Section 32(1)(b) extends the Knowledge Development Box tax deduction (which is equal to 20% of qualifying profits in relation to research and

development) to companies with income arising from intellectual property of less than €7.5m. Expenditure incurred by a company wholly and exclusively in the carrying on by it of research and development activities in the European Economic Area where such activities lead to the development, improvement or creation of a qualifying asset is allowable as a tax deduction under the Knowledge Development Box regime.

No. 158 of 2025: Finance Act 2024 (Section 48) (Commencement) Order 2025

SI 158 of 2025 appoints 2 May 2025 as the day on which s48 of the Finance Act 2024 came into operation. Section 48 of the Finance Act 2024 amends s481 of the Taxes Consolidation Act 1997 to include an increased film corporation tax credit of 40% to be made available to producer companies where a qualifying film is a lower-budget film (i.e. qualifying expenditure incurred on the production of the film is less than €20m) subject to certain conditions, as outlined in s481(1C)(c).

No. 197 of 2025: Film (Enhanced Credit for Lower Budget Film) (Amendment) Regulations 2025

These Regulations amend the Film Regulations 2019 to insert Regulation 3B, which outlines the process for an application for enhanced credit for a lower-budget film. Under this process an application for a certificate issued under s481(2)(a) of the Taxes Consolidation Act 1997 to specify that the enhanced credit for a lower-budget film may apply shall be made in writing to the Minister for Culture, Communications and Sport, who shall set out the manner and format of this written application.

No. 325 of 2025: Companies (Corporate Governance, Enforcement and Regulatory Provisions) Act 2024 (Commencement) Order 2025

These Regulations appoint 16 July 2025 as the day on which s22 of the Companies (Corporate Governance, Enforcement and Regulatory Provisions) Act 2024 comes into operation. Section 22 substitutes a new section for s363 of the Companies Act 2014. Under the new s363 small companies will not be entitled to an audit exemption for the two financial years immediately succeeding a financial year in which such a company made a late filing of its annual return, provided that the company has previously failed to file an annual return on time in any of the five financial years immediately preceding the relevant financial year. Under the previous version of s363 a small company lost its audit exemption the first time it made a late filing of its annual return.

No. 327 of 2025: Value-Added Tax (Restriction of Flat-Rate Addition) Order 2025

This Order states that the VAT flat-rate addition shall not apply to the supply of an agricultural service of a kind specified in paragraph (d) of Part 2 of Schedule 4 of the Value-Added Tax Consolidation Act 2010 (i.e. stock minding, rearing and fattening) that is provided on or after 1 September 2025 in the course of the production of broiler chickens.

No. 341 of 2025: Finance (Local Property Tax and Other Provisions) (Amendment) Act 2025 (Commencement) Order 2025

This Order appoints 21 July 2025 as the day on which Parts 1 and 2 of the Finance (Local Property Tax and Other Provisions) (Amendment) Act 2025 (No. 6 of 2025; "the Act") come into effect. Part 1 of the Act sets out the short title of the Act, and Part 2 sets out the amendments to be made to the Finance (Local Property Tax) Act 2012, including the expanded LPT exemption for residential properties that have been damaged as a result of the use of defective concrete blocks in construction, the increased LPT valuation bands and the increased rates of LPT. Section 9 of Part 2 of the Act shall not come into operation until 1 January 2026. Section 9 amends s20 of the Finance (Local Property Tax) Act 2012, which grants a local authority the power to vary the basic rate. From 1 January 2026 the local adjustment factor to be exercised by the local authority in relation to LPT shall not increase the basic rate by more than 25% or decrease the basic rate by more than 15%. Previously, the basic rate could not be adjusted up or down by more than 15%.

Tax Appeals Commission Determinations

Catherine Dunne
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Income Tax

74TACD2025–77TACD2025, 88TACD2025, 90TACD2025–96TACD2025, 98TACD2025–101TACD2025, 103TACD2025–106TACD2025, 108TACD2025, 109TACD2025, 111TACD2025–113TACD2025, 115TACD2025–119TACD2025, 124TACD2025–151TACD2025, 153TACD2025–156TACD2025, 177TACD2025–180TACD2025, 185TACD2025

More than 70 appeals concerning assessments to income tax by those who participated in the Liberty Syndicates

Case stated requested: Unknown

89TACD2025

Appeal regarding the application of the Employment Wage Subsidy Scheme and the requirement that a business would experience a 30% reduction in turnover

s28B Emergency Measures in the Public Interest (Covid-19) Act 2020

Case stated requested: Unknown

102TACD2025

Appeal regarding the removal of PAYE credits owing to outstanding tax liabilities

s10 TCA 1997; s997A TCA 1997

Case stated requested: Unknown

114TACD2025

Appeal regarding treatment of an initial appeal on subsequent issue of amended/reduced tax assessment

s949G TCA 1997; s949J TCA 1997; s949N TCA 1997; s955 TCA 1997

Case stated requested: Unknown

120TACD2025

Appeal regarding application of the four-year statutory limitation period

s865 TCA 1997

Case stated requested: Unknown

152TACD2025

Appeal regarding tax liability arising from payments made under the Temporary Wage Subsidy Scheme

s28 Emergency Measures in the Public Interest (Covid-19) Act 2020

Case stated requested: Unknown

159TACD2025

Appeal regarding liability to income tax raised by the Criminal Assets Bureau

s58 TCA 1997

Case stated requested: Unknown

163TACD2025

Appeal regarding application of the four-year statutory limitation period

s865 TCA 1997

Case stated requested: Unknown

166TACD2025

Appeal regarding application of the four-year statutory limitation period

s865 TCA 1997

Case stated requested: Unknown

Income Tax & CGT

182TACD2025–184TACD2025

A series of appeals linked to Tax Appeals Commission determination 42TACD2024 regarding assessment to income tax in respect of liquidation proceeds received from company not tax resident in Ireland

s740 TCA 1997; s743 TCA 1997; s745 TCA 1997

Case stated requested: Unknown

Income Tax – Start-Up Capital Investment Relief

107TACD2025

Appeal regarding application of relief for investment in corporate trades

s490 TCA 1997

Case stated requested: Unknown

Corporation Tax

157TACD2025

Appeal regarding calculation of taxable trading income and treatment of foreign royalty withholding tax as a deductible expense

s76A TCA 1997; s81 TCA 1997; s826 TCA 1997; Sch. 24 TCA 1997

Case stated requested: Unknown

162TACD2025

Appeal regarding treatment of foreign royalty withholding tax incurred on charges for the use of intellectual property

s76A TCA 1997; s77 TCA 1997; s826 TCA 1997; s949AN TCA 1997; Sch. 24 TCA 1997

Case stated requested: Unknown

165TACD2025

Appeal concerning whether expenditure incurred on the development of an aggregated service desk and portal through which virtually or remotely accessible IT services could be availed of by customers constituted expenditure on research and development

s766 TCA 1997

Case stated requested: Unknown

168TACD2025

Appeal regarding arrears of salary taxable on the receipts basis rather than the earnings basis

s531AN TCA 1997

Case stated requested: Unknown

169TACD2025

Appeal regarding the application of the artists' exemption

s195 TCA 1997

Case stated requested: Unknown

170TACD2025

Appeal regarding collection of underpaid income tax owing to a systems error that led to the issuing of incorrect tax credits

s960C TCA 1997

Case stated requested: Unknown

171TACD2025

Appeal regarding the denial of a claim to Great Britain Preferential Origin on importation of goods on the basis of incomplete statement of origins of goods in six customs declarations

Union Customs Code (Regulation (EU) No. 952/2013 of the European Parliament and the Council of 9 October 2014 laying down the Union Customs Code)

Case stated requested: Unknown

173TACD2025

Appeal regarding the calculation of tax on income from employments

s112 TCA 1997

Case stated requested: Unknown

175TACD2025

Appeal regarding the refusal to allow the home carer tax credit for the appellant's husband where he was awarded but did not receive the invalidity pension

s112 TCA 1997

Case stated requested: Unknown

VAT

161TACD2025

Appeal regarding application of the four-year statutory limitation period

s119(1)(h) VATCA 2010

Case stated requested: Unknown

164TACD2025

Appeal regarding refusal to grant application for VAT registration

s5 VATCA 2010; s6 VATCA 2010; s65 VATCA 2010

Case stated requested: Unknown

Customs & Excise

97TACD2025

Appeal regarding duties on importation of motor vehicles from Great Britain

Union Customs Code (Regulation (EU) No. 952/2013), Art. 5

Case stated requested: Unknown

158TACD2025

Appeal regarding ownership of and liability for customs debt between agent and importers

Union Customs Code (Regulation (EU) No. 952/2013)

Case stated requested: Unknown

VRT

79TACD2025

Appeal regarding application of late-registration penalties for VRT

s145 Finance Act 2001

Case stated requested: Unknown

110TACD2025

Appeal regarding VRT charge based on different methods of CO_2 emissions calculations

s132 Finance Act 1992

Case stated requested: Unknown

121TACD2025

Appeal regarding the open-market selling price in respect of the calculation of VRT

s133 Finance Act 1992

Case stated requested: Unknown

167TACD2025

Appeal regarding a demand for repayment of a refund of VAT and VRT that the appellant received under the Disabled Drivers and Disabled Passengers (Tax Concessions) Regulations 1994, after the disposal of a motor vehicle within the two-year retention period without exceptional circumstances

Disabled Drivers and Disabled Passengers (Tax Concessions) Regulations 1994 (SI 353 of 1994)

Case stated requested: Unknown

174TACD2025

Appeal regarding refusal of transfer-of-residence relief by Revenue in respect of VRT on the ground that the appellant's normal residence outside the State for the relevant period had not been proven

s134 Finance Act 1992; Vehicle Registration Tax (Permanent Reliefs) Regulations 1993 (SI 59 of 1993)

Case stated requested: Unknown

RCT

160TACD2025

Appeal regarding application of the four-year statutory limitation period

s865 TCA 1997

Case stated requested: Unknown

Stamp Duty

172TACD2025

Appeal regarding refusal of a claim for repayment of stamp duty on the ground that the appellant's claim was made outside the four-year statutory limitation period

s83D SDCA 1999; s159A SDCA 1999

Case stated requested: Unknown

176TACD2025

Appeal regarding refusal of a claim for repayment of stamp duty on the ground that the appellant's claim was made outside the four-year statutory limitation period

s83D SDCA 1999; s159A SDCA 1999

Case stated requested: Unknown

Artists' Exemption

78TACD2025

Appeal regarding the application of the artists' exemption

s195 TCA 1997

Case stated requested: Unknown

181TACD2025

Appeal regarding the application of the artists' exemption

s195 TCA 1997

Case stated requested: Unknown

EWSS

122TACD2025

Appeal regarding application of the Employment Wage Subsidy Scheme and the requirement that a business would experience a 30% reduction in turnover

s28B Emergency Measures in the Public Interest (Covid-19) Act 2020

Case stated requested: Unknown

123TACD2025

Appeal regarding application of Employment Wage Subsidy Scheme and the requirement that a business would experience a 30% reduction in turnover

s28B Emergency Measures in the Public Interest (Covid-19) Act 2020

Case stated requested: Unknown

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Navigating Transfer Pricing in an AI-Driven Tech Landscape

Introduction

Over the past several months the tax and consulting world has witnessed first-hand how AI will continue to revolutionise industries – both by creating new products and associated income streams and by driving efficiencies and productivity, leading to unprecedented cost savings.

International tax and transfer pricing (TP), hardly straightforward, become even more complex with these recent AI-initiatives. This complexity is driven by increasingly intricate supply chains, creation of novel intellectual property (IP) assets, new value drivers necessitating reward mechanisms, and specialised digital hubs centralising AI functions and creating what is called in the TP world, "digital principal models". Businesses now need to determine how these costs should be absorbed and recharged through the multinational enterprise (MNE) group and how potentially enhanced profits/cost savings from AI should be reasonably attributed.

This article seeks to shed light on some of these new challenges faced by tax professionals, the tax risks that new tech and AI initiatives might create, and the opportunities that could be generated.

AI 101 (or Is It AI 301?)

AI technologies and their linkage with transfer pricing can seem overwhelming unless the technologies are first segmented in a manner

that allows us to delineate their use-cases, the intangibles and the unique value drivers at play. In the last couple of years AI capabilities have evolved from focused task automation to autonomous systems – and this evolution has had a direct impact on how value is created, where intangibles reside and how functions should be rewarded for TP purposes. We attempt below to break down into incremental steps the ever-evolving AI progression, with some practical examples to help put the technology landscape into perspective.

Narrow AI

Most businesses and consumers have interacted with artificial narrow intelligence (ANI) in some form, and it remains the most prevalent form of AI today, programmed to perform narrow tasks extremely well. ANI systems are heavily efficient but lack general intelligence and cannot perform tasks outside their programmed scope. For instance, banks and financial institutions have invested significant resources in building sophisticated fraud detection systems that use ANI to analyse vast amounts of transaction data in real time. These programs and systems can identify unusual patterns (at scale) that suggest fraudulent activity (e.g. a sudden large purchase in a foreign country inconsistent with usual spending habits) with high accuracy, flagging it for human review.

Generative AI and large language models

This is where it starts getting interesting, and where we have seen the most "action" in the last 12–15 months. Generative AI (GenAI) builds on ANI and focuses on creating **new** content, data or designs that are novel but often resemble the data that they were trained on. Large language models (LLMs) are the most prominent and visible type of GenAI, and the generative capability spans multiple modalities, as discussed below.

LLMs for text

Trained on enormous datasets of text and code, LLMs (such as those powering ChatGPT or Gemini) understand, generate and manipulate human language. Researchers could use an LLM to automatically summarise vast quantities of research papers and market data to draft initial versions of white papers. LLMs enable customer service chatbots to engage in more natural, flowing conversations, resolve complex queries by accessing and synthesising information from multiple sources, and even adapt their tone to the user's sentiment, leading to improved customer satisfaction.

GenAI for images, media and 3D modelling

These GenAI models can create highly realistic or stylised images from text descriptions, human-like speech (text-to-speech) for voiceovers and podcasts, musical compositions for corporate ads and 3D objects for gaming environments. For instance, marketing agencies have begun using GenAI to rapidly prototype visual advertisements, social media graphics or product mock-ups simply by describing the desired outcome (e.g. "a photorealistic image of a new smartphone on a marble countertop with soft lighting"). This dramatically speeds up the creative process and allows for extensive A/B testing of visuals.

Agentic AI systems

This represents the next frontier, one where we see perhaps the most significant growth over the next 8–12 months. This is where AI moves beyond simply responding to prompts or executing predefined tasks and becomes more autonomous and goal-driven with minimal human intervention. The program asset is now able to automate a sequence of tasks, often across different software systems, and is able to make autonomous decisions on which external tool (e.g. APIs, databases, other AI models) should be used and when, to accomplish the programmed "goal".

Businesses are beginning to deploy agentic AI to triage customer inquiries, perform initial troubleshooting, access multiple databases (CRM, knowledge bases, order systems) and even initiate actions such as refunds or re-orders without human intervention. Agentic supply-chain solutions are now being offered in the market that can dynamically match buyer and supplier needs, monitor inventory levels, predict demand fluctuations and autonomously

adjust orders or reroute shipments based on real-time data (e.g. traffic, weather, port congestion), significantly reducing operational costs. Agentic IT support solutions can monitor system performance, detect anomalies, diagnose root causes and even initiate "self-healing" actions for IT infrastructure issues without human intervention.

Artificial general intelligence: human-level AI

Although it is still science-fiction as this is written, artificial general intelligence (AGI) is what AI researchers are striving for: a hypothetical stage where AI systems can understand, learn and apply intelligence across a broad range of tasks at a human cognitive level, rather than being confined to specific domains. AGI would possess commonsense reasoning, creativity and the ability to transfer knowledge between entirely different areas without explicit retraining for each new scenario.

Although it is harder to conceptualise AGI practically, an AGI system could theoretically be tasked with finding a cure for a disease. It would not just analyse existing research (like narrow AI) or run pre-programmed experiments (like agentic AI) but could autonomously formulate new hypotheses, design experiments, operate robotic lab equipment, interpret results and iterate on its approach, potentially leading to breakthroughs in a fraction of the time that a human research team would require. Its ability to "think" across disciplines (chemistry, biology, engineering for robotics) would be a key differentiator.

The Elephant in the Room

Although it is clear that each of these AI evolutions results in a progressively larger "value-add" for the business, they bring forth a central question that we see tax practitioners and in-house tax professionals continue to grapple with: "how do we try to price this web of cross-jurisdictional interactions in the pursuit of developing AI solutions?". In our experience AI developments and deployments are happening at such speed that many organisations have not even come around to noticing this elephant in the room!

Transfer pricing dictates that we answer this question by understanding the core workings of an AI end-product at a more fundamental level, i.e. we need to examine what functions feed in to create an AI asset and what risks businesses have to consider while building these AI assets.

The AI Value-Chain Pyramid

We have identified and conceptualised four key "layers" of functionality that feed into the creation of an AI asset. We coin it the AI Value-Chain Pyramid.

The business strategy layer: "the buck stops with me"

This is the crucial first step that sits at the base of our pyramid. It is not about "building AI for AI's sake" but identifying a clear business problem or opportunity that AI can address. This includes defining the specific use-case, measurable objectives (KPIs), scope and desired outcomes and identifying key stakeholders, e.g. "improve fraud detection accuracy by 15%". It's equally about allocating the resources to the project and making the "decision" to invest in building an AI asset.

In our experience some in-house AI teams are still taking shape, as is the case with some scaling Irish tech start-ups. At this end of the spectrum, AI decisions are typically highly centralised under the chief technology officer, who is heavily involved in all decisions spanning AI strategy, budget allocation, setting stage-gate processes and milestones, and the day-to-date operations. At the other end of the spectrum, more established teams in larger technology groups can be decentralised, with modular teams given a high degree of autonomy over, as well as accountability for, decisions that each "project-lead" might take. In the big-tech landscape the "business strategy" layer of the

AI Value-Chain Pyramid is typically owned by a cohort of senior management leaders, including but not limited to the chief executive officer, the chief digital officer, the chief innovation officer, the AI product manager and other business leaders who typically sit on steering committees assigned with leading AI initiatives.

Ascertaining and pinpointing decision-making naturally gets more nuanced under larger organisations or organisations where senior decision-makers are scattered between multiple jurisdictions. It is, however, crucial to undertake this "fact-finding" exercise to understand how key decisions pertaining to the AI value-chain are made in the organisation. The OECD Transfer Pricing Guidelines, adopted into Irish law, emphasise (put simply) that returns – both positive and negative (i.e. losses) – should be attributed to those who "control economically significant risks".[1] The business strategy layer of the pyramid controls the risks of the AI asset's not being the right market fit, not being deployed effectively across the organisation, not securing adequate capital to fund the initiative, being "late" to the go-to-market strategy and consequently missing out on any competitive positioning that may arise due to the "first-mover advantage" etc.

The data layer: and the perennial question, "Is data the new oil?"

AI models learn from data, so acquiring high-quality, relevant and sufficiently large datasets is paramount. This becomes the second layer in our pyramid. It includes:

- **Sourcing**: Identifying internal (CRM, ERP, operational logs, customer interactions) and external (public datasets, third-party data providers, web scraping) data sources.
- **Cleaning and preprocessing**: Handling missing values, removing inconsistencies, standardising formats, de-duplication and transforming raw data into a usable format.
- **Labelling/annotation**: For supervised learning, human annotators often label data (e.g. tagging images, transcribing audio, classifying text sentiment) to provide the "answers" that the model learns from. This is a highly labour-intensive but critical step.
- **Feature engineering**: Selecting, transforming or creating new variables (features) from the raw data that can improve model performance.
- **Splitting**: Dividing the dataset into training, validation and test sets to ensure robust model evaluation and prevent overfitting.

Examples include gathering millions of customer chat transcripts to train an LLM model; collecting images of defective products to train a computer vision model; and aggregating sensor data from industrial machinery for predictive maintenance. The key question that TP practitioners, tax authorities and business leaders need to ask is how "valuable" this data is in the context of training their models (described in the step below). The uniqueness of the data, whether it is possible to gather it externally, the quality of the data and its direct relevance to the AI model conceived become critical in ascertaining the "value" that we would look to ascribe to the data feeding the models. It gets murkier when valuable data may at times be gathered only as a result of an existing proprietary product/service offering. This begs the question of whether it is "data" that is valuable or other value-drivers that make the data valuable.

What does all of this mean for transfer pricing? Perhaps unsatisfactorily for some, it is impossible to have a one-size-fits-all approach for organisations, and they need to consider these implications proactively in designing and running their TP policies. Proprietary data is likelier to warrant a return, and teams (including data engineers, analysts, stewards and AI data annotators) and their associated leaders that work with proprietary data may need to be adequately rewarded for the risks that they control and the data's sensitivity being the differentiator between an AI initiative being a success or a failure.

1 Para. 1.65 read with para. 1.100 of the 2022 OECD *Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations*.

The model layer

The third layer of our AI Value-Chain Pyramid includes selecting the appropriate AI model architecture (e.g. neural networks, decision trees, specific types of transformers for LLMs) based on the problem and data type. For custom solutions this involves designing and refining the algorithms that underpin the AI model. It then involves feeding the prepared data to the chosen model, allowing it to learn patterns and relationships. This is computationally intensive, requiring specialised hardware. The model, once designed, is then assessed against defined metrics to ensure that it meets business objectives. This includes testing and evaluating the model on unseen test data to ensure that it generalises well and is not just memorising the training data; conducting bias and fairness checks that identify and mitigate biases in the model's outputs (e.g. if a hiring AI disproportionately favours certain demographics); and conducting tests for robustness, i.e. how the model performs under unexpected or "edge-case" inputs.

The model layer currently comprises the most sought-after jobs and teams, with big tech willing to invest in top-tier talent that is currently very scarce, such as data scientists who are responsible for designing and developing AI models, selecting algorithms, conducting experiments, performing statistical analysis and interpreting model results.

We often get a technical question from clients – "Granted these personnel are critical, but isn't the senior leadership really driving the agenda and thereby warranting the entrepreneurial return?". It is a valid question, and the same principles of control of risks apply here – however, it is pertinent to note from the OECD Guidelines that "the capability to perform decision making functions…involves an understanding of the risk…Decision makers should possess competence and experience in the area of the particular risk…and possess an understanding of the impact of their decisions on the business".[2] In a scenario where the senior executives rely unilaterally on the judgement of these data scientists and machine learning engineers that are involved in this "model" layer of functionality and the executives lack evidence of having the expertise and experience to "control" the key risks pertaining to developing AI solutions, MNEs will likely be questioned by tax authorities on whether the "residual return" from AI assets should flow back to jurisdictions where these technical AI personnel are based.

That said, the mere pay scales of roles (although they are somewhat indicative of value) should not necessarily dictate TP policies and de-facto warrant an entrepreneurial/profit-based return. The question of who controls the risks and whether this "control" is split between the business leaders and the AI technicians is one of fact; and a deep understanding of decision-making functions/processes, RACI matrices, stage-gate processes and steering committees specific to each organisation would shed light on how profits generated from these AI assets should be attributed and allocated between senior executive management and senior AI technicians, following TP principles.

The deployment, infrastructure and governance layer

The last layer of the AI asset is responsible for making the trained AI model accessible for real-world use, integrating it with existing systems and ensuring that it runs efficiently and reliably. This layer continuously tracks the AI model's performance, detects "drift" (when the model's accuracy degrades), retrains the model with new data, manages prior versions and ensures ongoing security and compliance. Tax and TP professionals are advised not to dismiss this final layer of the AI Value-Chain Pyramid as being less important merely because it might not have the data scientists and CTOs working on the deployment and infrastructure. For instance, data infrastructure and the increasing use of data centres have recently triggered interest from tax authorities, and it should be determined whether the traditional view

2 Para 1.66 of the 2022 OECD *Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations*.

of these as routine activities earning routine returns remains appropriate.

The pyramid is finally complete, and an AI asset is created – which brings us to the last fundamental question that we try to answer in this article.

Do All AI Intangibles Warrant a 'Super-Normal' Return for Transfer Pricing Purposes?

We have sought to articulate what might constitute an AI asset; whether it can be classified as an intangible that warrants a super-normal or entrepreneurial return under TP principles is a connected but more nuanced question. Transfer pricing rules define intangibles specifically as assets that are capable of being owned or controlled for use in commercial activities. Does that mean that all outputs – algorithms, codes and models – used by MNEs get classified as IP for TP purposes? Not necessarily.

The litmus test is whether that output is both "unique" and "valuable", in other words, whether it is *expected to yield greater future economic benefits than would be expected in the absence of the intangible*. This needs to be assessed qualitatively and quantitatively by business leaders in conjunction with their tax teams. Common pitfalls that we have seen groups face include relying solely on their accounting teams and corporate tax teams (i.e. whether costs are treated revenue or capital in statutory accounts or tax returns) without broadening the remit to economic principles that guide TP rules. In other words, even though a certain technology or trade secret is yet to be patented (or may never be), it could potentially still be a unique and valuable intangible for transfer pricing purposes.

Leaders should ensure that intangibles are identified with specificity, mapped out to the segment of AI tech that they fall under. For example, a "real-time object-tracking algorithm" is likely to be IP for a firm operating in the computer vision space, the team working on linguistic model optimisation is likely to create unique and valuable IP for an MNE group that specialises in LLM. The tax function in MNEs is recommended to collaborate adequately with the technology and AI adoption teams to identify relevant new intangibles that might have been created in the past period and price them commensurately. Whether this AI intangible should be priced using a one-sided benchmarked return (e.g. benchmarked royalty rate) or warrants a "residual" entrepreneurial return needs to be assessed in the context of the overall value chain and how the new AI intangible alters the legacy framework of how "value" is created within an MNE.[3]

New Status Quo not "FAR": The Emergence of Digital Principals?

Identifying business value-drivers is at the heart of TP principles. Functions and teams that create value and strategic competitive advantage for the business are typically rewarded with a TP policy that allows them to retain entrepreneurial profits/losses generated from the MNE business, whereas other functions are rewarded with a more "routine" return, typically a profit mark-up over its costs.

We are in a fast-evolving landscape, and AI assets and initiatives have the potential of materially altering the legacy value-chain for businesses. This needs to be examined closely. Even if it is ascertained that there is no specifically identifiable intangible, the question remains of how any new functions/teams should be rewarded and whether this puts pressure on the existing TP policy of the group.

Tax practitioners and policy analysts may, equally, need to embrace a "blue-sky" thinking in going back to the drawing board on how to approach fundamental TP analyses in the context of a post-AI "new normal". The traditional transfer pricing framework, anchored in understanding functions performed, assets

3 Para 1.51 of the 2022 OECD *Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations.*

owned and risks borne ("FAR analyses") by each intragroup entity, has long served as the bedrock for allocating profits within multinational enterprises. AI's ability to automate complex functions potentially diminishes the relative weight of human-performed functions, pushing the spotlight toward AI assets, the decisions to fund and invest in AI assets, and how the associated risks are controlled within the organisation. This may herald a change in the growing primacy of functions in assessing TP that has been evident since the OECD's BEPS project.

In our experience business and tax models are evolving to keep up with the change. "Digital principal" models are being considered by MNEs (with Ireland an attractive location), and although these models come with their benefits, it becomes critical for digital principals to own key components of the AI Value-Chain Pyramid.

These may include (but not be restricted to) setting the AI strategy and vision; defining the overall AI roadmap; setting long-term objectives for AI adoption; determining how AI integrates with the core business strategy; leading fundamental AI research; gathering big data and making it "usable" for AI; developing proprietary algorithms; designing and training foundation models (e.g. bespoke LLMs); creating novel AI-driven applications; overseeing the acquisition, normalisation, governance, security, and strategic use of the vast datasets critical for AI; directing and coordinating AI development and deployment activities across various subsidiaries or functional teams globally; identifying, assessing, and mitigating risks inherent in AI; and last (but not least) securing and allocating capital for AI R&D infrastructure and strategic partnerships.

This might seem like everything plus the kitchen sink – but hopefully it gives a glimpse into the vast array of functions and teams that are touched by the AI landscape. For the sake of clarity and perhaps to state the obvious, not all AI teams are expected to be housed in the AI/digital principal entity to justify the structure.

In an AI-driven world the challenge for digital principals, especially in Ireland, will be to articulate and demonstrate clearly in their TP documentation how their highly skilled teams (e.g. AI research scientists, AI architects, chief AI officers) actively perform the critical DEMPE[4] functions over cutting-edge AI intangibles, control the associated high risks and truly drive the value creation for the entire MNE group.

The Road Ahead

Tax functions and executives of MNEs betting on AI are advised to examine their transfer pricing policies closely and determine whether they remain fit for purpose and aligned with their AI initiatives. Doing so contemporaneously and proactively will help MNEs with their global tax-planning strategies while avoiding creating risks in existing intercompany arrangements. In-house tax and TP teams will need to be included in businesses' AI journey and be active participants to advise senior management on senior hiring guardrails, substance and governance processes, the commercial feasibility of setting up digital principal hubs and evidencing how AI decisions are made and risks controlled. In this fast-changing environment the cost of inaction has never been greater.

4 Development, enhancement, maintenance, protection and exploitation functions within an IP context, as contained in Chapter VI of the 2022 OECD *Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations*.


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Resetting EU Tax: The Spotlight Turns to Ireland Amid Challenge and Change

Introduction

The influence of the European Union (EU) on Ireland's taxation strategy cannot be overestimated. The myriad of EU tax rules implemented in Ireland over the last decade is evidence of this strong influence. Although Ireland retains sovereignty over its direct tax decisions, the European Commission, as the EU's legislative arm, has provided the EU Member States with many rules and Directives to adopt.

This trend is set to continue. A new European Commission has recently been appointed for the 2024–2029 term, and it has agreed a busy agenda with the following tax priorities:

- finding new revenue sources to fund increasing EU needs;
- driving greater competitiveness, including through simplification of taxes;
- delivery of the EU Green Deal introduced by the previous Commission; and
- maintaining relationships with international partners on global tax priorities.

We aim to provide a summary of the key EU tax developments, in addition to contextualising and mapping out the individual policies with their macro-objective. It is timely as Ireland is now within 12 months of taking over the Presidency of the Council of the European Union (the "EU Council") and will be charged with setting the legislative agenda. Although Ireland can set the course for its six-month Presidency term to a degree, ultimately the priorities and policies outlined in this article will steer the ship from a legislative agenda perspective.

The New European Commission: New Challenges, Preparing for Change

The Commission acts as the EU's executive branch. It works alongside the European Parliament and the EU Council to deliver legislative proposals and ensure that EU rules are adhered to. It is responsible for proposing legislation, and therefore we see legislative proposals originating with the Commission before moving for consideration by the other two institutions.[1]

The Commission's last term was occupied with issues such as the European Green Deal, finalising Brexit and handling the crises of Covid-19 and Russia's invasion of Ukraine. Going into this term, the Commission's key priorities remain largely the same, in addition to security and defence, which feature much more prominently. A common theme is the need for new sources of tax revenue to finance continued investment in EU infrastructure, to support EU citizens and to protect borders.

The New European Commission: Who Has a Tax Role?

The College of Commissioners is made up of Commissioners from the 27 EU countries. Together, these 27 Commissioners are appointed as the Commission's political leadership for a five-year term. The current President is Ursula von der Leyen (Germany), now in her second consecutive term. She will guide the Commission from 2024 to 2029.[2]

Unlike in previous terms, the latest Commission is focused on "de-siloing". Although each Commissioner still heads a Directorate-General, there is now an emphasis on collective responsibility for all areas, rather than each Commissioner's being responsible only for the performance of his or her own department.

Tax is a key part of the portfolio held by Commissioners Wopke Hoekstra and Valdis Dombrovskis. Commissioner Hoekstra focuses on climate-friendly taxation, closing the tax gap, combating tax fraud, simplifying the EU tax system and supporting international cooperation on the taxation of the digitalised economy. Commissioner Dombrovskis is the lynchpin of the EU's efforts to simplify tax policy. Commissioner Teresa Ribera is tasked with competition policy, including State Aid and the Foreign Subsidies Regulation, ensuring fair competition within the EU.

Competitiveness as an Economic Priority

Europe's competitiveness globally relies on a well-oiled Single Market, ensuring free access to goods and services that EU supply chains need. Although there are 450 million consumers in the EU, European businesses reach across the globe, and so the EU needs to support businesses to compete outside the Single Market. Similarly, investment from outside the EU can maximise the growth potential of local enterprises. An attractive investment landscape is needed to maintain this FDI pipeline.

President von der Leyen, aware that there are challenges that limit the EU's ability to attract and cultivate the cutting-edge, high-growth industries needed for it to compete with other global powers, commissioned two reports to

1 For a full explanation of the EU legislative process, see this article by the European Commission.

2 European Commission, "College of Commissioners", available at https://commission.europa.eu/about/organisation/college-commissioners_en

outline the challenges and recommendations from prominent economic experts:

- Mario Draghi, former President of the European Central Bank,[3] and
- Enrico Letta, former Prime Minister of Italy.[4]

These are referred to as "The Draghi report" and "The Letta report".

The Draghi and Letta Reports: Blueprints for Competition

The Letta report examined the future of the EU Single Market, addressing how it could be deepened and modernised to ensure Europe's competitiveness, resilience and strategic autonomy in the face of global competition, digital transformation and the green transition. The report aimed to identify barriers that still hold back the full potential of the Single Market and to propose reforms that would allow it to serve citizens and businesses better.

The Draghi report, by contrast, focused on the broader economic and industrial competitiveness of the EU, analysing the structural challenges facing the EU economies, including investment gaps, innovation deficits, policy inconsistencies and the need for, in particular, a more coordinated industrial policy. His report provided recommendations on how the EU can strengthen its economic foundations, foster sustainable growth and maintain its position on the global stage.

Draghi calls for investment of €750–800bn per year to achieve the last objective above. His strategic response would focus on three main areas: closing the innovation gap with the US and China; delivering a climate-focused competitive economy; and increasing security, thereby reducing dependencies on foreign territories and markets. Tax would play a role, with tax incentives in particular being proposed.

The findings from and recommendations of the Draghi and Letta reports have been broadly welcomed and are expected to inform the EU's strategic agenda for the coming years, shaping policies that will drive integration, innovation and prosperity across the Union.

Ireland to Take up EU Council Presidency in Q3 2026

Ireland's upcoming Presidency of the EU Council is a significant undertaking, offering both opportunities and responsibilities for the country. As President, Ireland will have the ability to influence the EU's priorities by setting the agenda for Council meetings, allowing it to highlight issues that are important both to the country and to the Union as a whole. This role offers Ireland the opportunity to promote national interests and priorities while enhancing its visibility and showcasing its leadership and diplomatic abilities.

Member States holding the Presidency work together closely in groups of three, called "trios". The trio sets long-term goals and prepares a common agenda determining the topics and major issues that will be addressed by the Council over an 18-month period. Based on this programme, each of the three countries prepares its own, more detailed, six-month programme. Ireland will form a trio with Lithuania and Greece. The common goals and agenda of this upcoming trio for July 2026–December 2027 have not yet been announced.

The role is not without its challenges. It demands significant administrative and diplomatic resources, requiring extensive preparation and coordination and acting as a fair and neutral facilitator for all Member States. The Presidency may also coincide with complex policy debates or crises, which will require effective negotiation skills and crisis management. Ireland's Presidency will be a prestigious opportunity to influence EU policy

3 Mario Draghi, "The Future of European Competitiveness", available at https://commission.europa.eu/topics/eu-competitiveness/draghi-report_en#paragraph_47059

4 Enrico Letta, "Much More Than a Market", available at https://www.consilium.europa.eu/media/ny3j24sm/much-more-than-a-market-report-by-enrico-letta.pdf

and demonstrate leadership, but it also brings considerable responsibilities and challenges.

Changing Tax Mix

As noted above, the EU is cognisant that new tax sources must be found to meet future needs. The tax mix has already been changing to a limited degree in recent years, but there is a growing school of thought that we need to move away from relying so heavily on labour taxation and look towards climate taxation, indirect taxes such as digital services taxes, taxing high-net-worth individuals at a minimum rate, taxing artificial intelligence (AI) and other sources. Some of the more recently debated ideas are set out below. It should be noted that the Commission has very limited power to influence the tax mix of the individual Member States, except through the European Semester mechanism.

Indirect taxes: DSTs and others

Digital services taxes (DSTs) have been introduced by various countries, primarily to raise revenue from large companies that operate across borders and provide certain types of services, such as advertising or online platforms. The argument in favour of DSTs is that these companies should contribute more to the tax base of the countries where their end user is located.[5] As well as DSTs, jurisdictions have implemented cultural taxes trying to achieve similar results. The European Parliament has debated the introduction of an EU-wide DST.

However, critics argue that DSTs and similar taxes distort the market by disproportionately targeting US firms, creating an uneven playing field between domestic businesses and multinational tech companies. Consequently, DSTs are becoming ever-more contentious as the current US Administration perceives them as a direct attack on its tech industry. DSTs remain highly debated, as countries attempt to balance taxation fairness, economic competitiveness and international diplomacy.

Taxing high-net-worth Individuals

A report[6] was recently commissioned by the G20 Brazilian Presidency to provide a blueprint for a multilateral and coordinated minimum tax on ultra-high-net-worth individuals (UHNWIs). It proposes that individuals with more than USD1bn in wealth be required to pay a minimum amount of tax annually, equivalent to 2% of their wealth. It is estimated that such a tax could raise up to USD250bn annually if levied on billionaires and USD380bn if levied on centimillionaires.

Applying such a tax across the EU Member States was one of the key topics at the 2025 EU FISC Tax Symposium, and there were arguments for and against its introduction. As we have learned from BEPS Pillar Two, there is an innate risk where only one nation or bloc, such as the EU, would adopt a wealth tax. Because HMWIs are generally globally mobile, they could emigrate to avoid the wealth tax (bringing their investment and businesses with them), which can attract tax competition in this area. Accordingly, international coordination would be essential to prevent a "race to the bottom" in taxing such individuals.

Taxing AI

Despite calls for proposals to tax AI from MEP and European Parliament FISC subcommittee Chair Pasquale Tridico, it is not expected that any concerted effort to generate significant tax revenues from AI will move forward in the short term. There are several issues that need to be considered first – for example, how to define what constitutes AI, at what level the tax should apply and the socio-economic problems associated with taxing technology that replaces traditional labour.

Budget for 2028–2034

Alongside the EU's focus on its agenda for 2024–2029, it must look ahead and consider the future needs of Europe and how these will be achieved. The Commission has proposed an almost €2tn budget for 2028–2034, to equip Europe to fund ambitious targets, confront challenges and strengthen its independence.

5 In 2024 France's 3% DST collected $866m, Italy's 3% tax $487m and Spain's 3% tax $442m, according to a report by the Computer & Communications Industry Association released on 8 July 2025 and available here.

6 Gabriel Zucman, "A Blueprint for a Coordinated Minimum Effective Taxation Standard for Ultra-High-Net-Worth individuals", available at https://gabriel-zucman.eu/files/report-g20.pdf

To achieve this goal, Europe must ensure that it has a modern and diversified revenue stream. The Commission has presented several new revenue streams, including:

- Corporate Resource for Europe (CORE) – this would be an annual lump-sum contribution by large companies (with net annual turnover of at least €100m) that are operating and selling in the EU. CORE is expected to generate around €6.8bn annually.
- Tobacco Excise Duty Own Resource (TEDOR) – this aims to raise minimum excise duty rates applying to tobacco products and would apply according to Member States' national rates. TEDOR is predicted to generate annual revenue of approximately €11.2bn.
- Non-collected e-waste – a uniform rate would apply to the weight of non-collected e-waste (electrical and electronic equipment) and is expected to generate annual revenue of close to €15bn.

To be implemented, the budget must achieve unanimous support from all Member States and be approved by the European Parliament.

Using Tax to Make the EU More Competitive

Harmonisation of EU taxes: a common tax base

Companies operating across multiple EU Member States face a new and oftentimes, quite different corporate tax system in each Member State. This requires taxpayers to spend time and resources on understanding and complying with local (often very complex) tax rules and risks discouraging companies from taking full advantage of the EU Single Market.

In September 2023 the Commission introduced the Business in Europe: Framework for Income Taxation (BEFIT) initiative, a proposal that would enable a common, EU-wide system for the calculation of the corporate tax base for large business groups. BEFIT is not significantly dissimilar from the Common (Consolidated) Corporate Tax Base (CCCTB) proposal, which has now been removed from the legislative agenda.

Progress on the BEFIT proposal has been slow for a number of reasons. One is that it was released soon after the Pillar Two Directive was agreed but adopted a method different from the Pillar Two method to determine corporate profits. Political appetite to progress what may seem to be to overlapping legislation, at a time when the simplification of EU rules is paramount, does not appear to be high at present. That said, technical analysis of the proposal continues, with the objective of preparing a discussion on the policy choices.

It is possible that the BEFIT proposal will be reimagined as part of the upcoming 28th legal regime, set to be published in early 2026 but currently subject to consultation.[7] The regime, announced earlier this year, would provide businesses in the EU with an optional "common" approach to legal, tax and regulatory matters, to try to alleviate some of the complexities associated with operating in 27 independent Member States.

Savings and Investments Union

The Savings and Investments Union (SIU) is a strategic initiative adopted by the European Commission in March 2025 to improve the way in which the EU financial system channels savings into productive investments. EU citizens have significant savings, estimated at €10tn in bank deposits, but a fragmented investment market stifles some of the growth opportunities. The aim of the SIU is to channel this private capital better, offering citizens broader access to capital markets and better financing options for companies. It offers citizens the opportunity to pursue better returns by investing directly in capital markets.[8]

7 European Commission, "28th Regime – a Single Harmonized Set of Rules for Innovative Companies Throughout the EU"; more details are available here.

8 European Commission, "Savings and Investments Union", available at https://finance.ec.europa.eu/news/savings-and-investments-union-2025-03-28_en

The SIU should help to provide the investment needed to address challenges such as climate and technological change. It will also support the EU's many small and medium enterprises (SMEs), which cannot rely solely on bank financing. By developing integrated capital markets, alongside an integrated banking system, the SIU can effectively connect savings and investment needs.

To encourage equity financing and venture capital, the Commission suggests tackling administrative burdens and tax barriers, and streamlining procedures such as restructuring and insolvency, while addressing the debt bias through proposals such as the Debt–Equity Bias Reduction Allowance (DEBRA).[9] Additionally, the Commission aims to harmonise national taxation procedures to minimise cross-border investment barriers, enhancing efficiency through initiatives such as the Faster and Safer Tax Relief (FASTER) Directive and promoting best practices among Member States.

FASTER Directive

The FASTER Directive entered into force on 30 January 2025. The main rationale behind the Directive is to aid cross-border portfolio investors, who are often subject to tax in more than one place when they receive a return on their investment(s). It is administratively burdensome to claim refunds of withholding taxes, and this may deter investors.

FASTER provides a solution by streamlining withholding tax relief procedures for investments in publicly traded securities within the EU, mitigating issues such as double taxation, onerous administration and tax fraud. The Directive promises benefits such as a standardised digital tax residence certificate (eTRC) and fast-track withholding tax frameworks, which are intended to strengthen the EU's capital markets union. However, for some, administrative requirements may increase under FASTER. The reporting and liability obligations for certified financial intermediaries (CFIs), implemented with the intention of fraud reduction, will be complex for CFIs to implement, possibly resulting in costs being passed through to investors indirectly.

The secondary objective of FASTER is to prevent tax-avoidance opportunities such as dividend-stripping schemes, as identified in 2017. Member States have until 31 December 2028 to transpose the Directive into national law; however, some countries, such as Germany, have indicated that they will be implementing FASTER earlier than required by the Directive. The Department of Finance has not yet indicated from when Ireland would implement the Directive.

Head Office Taxation

Another proposal is to establish a Head Office Taxation (HOT) system, to allow SMEs operating cross-border by way of permanent establishments the option to interact with only one tax administration, that of its head office. SMEs would calculate the taxable income of their head office and all relevant branches using only the tax rules of the Member State where the head office is located. This proposal has not progressed much since it was first proposed in September 2023. It is possible that it will be considered as part of other proposals that do not focus only on tax.

Simplification of the EU Tax and Regulatory Landscape

A new approach through omnibus packages

On 26 February 2025, the Commission released the first of several new packages of proposals to simplify EU rules, boost competitiveness and unlock additional investment capacity. This Commission plans to release legislative proposals in groups called "omnibuses", with different omnibuses having multi-purpose objectives. Some of these omnibuses will have tax implications to a greater or lesser extent.

9 Outside of the SIU, DEBRA was not expected to progress under this Commission.

The omnibuses released at the time of writing that have tax consequences include:

- Omnibus I:
  - simplifying and streamlining reporting requirements based on the Corporate Sustainability Reporting Directive (CSRD) and EU Taxonomy; and
  - simplifying the sustainability due diligence requirements based on the Corporate Sustainability Due Diligence Directive (CSDDD).
- Omnibus II: unlocking investment opportunities:
  - simplifying the Carbon Border Adjustment Mechanism (CBAM) (see below); and
  - the Clean Industrial Deal (see below).
- Omnibus IV: introduces a new category of small mid-cap enterprises (companies with fewer than 750 employees and up to either €150m in turnover or €129m in total assets) and additional measures to simplify regulations.

Addressing overlapping direct tax rules

In Q1 2026 the Commission is expected to launch a further omnibus package for tax legislation, with the aim of addressing overlapping legislation and providing more clarity on major tax Directives such as the Pillar Two Directive, the Anti-Tax Avoidance Directive (ATAD) and the Directive on Administrative Co-operation (DAC). It is expected that this omnibus proposal will be a mix of streamlining overlapping provisions and taking steps to ensure a more harmonised application of Directives (DAC6, in particular).

The Commission has already started to review both the ATAD and DACs 1–6, with public consultations held in 2024. Recently there have been suggestions that the "Unshell" economic-substance proposal would be implemented in DAC6 through new hallmarks. This is based on a May ECOFIN report, which stated that many Member States were of the view that the aims of Unshell could be achieved in the implementation of DAC6.

We also understand that the Commission has been in contact with the Member States in relation to potential modifications to the Parent–Subsidiary Directive, the Interest and Royalties Directive and the Merger Directive.

Indirect tax simplification

The VAT in the Digital Age (ViDA) initiative, adopted by the EU Council on 11 March 2025, seeks to modernise VAT compliance throughout the EU. Key measures include the introduction of single VAT registration and new rules for the platform economy from 1 July 2028 and mandatory e-invoicing and digital reporting for intra-EU transactions from 1 July 2030. These reforms require businesses to issue standardised electronic invoices within ten days of transactions and implement real-time digital reporting. These changes aim to improve transparency and reduce fraud but will require significant adjustments and resources from businesses to ensure compliance.

Transfer Pricing

In September 2023 the European Commission put forward its proposal for a Council Directive on Transfer Pricing. This proposal would incorporate the arm's-length principle and key transfer pricing rules in EU law, clarify the role and status of the OECD Transfer Pricing Guidelines and create the possibility of establishing common rules on specific aspects of the rules within the EU.

The EU Council analysed and discussed the proposal, but Member States had concerns about it and have so far been unable to come to an agreement.

Delivering on the EU Green Deal in this Commission Term

As Commissioner Hoekstra shares the portfolios of climate, net zero and clean growth with his tax role, it is natural that using tax to deliver on the EU's climate objectives would follow. Several related proposals have already been launched.

Clean Industrial Deal

The Clean Industrial Deal (CID) aims to boost Europe's industrial competitiveness while advancing decarbonisation. It seeks to do this by raising funds and driving innovation in strategic sectors within Europe but in a way that can achieve climate neutrality and meet our aims under the EU Green Deal. It is focused on energy-intensive industries and the clean-tech sector. Ensuring access to affordable energy, particularly for energy-intensive sectors, is a cornerstone of the strategy, and this should be supported via the Affordable Energy Action Plan.

Tax will play an important role in incentivising private investment in climate-supporting enterprises. We recently saw the European Commission make recommendations to the Member States to introduce tax incentives to accelerate the Clean Industrial Transition. The incentives should primarily consist of accelerated depreciation up to and including immediate expensing of eligible clean technology investments and targeted tax credits. These recommendations leverage the advice from the Draghi and Letta reports. The Member States have been directed to provide domestic tax incentives that are targeted, simple, certain and timely. Where feasible, Member States are also encouraged to make tax credits refundable and/or facilitate offset against taxes other than corporate income tax. We await indications from the Department of Finance regarding how Ireland will proceed with such incentives.

Financing the green transition

The incentives may also work alongside the newly released State Aid framework (referred to as "CISAF"), which would enable support for clean industry. The CISAF will be in place until 31 December 2030 and can be applied based on aid amounts (up to €350m), bridging a funding gap or supporting with a competitive bidding process.

From a wider financing perspective, there are new and extended means of financing to support industrial transition and clean tech innovation. For example, the Industrial Decarbonisation Bank aims to provide up to €100bn in funding, and this will start to come on stream from 2026 after a successful €1bn pilot auction in 2025. This will complement existing EU funding mechanisms such as Horizon Europe and the Innovation Fund. Leveraging private investment will also be critical, and the Savings and Investments Union (see above) will play a role in supporting strategic industries.

Other green tax measures

Other green tax measures expected to move forward are the Energy Taxation Directive, which the current EU Council, led by Denmark, has made a priority to progress by 31 December 2025, and the Carbon Border Adjustment Mechanism (CBAM), which was changed under Omnibus I (see above). Under the amended CBAM, which is still working its way through the legislative process, the Commission proposes to simplify the system for small CBAM importers by introducing a new CBAM *de minimus* threshold exemption of 50 tonnes' mass. For importers that remain in the CBAM's scope, the proposed changes will facilitate easier compliance with CBAM obligations, but this is coupled with measures to make the CBAM more effective, including through anti-avoidance rules.

Reporting

DAC9

DAC9 was published in the *Official Journal of the European Union* on 6 May 2025. It relates to Pillar Two and aims to simplify the administrative burden of the minimum tax rules by allowing in-scope groups to file a single top-up tax information return to cover all of their respective territories in the EU rather than multiple filings in the individual Member States. It is based on and will track the OECD GloBE Information Return.

DAC9 also introduces an EU exchange-of-information mechanism that requires Member States to share relevant parts of the top-up tax information return using a standardised digital

form within three months of receipt (six months for the first return).

EU Member States have until 31 December 2025 to transpose this Directive into national law. Accordingly, we expect to see it adopted in Finance Act 2025. Irish taxpayers should see some benefit from the exchange-of-information mechanism where there are other EU constituent entities in their groups, but for entities outside of the EU there remains a separate exchange-of-information procedure, which also needs to be considered (exchange under a bilateral competent authority agreement or the OECD's Multilateral Competent Authority Agreement, if adopted by the countries involved).

Greater transparency: pCbCR

EU public country-by-country reporting (pCbCR) applies to accounting periods beginning on or after June 2024 with respect to EU multinational enterprises (MNEs) that meet the CbC revenue threshold requirements. The purpose of public CbCR is to provide the public with a better understanding of how much MNEs pay relative to their activities. It effectively puts the onus on large companies (with revenue exceeding €750m) to be transparent about where they pay tax and what tax planning is utilised. It applies on either a per-country basis (EU Member States or jurisdictions listed on the EU's list of non-cooperative jurisdictions) or an aggregated basis (all other countries).

The disclosure of pCbCR information represents uncharted territory for many MNEs. It is likely that this is the first time that sensitive country-level data on tax and profits will be made publicly available.

Foreign Subsidies Regulation

The EU has a responsibility to ensure that public money granted to companies by EU governments is spent wisely and does not create an unfair advantage for those recipients. This is managed under the EU State Aid rules. As State Aid rules do not extend to subsidies received by companies from governments outside of the EU, the Foreign Subsidies Regulation (FSR) was introduced in July 2023 to protect the EU internal market from subsidised products and services.

The FSR empowers the European Commission to review and investigate financial contributions from non-EU countries that may include distortive subsidies. Businesses are required to notify the European Commission, via a notification and approval requirement, where financial contributions above certain thresholds are received from a non-EU government and the business is involved in certain EU merger and acquisition (M&A) activities or in a public procurement process. Additionally, EU Member States, companies or citizens may alert the Commission of potential distortive foreign subsidies in the Single Market. This enables the Commission to take action to mitigate any negative impact by reviewing and investigating financial contributions received, such as grants, tax credits and any other supportive measures. If the Commission finds that the contributions represent distortive subsidies, it has the power to determine and implement redressive measures, such as divestment of certain assets or repayment of the subsidy.

There have been more than 170 M&A notifications to date. The European Commission has started reviewing cases in depth, with the first case review's having involved the acquisition of telecoms operations in several EU Member States by a State-controlled telecommunication operator. Ultimately, the transaction was cleared but not without behavioural remedies, including the removal of the unlimited State guarantee and to ensure that foreign subsidies are not channelled into EU internal market activities.

Conclusion

EU tax policy is set to profoundly influence the EU's economic, social and environmental landscape in the coming years. With a renewed focus on competitiveness, tax simplification and the green transition, the EU is positioning itself to address the challenges of a rapidly changing global environment. These ambitions, however, are not without their complexities. Achieving

consensus (including unanimous agreement, where required) among diverse Member States, adapting to technological advancements and responding to global economic pressures will require robust coordination and a willingness to embrace new approaches. The success of the EU's tax agenda will depend on the ability to balance national interests with collective goals, ensuring that policies are both effective and equitable. As the EU continues to evolve, its tax policy will play a crucial role in shaping a resilient, innovative and sustainable future for all of its citizens. The coming years will be a critical period for translating ambitious strategies into tangible outcomes, reinforcing the Union's position as a global leader in tax policy and economic governance.

Ireland is at a pivotal juncture as it prepares to assume the EU Council Presidency in July 2026. The Presidency offers Ireland a unique opportunity to shape the direction of European tax policy during a period of profound transformation.

Kevin Donovan
Senior Tax Manager, Baker Tilly

RCT for Non-Resident Companies

Introduction

Most jurisdictions have a withholding tax system that applies to construction services, but the wide scope of Ireland's relevant contracts tax (RCT) system, along with the timeline associated with attaining a 0% withholding tax rate, means that it is often seen as a major hurdle to be overcome by companies setting up construction-related operations in Ireland.

The commitment of recent governments to increase the resources allocated to housing and infrastructure projects has given rise to a significant increase in the number of large construction, engineering and technology groups considering expansion into Ireland. This is in addition to the large number of international companies in the industry that have already established Irish operations in recent years in line with the increased demand for experienced, specialised contractors.

It is vital that international construction or engineering companies establishing operations in Ireland or increasing the level of their existing operations are aware of the scope of the Irish RCT system, the impact it can have on other tax heads and the cash-flow implications of a 20% or 35% withholding tax rate.

This article gives a brief overview of the Irish RCT system for the construction industry and examines the common issues encountered by international companies in the sector.

Irish RCT System

RCT is a withholding tax that applies to payments made by principal contractors to sub-contractors under relevant contracts, being contracts for the provision of construction operations for the purposes of this article. Where RCT applies to a contract, any payments made under the contract must be notified to Revenue by way of the eRCT system before the payment is made, with Revenue then instantly confirming the withholding tax rate to be applied to the payment. There are three withholding tax rates: 0%, 20% and 35%.

- The 0% rate applies to sub-contractors who are registered for RCT and have demonstrated a strong compliance record over the previous three-year period.
- The 20% rate is the default rate awarded to newly registered companies and applies to sub-contractors who are registered for RCT and have their tax affairs in order but do not satisfy the requirements to be awarded the 0% rate, e.g. not having three years of compliance history.
- The 35% rate applies to sub-contractors who are not registered for RCT or who do not satisfy the criteria to avail of the 20% rate, e.g. by not having their tax affairs in order.

Revenue has the ability to amend a sub-contractor's RCT rate if they do not maintain their tax affairs. For example, an outstanding VAT return or liability may cause a sub-contractor's RCT rate to be increased from 0% to 20% or from 20% to 35% until such time that their tax affairs are brought back up to date.

Any RCT withheld is ultimately refundable to the sub-contractor or available as a credit against their corporation tax liability if they are required to file an Irish corporation tax return.

The main goal of the RCT system is to ensure that companies, both resident and non-resident, comply with their Irish tax obligations by increasing the level of insight that Revenue has into their tax affairs. Refund applications typically involve providing Revenue with details of how projects were serviced, i.e. through sub-contractors or employees.

There is no additional cost to a principal contractor operating the RCT system correctly, but the penalties for non-compliance are severe and can have a significant impact on a principal contractor's profitability. The applicable penalties, outlined below, are based on the sub-contractor's RCT position at the time that the payment giving rise to non-compliance was made:

- A 3% penalty applies where the sub-contractor was subject to the 0% rate.
- A 10% penalty applies where the sub-contractor was subject to the 20% rate.
- A 20% penalty applies where the sub-contractor was subject to the 35% rate.
- A 35% penalty applies where the sub-contractor was not known to Revenue, i.e. not registered for tax.

Revenue has the ability to mitigate the level of penalties applicable on a case-by-case basis under s1065 TCA 1997.

Scope

As noted above, RCT applies to payments made under relevant contracts, being contracts for the provision of construction operations. This may suggest a relatively limited scope, but the definition of "construction operations" for RCT purposes is much broader than the traditional meaning of construction. Section 530(1) TCA 1997 defines construction operations as including:

> *"(a) The construction, alteration, repair, extension, demolition or dismantling of buildings or structures,*
> *(b) The construction, alteration, repair, extension or demolition of any works forming, or to form, part of the land,*
> *(c) The installation, alteration or repair in any building or structure of systems of heating, lighting, air-conditioning, soundproofing, ventilation, power*

supply, drainage, sanitation, water supply, or burglar or fire protection,

(d) The installation, alteration or repair in or on any building or structure of systems of telecommunications, and

(e) The external cleaning of buildings (excluding routine maintenance) or the internal cleaning of buildings and structures, in so far as it is carried out in the course of their construction, alteration, extension, repair or restoration."

In many cases it will be easy to identify that a contract falls within the scope of RCT, but other items will require a more in-depth review. For example, it should be relatively obvious that a sub-contractor engaged by a principal contractor to build a house is performing construction operations, but the question, for example, of whether a sub-contractor is performing construction operations in relation to a system of heating or telecommunications may be more difficult to answer.

Revenue's Tax and Duty Manual Part 18-02-01, "Relevant Contracts Tax: Relevant Operations", provides additional information in relation to these items to assist in making a determination, such as clarifying that works will be considered relevant operations in relation to systems only where the work relates to the system itself; for example, the installation of a heating system will fall within scope, as would a repair to that system, but adding an item to a system where the item is not capable of being considered a system in and of itself would not fall within scope, nor would, assumably, the associated repair of that item.

It is also important to note that the above RCT provisions apply only where the party engaging the contractor to perform the work is considered a principal contractor for RCT purposes. Under s530A(1)(b) TCA 1997 a principal contractor includes a company or an individual who is carrying on a business that includes the erection of buildings or the development of land. However, the meaning is extended under s530A(1)(a) to any individual or company who is a contractor under a relevant contract, meaning that a sub-contractor may not be considered a principal contractor as they do not carry on a land development business but may still be considered a principal contractor if their services are subject to RCT. Please see example later in this article as to how such a scenario might apply in practice.

Section 530(1) TCA 1997 also includes a catch-all provision that essentially broadens the scope of RCT to capture more or less any element of an overall construction operation. The section outlines that operations that form an integral part of, or are preparatory to, or are for rendering complete any of the operations defined in s530(1)(a)–(d) TCA 1997 will be considered construction operations. This effectively means that even if a service is not specifically defined as being subject to RCT, if it is an integral aspect of a larger contract that is subject to RCT, it will still fall within scope.

The impact of this catch-all provision is broad in that sub-contractors engaging sub-contractors of their own need to consider not only whether the specific service to be provided by the sub-contractor is a construction operation but also whether the service is integral to a larger contract within the scope of RCT.

It should be noted that RCT applies regardless of the residence status of the sub-contractor or the principal contractor – if the work is carried out in Ireland and is considered a relevant operation, RCT will apply.

Other Tax Heads

Before considering the cash-flow implications of RCT applying to a contract and the common pitfalls faced by non-resident contractors, this article briefly considers the VAT implications of RCT applying to a contract, as well as the corporation tax and employer PAYE/PRSI implications of having a construction-type project in Ireland.

VAT

For VAT purposes, s16(3)(b) VATCA 2010 outlines that where a principal contractor

receives services that are subject to RCT, that contractor is required to self-account for the Irish VAT arising on the supply on the reverse-charge basis. This simplifies the tax registration requirements for sub-contractors who do not otherwise have a requirement or need to register for Irish VAT in situations where that sub-contractor does not engage sub-contractors of their own and also minimises the cash-flow impact of the VAT cost for the principal contractor. Care should be taken by sub-contractors to ensure that they are satisfied that the conditions outlined in s16(3)(b) are met before issuing an invoice applying the reverse-charge mechanism.

Corporation tax

Although the VAT reverse-charge mechanism is directly linked to the definition of construction operations, the considerations for corporation tax and employer PAYE/PRSI purposes are not. However, both taxes will, nonetheless, be a consideration in the majority of scenarios where RCT applies to a contract.

For corporation tax purposes, Article 5 of the OECD Model Tax Convention provides that a permanent establishment (PE) will be created where a building site, construction project or installation project lasts longer than twelve months. The majority of Ireland's double taxation agreements (DTAs) include this PE clause, although, notably, the DTA between Ireland and the United Kingdom provides for a reduced period of six months.

This may not be a consideration in some circumstances, as groups may choose to incorporate an Irish-resident company to service their Irish projects. However, a non-resident company may create a corporation tax presence in Ireland in a reasonably short period of time, which will increase compliance obligations, impact the timing and method of claiming a refund of RCT suffered and have a knock-on impact on the applicability of employer PAYE/PRSI to any employees who are employed to service the Irish projects.

Employer PAYE/PRSI

From an employer PAYE/PRSI perspective, Tax and Duty Manual Part 42-04-65, "Employee Payroll Tax Deductions in Relation to Non-Irish Employments Exercised in the State", confirms that Revenue will not require a non-resident employer to operate Irish payroll taxes in respect of a foreign contract of employment in circumstances where the employee is present in Ireland for 30 workdays or less in a tax year. Similarly, Revenue will not require payroll taxes to be operated where the employee is present in Ireland for 60 workdays or less and satisfies the criteria outlined in the employment article of the relevant DTA. For reference, Article 15(2) of the OECD Model Tax Convention (which deals with income tax and not payroll taxes) provides the following criteria:

- the recipient is present in Ireland for a period or periods not exceeding in the aggregate, 183 days in any 12-month period commencing or ending in the fiscal year concerned;
- the remuneration is paid by, or on behalf of, an employer who is not a resident of Ireland; and
- the remuneration is not borne by a permanent establishment which the employer has in Ireland.

It should be noted that the employment article of each specific DTA would need to be considered on a case-by-case basis in relation to the above criteria. However, it is clear that the question of whether a company has a PE in Ireland has a direct impact on the applicability of payroll taxes.

Although it may be possible to obtain a dispensation order in respect of employees' exceeding 60 workdays for companies with no PE or 30 workdays for those companies with a PE, there will, naturally, be scenarios where payroll taxes will need to be applied in Ireland.

Cash-flow

For commercial purposes, the main impact of RCT applying to a contract will be cash-flow.

No PE

A non-resident company with no PE and no other Irish tax liabilities must make an application for a refund of RCT suffered, which can take several months to process. Prior to making the application to Revenue, a Form IC3 must be stamped by the tax authorities in the sub-contractor's country of residence certifying that they were tax resident in that jurisdiction for the period covered by the RCT deductions.

PE

Where a non-resident company has created a PE, it is entitled to a refund of the RCT suffered only once its corporation tax return for the financial year is filed with Revenue and after Revenue is satisfied that no other tax liabilities arise in respect of VAT or employer PAYE/PRSI. This can increase the timeframe for repayment significantly – if RCT is withheld in the first month of an accounting period and the corporation tax return is not filed until the filing deadline, there is a minimum of 21 months before the RCT is repaid, which assumes that additional information is not sought by Revenue.

Offset

There is one element of relief for companies that have sub-contractors of their own that are subject to RCT at a rate other than 0% or that generally have VAT or employer PAYE/PRSI liabilities, in that Revenue will allow offsets of RCT suffered against the liabilities arising under those tax heads. This will reduce the cash-flow impact for some companies but will not be of any benefit if the entity is the ultimate end sub-contractor with no other tax liabilities or if it is in the middle of a supply chain with a sub-contractor subject to the 0% rate of RCT.

Application of 0% rate

Section 530G TCA 1997 sets out the criteria that must be satisfied before a company, whether resident or non-resident, can qualify for the 0% rate of RCT. In short, the criteria include:

- having an ongoing relevant contract;
- trading from a fixed place established in a permanent building with such equipment, stock and other facilities as are required for the business (in Revenue's opinion);
- maintaining business records;
- having a three-year history of strong compliance;
- if non-resident during the previous three years, having a comparable compliance record in the country of residence (as evidenced); and
- evidencing that all directors of the company, along with shareholders with a beneficial ownership of 15% or more of the ordinary share capital of the company, have a three-year strong compliance record or an equivalent in their country of residence if non-resident.

The above would suggest that there are no circumstances in which a newly incorporated company or a newly tax-registered non-resident company could obtain the 0% RCT rate. However, s530G(3) TCA 1997 allows Revenue to disregard any of the requirements if a company satisfies Revenue that the requirement should be disregarded.

Naturally, the ability to disregard a requirement is open-ended, and Revenue retains a contra ability under s530G(2)(d) TCA 1997 to refuse the 0% rate even where all other conditions are satisfied if it believes that the taxpayer is unlikely to maintain a strong compliance record in the future.

It is possible for a non-resident company to make an application to Revenue under s530G(3) to have its RCT rate reduced to 0% within the first three years of trading in Ireland. However, given the open-ended nature of s530G(3), there is no guarantee that any application would be successful.

Common Pitfalls

The most common pitfall encountered by non-resident companies in respect of RCT is a general lack of awareness of the scheme's existence and subsequent non-application of RCT on payments to subcontractors. However, even in cases where non-resident companies have a degree of familiarity with the operation of RCT, there are specific areas that can cause issues.

Larger contract rule

As noted above, under s530A(1)(a) TCA 1997 a company is considered a principal contractor if it is the contractor under a relevant contract. Coupled with the catch-all provision in s530(1)(e) TCA 1997, this means that companies that are engaging sub-contractors on works that would, in and of themselves, fall outside the scope of RCT can find themselves with a requirement to operate RCT.

An example of this is where a cleaning company is engaged by a developer to clean the interior of a residential premises after its completion and to remove all waste. As part of the waste removal the cleaning company hires a skip from a third party. The contract between the developer and the cleaning company is clearly a relevant contract under s530(d) TCA 1997. Although the cleaning company could not be considered to be carrying on a business of erecting buildings or developing land, it would, nonetheless, be considered a principal contractor by virtue of s530A(1)(a). Skip hire does not fall within any of the specific definitions of construction operations but would fall within scope of the catch-all provision in s530(1)(e) as it is necessary to render the cleaning operation complete. The cleaning company would therefore be required to operate RCT on the payment to the skip hire company.

The catch-all provision also brings plant hire into scope where the plant is provided with an operator.

When considering whether a contract is subject to RCT, it is extremely important to take the context of the overall project into account rather than look purely at the service being provided.

Overall contract rule

RCT applies to payments made under relevant contracts, as opposed to payments for relevant operations (being construction operations). This is an important distinction – the legislation has the effect of making payments made under relevant contracts subject to RCT without differentiating regarding whether the payment relates to a relevant operation or a non-relevant operation.

The simple impact of this distinction is that if any part of a contract falls within the scope of RCT, the entire contract is within its scope. An example of this is a contract for repairs and maintenance. Although routine maintenance is not a construction operation within the meaning of s530(1) TCA 1997, repairs are considered construction operations. Following from this, a payment for maintenance works made under a contract for repairs and maintenance is subject to RCT, notwithstanding the fact that maintenance is specifically excluded from the scope of the scheme.

This applies similarly to supply-and-install contracts. If the installation aspect is subject to RCT, then the provision of the goods will also be subject to RCT, even though the supply of goods is not mentioned specifically in the legislation.

The application of RCT to goods can have disastrous consequences, particularly for UK-based companies that are permitted to disregard the goods element of a payment when applying the UK equivalent of RCT.

Given the above, it is vital that sub-contractors consider the implications of the contracts into which they are entering to ensure that significant cash-flow issues are not encountered based on a minor element of a contract. Consideration should be given to whether it is possible to separate from each other the different aspects of the contract that do

and do not fall within scope to minimise the applicability of RCT.

This may solve the issue in some scenarios and not others and will need to be considered on a case-by-case basis. For example, it would not be uncommon for a company to enter into a maintenance-only contract, with any repair works to be agreed in advance under a separate agreement. However, a supply-and-install contract could not reasonably be split into two separate elements and may also give rise to unintended VAT consequences. The same could be said for the leasing of specialist plant with an operator – it would not make commercial sense for these two items to be agreed under separate contracts as no company would agree to lease specialist plant if it was not guaranteed that it would have access to an individual capable of operating the plant.

In situations where contracts are split artificially, they are likely to be treated as one contract subject to RCT.

Principal contractors will need to satisfy themselves when making a payment under a contract whether any element of the contract falls within scope and, for the reasons noted above, should pay close attention to any situations where services to be provided by sub-contractors are to be agreed under separate contracts. Ultimately, the principal contractor will be liable for any penalties arising for non-application of RCT.

Group companies

There is no concept of group relief for RCT purposes, and this means that payments made by a company to its 100% parent company or a sister company are subject to RCT. For established Irish groups with strong compliance records this creates an additional administrative step but should not create any cash-flow issues within the group.

For international groups, however, poor planning can lead to significant unintended consequences for multiple group members. For example:

- A UK-based construction company secures a two-year contract for construction operations in Ireland.
- Rather than registering itself for Irish taxes, the UK company establishes an Irish subsidiary that will enter into the contract with the customer. The main driver for setting up the Irish company is risk segregation, but there is also an appetite to avail of the 12.5% corporation tax rate on the Irish profits.
- The UK company has a strong, specialised employee base, that will ultimately work in Ireland on the projects for significant periods of time.
- The UK company also has good relationships with a number of specialist sub-contractors, that will be needed on the Irish project. It has been agreed that the UK company will continue to process payments to the sub-contractors under the UK equivalent of the RCT system for the Irish works.
- The UK company raises an overall management fee to the Irish company at the end of the two-year project to recover the costs incurred on wages and salaries of the employees working in Ireland (who continued to be paid through UK payroll), as well as the sub-contractors and an allocation of head office costs, such as accountancy fees and management salaries.
- The Irish company pays the UK company without deduction of RCT as the payment relates to a management fee rather than construction operations.
- The customer operates RCT at a rate of 20% on payments to the Irish company.

In this case, even though the Irish company is paying a management charge, the underlying services are for relevant operations, and therefore, the entire management charge (including the head office costs) is within the scope of RCT. If the UK company is not registered for RCT, the Irish company would be subject to a penalty of 35% on the payments made to the UK company.

The implications for the UK company are significantly worse:

- The payments made to the UK sub-contractors relate to relevant operations, and the UK company should have operated RCT on the payments. The UK company is subject to a penalty of 35% on the payments made to the sub-contractors.
- Given the length of the project, it is likely that the UK company will be considered to have an Irish PE. It is required to register for corporation tax and file an Irish corporation tax return to remit the corporation tax payable on Irish profits generated.
- Given that a PE exists and the UK employees were paid through UK payroll, there is likely an Irish employer PAYE/PRSI exposure unless all employees were present in Ireland for 30 workdays or less in both years.

The combination of RCT penalties (which are effectively a double hit), the likely employer PAYE/PRSI liabilities and the administrative cost of registering the UK company for Irish taxes while already having the Irish company incorporated and registered is likely to mitigate the majority, if not all, of the benefit in incorporating the Irish company in the first place and, may entirely wipe out any profit that the company had earned in Ireland.

This situation seems far-fetched due to the level of issues that arise and the wide-ranging implications, but unfortunately, it can arise in practice.

If a non-resident company or group is considering incorporating an Irish company to service an Irish project, then in considering the application of RCT, it is vital that the supply chain is considered in terms of how the Irish company will physically service the project.

If sub-contractors are to be engaged, ideally the Irish company should engage those sub-contractors directly. Where group employees are to be used, it may be possible to second the employees to the Irish company for a period of time. If it is not possible to completely isolate the Irish company and there is some level of the project that must be sub-contracted to a group company, the inter-company agreements in place need to be reviewed to ensure that payments for completely unrelated group activities are not brought within the scope of RCT by virtue of the inter-company agreement's being tainted by the Irish construction activities.

Conclusion

The RCT system plays an important role in monitoring the Irish tax compliance position of non-resident companies. In particular, where companies derive the entirety of their income from relevant operations, it is easily identifiable from a review of Revenue records whether that company has engaged sub-contractors or its own employees, and if it is not easily identifiable, this indicates that there has been some form of non-compliance at some stage in the supply chain (barring unpaid invoices).

Given the level of insight into records at Revenue's disposal, it is essential that non-resident companies considering Irish construction, installation or infrastructure projects engage in early, detailed planning to ensure that the correct structure is put in place to achieve the desired commercial goal and to make sure that all Irish tax filing and payment obligations are considered.

From a cash-flow perspective, it is also preferable to plan early to ensure that any opportunities for reducing RCT rates are taken and that the cash-flow impact of the operation of the system is minimised.

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Revenue Commissioner's Update: Common Errors in Research and Development Tax Credit Claims

Revenue has recently published a "How to" presentation video on revenue.ie to assist taxpayers claiming the Research and Development (R&D) corporation tax credit with completing the R&D panels of Form CT1 2024. In addition to providing an overview of the relevant legislative requirements for making the claim on Form CT1 2024, this article also highlights some of the more common errors made by taxpayers when completing the R&D panels of Form CT1.

Overview of the legislative requirements for making a Research and Development tax credit claim on Form CT1 2024

For accounting periods commencing on or after 1 January 2023, claims for the R&D corporation tax credit are required to be made under Section 766C Taxes Consolidation Act 1997 (TCA 1997) for all qualifying expenditure attributable to the company in the accounting

period and/or Section 766D TCA 1997 in respect of the cost of construction or refurbishment of a building in the accounting period only. Additionally:

- all claims for the R&D corporation tax credit must be made within 12 months from the end of the accounting period in which the expenditure was incurred.
- the expenditure breakdown between machinery and plant, emoluments, and the sum of the remaining qualifying expenditure must be provided on Section 766C TCA 1997 panels of Form CT1.
- Section 766C(7) TCA 1997 provides that companies must specify on Form CT1 whether each instalment should be:
  a) treated as an overpayment of tax, for the purposes of Section 960H TCA 1997, or
  b) paid to the company by Revenue.
- where a prior year claim was made under Section 766(4B) TCA 1997, a claim for the amounts carried forward must be entered under the relevant section of the panel dealing with Section 766/Section 766A TCA 1997.
- where a prior year claim was made under Section 766C/Section 766D TCA 1997, all the relevant information must be provided on Form CT1 2024 under the appropriate section of the panel dealing with Section 766C/Section 766D TCA 1997. This includes the amounts of credit and instalments already claimed and the balance of credit remaining.

Common Errors

In addition to the requirements above, Revenue has identified the following list of common errors made by taxpayers when making a claim for the R&D corporation tax credit on Form CT1.

- Double claims being made. For example, claiming R&D tax credits in 2024 that were claimed and repaid in prior accounting periods.
- The grant panels on Form CT1 are not completed correctly. Any expenditure which is met or to be met directly or indirectly by *any* grant assistance will not qualify for the relief and must be disregarded when computing the claim.
- The value of instalments carried forward for prior years are incorrect or are entered in the incorrect section of the R&D panels of Form CT1.
- Nil or incorrect values are entered in the expenditure breakdown panels.
- In general, panels are either incomplete, inaccurate and/or panels are not completed under the correct section as required under the legislation.
- Claims are made outside the statutory 12-month time limit.

Revenue advises taxpayers to familiarise themselves with the legislative requirements and published guidance when claiming the R&D corporation tax credit in view of the instances of errors submitted on Form CT1 2024 to date.

For further guidance on the tax credit, please refer to the tax and duty manual Research and Development (R&D) Corporation Tax Credit, Part 29-02-03 (available on revenue.ie).

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The Taxation of Damages and Settlement Payments

Introduction

When we think about damages and settlement payments, personal injuries are often the first thing that comes to mind. Compensation that has been awarded by a court to someone who has suffered personal injuries is exempt from tax, and in certain circumstances the proceeds of investment of that compensation can be exempt too.

Of course, there are many other circumstances in which damages are paid and settlement payments are made. Where an exemption is not available, the fundamental test to assess whether the damages or settlement payments are taxable is to determine whether the sum would have been taxable in the hands of the recipient had it not been paid under a court order or settlement. In other words, we must look beyond the form of the payment to its underlying substance or purpose.

In this article I consider:

- personal injury exemptions;
- employment law awards;
- the revenue vs capital analysis;

- deductibility for the defendant taxpayer;
- the *Gourley* principle;
- warranty and indemnity payments; and
- the VAT treatment of damages and settlement payments.

Also included are some best-practice actions to take when structuring settlements and advising clients.

Personal Injury Exemptions

Section 613(1)(c) of the Taxes Consolidation Act 1997 (TCA 1997) exempts from capital gains tax (CGT) "any sum obtained by means of compensation or damages for any wrong or injury suffered by an individual in his or her person or in his or her profession". This covers libel and slander claims, in addition to physical injury.

Section 189 of TCA 1997 provides an exemption from income tax and CGT for income arising and gains accruing from the investment of compensation payments arising from an order under s38 of the Personal Injury Assessment Board Act 2003 or the institution by the individual of court proceedings in respect of personal injury claims.

To qualify for this exemption the individual must be permanently and totally incapacitated from maintaining himself or herself by reason of a mental or physical infirmity that arose from an injury. This is quite a high threshold of incapacity, and any claim for the exemption should be accompanied by a certificate from a medical practitioner confirming that the individual is so incapacitated and the cause, nature and extent of the incapacity.

There is also an exemption from income tax and CGT in s891A TCA 1997 for income earned by, and gains accruing to, special qualifying trusts established for the benefit of specified permanently incapacitated individuals, and arising from the investment of trust funds.

Employment Law Awards

Section 192A of TCA 1997 exempts compensation awards under employment law for discrimination, harassment or victimisation. The exemption covers both formal awards following hearings before the relevant authorities, and out-of-court settlements provided:

- the agreement in settlement of a claim is evidenced in writing;
- the original statement of claim by the employee is evidenced in writing;
- the agreement is not between connected parties as defined in s10 TCA 1997;
- the claim would have been a bona fide claim under a "relevant Act" had it been made to a "relevant authority" (e.g. there are sufficient grounds for the claim, the claim is within the scope of the "relevant Act", the claim is within specified time limits);
- the claim is likely to have been the subject of a recommendation, decision or determination by a relevant authority that a payment may be made to the person making the claim; and
- the payment does not exceed the maximum amount that could have been awarded under relevant legislation by the "relevant authority" (e.g. the maximum amount of compensation that can be awarded in respect of a breach of the Employment Equality Acts is 104 weeks' pay).

Critical exclusions from the exemption include:

- remuneration or arrears of remuneration;
- termination payments; and
- compensation for future remuneration reductions.

The Basic Test

Exemptions aside, the taxation of damages and settlement payments will fundamentally depend on whether the sum would have been taxable in the hands of the recipient had it not been paid under a court order or settlement.

You can determine the character of the payment by examining what it compensates for, rather than how it is described in the settlement agreement. If the character of the payment is such that it compensates a revenue loss, then the compensation is treated as a revenue receipt. If the payment compensates a capital loss, then the compensation is treated as a capital item and is potentially chargeable to CGT.

Revenue Receipts vs Capital Receipts

Is there an asset?

Where the subject matter of the dispute relates to fixed capital assets, such as land or plant and machinery, payments of damages will generally be subject to CGT. The right to sue for compensation or damages is itself treated as an asset for CGT purposes, and receiving compensation constitutes a disposal of that asset.

However, an important exception exists where there is no underlying asset because the action does not concern loss of, or damage to, property that is an asset for CGT purposes e.g. damage to personal reputation in a defamation case. In such circumstances any gain accruing on the disposal of the right of action is treated as exempt from CGT.

Are the payments recurrent or lump sum?

Generally, recurrent payments are income or revenue in nature, and lump sum payments are capital in nature. There is, however, a considerable body of case law suggesting that a one-off lump sum can be income in nature. These cases include:

- *Constantinesco v R* [1927] 11 TC 730: A once-and-for-all, non-recurrent, lump sum payment was held to be revenue in nature as it was a royalty, paid in one year, for the successive use of a patent over several years.
- *J W Smith (Surveyor of Taxes) v The Incorporated Council of Law Reporting for England and Wales* [1914] 6 TC 477: An ex-gratia, lump sum payment paid to a retiring employee was held to be revenue in nature.
- *Rustproof Metal Window Co Ltd v IRC* [1947] 29 TC 243: The Court of Appeal held that an upfront lump sum of £3,000 granted in return for a non-exclusive patent was of a revenue nature. The court held that the fact that a sum is not a royalty in the traditional sense, or a build-up of royalties, does not make it a capital sum. Moreover, a sum payable for the use of a patent and paid irrespective of actual use is not necessarily capital. It is also just as capable of being income as the tax is concerned with income whatever its nature may be.

There are a small number of cases in which recurrent payments have been held to be capital in nature. These include:

- *CIR v Adam* [1928] 14 TC 34: Periodic payments, made every six months over eight years for the use of a landfill site, were held to be capital in nature. The total consideration paid was £3,200, payable in half-yearly instalments of £200, and the payments did not relate to use of the land in a particular year. The majority noted that this was a borderline case, and if it had been structured as a lease, the rent would have been revenue in nature.
- *CIR v Mallaby-Deeley* [1938] 23 TC 153: A capital payment was agreed to be made in instalments. It was then attempted, part-way through the instalment period, to pay it in a manner that was income in nature. The Court of Appeal held that the sum paid was, in reality, capital in nature from the outset, and the transaction did not have the effect of changing the capital nature of the payment.
- *Inland Revenue Commissioners v Ramsay* [1982] AC 300: Romer LJ in the House of Lords illustrated the difference between the two types of payment:
  - If a purchaser pays an annuity of £500 for the next 20 years, the sums of £500 are exigible to income tax.
  - If a purchaser buys a property for £10,000, to be paid in equal instalments of £500 over the next 20 years, the sums of £500 are not liable to income tax.

This is consistent with *Inland Revenue Commissioners v Church Commissioners for England* [1976] 3 WLR 214, where the House of Lords held that the existence of a recurring annual licence fee characterised the payment as revenue in nature.

- *Inland Revenue Commissioners v British Salmson Aero Engines Ltd* [1938] 2 KB 482: A lump sum payment and a recurrent royalty under a licence to manufacture and sell aeroplane engines in an exclusive territory were held to be, respectively, capital and income in nature. The agreement for use of the patents was for a defined term of 10 years for the following amounts:
  - a lump sum payment of £25,000, payable in three instalments, and
  - a further royalty payment of £2,500, payable one year after signing the agreement and nine years thereafter.

  In return for the payments, the licensor agreed not to sell the engines in a particular territory. If the licensees defaulted on their payment, the licensor could issue a demand letter. In the Court of Appeal Lord Greene MR noted that the royalty was nothing but an undertaking to pay yearly sums as royalty, rather than a sum that started as a capital amount and was later split into instalments. The lump sum was capital, even though it was payable in instalments.
- Referring to *British Salmson*, Lord Greene MR stated in the Court of Appeal decision in *Nethersole v Withers (H M Inspector of Taxes)* [1946] 28 TC 501 at 512:

  "If the lump sum is arrived at by reference to some anticipated quantum of user it will, we think, normally be income in the hands of the recipient. If it is not, and if there is nothing else in the case which points to an income character, it must, in our opinion, be regarded as capital."

  Upholding the decision of Lord Greene MR in *Nethersole v Withers (H M Inspector of Taxes)* [1948] 28 TC 501, Viscount Simon LC in the House of Lords noted that the circumstances of the case related to the sale and transfer outright of an item of property, by means of a specific provision of the applicable Copyright Act, rather than a licence to use the item of property granted by an unchanged owner. Uthwatt LJ agreed (*ibid.* at 405):

  "The relevant fact is that an owner of an asset, entitled by law to divide it into two distinct assets, has done so by selling one of those assets for an agreed consideration payable in a lump sum. A sale, not in the course of trade, of an asset does not attract tax on the consideration."

John Lewis and the five indicia

The case of *Inland Revenue v John Lewis Properties PLC* [2002] EWCA Civ 1869 sets out a methodological approach to the characterisation of a payment. *John Lewis* concerned the assignment for/sale of five years of rent receivables to a bank, with a guarantee and indemnity to the bank for non-payment of rent by the tenants and a swap over the rent receivables for a floating interest rate. The net economic effect was to mirror a loan of the sum of money paid for the assignment.

The consideration sum of £25,556,762.55 was paid through a single payment, and the disposal of the rental income stream resulted in a diminution in the value of the assignor's reversionary interests. The sum was held to be capital in nature. Dyson LJ identified the issue of distinguishing each case on its merits by stating:

> "I would identify the following factors in a case such as the present as being relevant to the question whether a payment is capital or income. I emphasise 'such as the present' because the guidance derived from cases dealing with one situation may have little application to a wholly different situation."

The five indicia proposed by Dyson LJ in that case are as follows.

Duration of the asset

If an asset disposed of has an enduring or long-lasting quality, Dyson LJ considers that it is likely to be regarded as a capital asset, and payment received for its acquisition is likely to be a capital receipt. This seems to assume a sale of an asset where you must determine whether the asset is of an income nature (i.e. short term) or of a capital nature (i.e. long term).

Lord Greene MR, in the House of Lords decision in *CIR v 36/49 Holdings Ltd* [1943] 25 TC 17, noted that he found it difficult to class a perpetual (i.e. long-term) payment as capital and stated that it would be easier to treat a payment over two years as a purchase price by instalments, i.e. capital.

Value of the asset

The second factor in *John Lewis* concerns the value of the asset. Dyson LJ does not provide a detailed analysis of this factor, save to note that "The value of the asset assigned is a relevant factor."

Diminution

Dyson LJ further considers that a diminution in the value of the assets in question is indicative of a capital payment. This factor again seems material only for a "once and for all" sale or assignment. In this regard note the judgment of Lord Greene MR in his Court of Appeal decision in *Nethersole*, upheld by the House of Lords:

> "Where a piece of property, be it copyright or anything else, is turned to account in a way which leaves in the owner the reversion in the property so that upon the expiration of the rights conferred, whether they are to endure for a short or a long period, the property comes back to the owner intact, the sum paid as consideration for the grant of the rights, whether consisting of a lump sum or of periodical or royalty payments, should be regarded as of a revenue nature."

Recurrent payment

The fourth factor is whether a payment is a single lump sum (capital) or recurrent (income). If a payment is one of a series of recurring payments, particularly if calculated on an annual basis (as well as merely paid annually, such as an instalment), it is likely to be income in the hands of the payee.

Risk transfer

The fifth and final factor that Dyson LJ espoused is that where the disposal of an asset is accompanied by a transfer of risk in relation to the asset, the sum paid for the asset would likely be capital.[1]

The significance of contract importance

Another important point to consider is whether a contract is so fundamental to a company's trade that its loss accounts for substantially the whole of the company's business. In such cases compensation may be treated as a capital receipt even if the underlying contract would normally be considered a revenue item, resulting in CGT treatment for individuals and corporation tax on chargeable gains (currently 33%) rather than the 12.5% trading rate for companies.

Deductibility for the Defendant

The courts have provided guidance on when damages payments qualify for deduction for the defendant. Deductible payments include:

- Settlements to avoid greater losses to trade reputation, where the payment was made wholly and exclusively for trade purposes:
  - In *Golder v Great Boulder Proprietary Gold Mines* [1952] 33 TC 75 the taxpayer settled a claim for damages relating to the conduct of its trade, which, if it had succeeded, would have gravely damaged its reputation. The taxpayer would have suffered serious financial loss if the claim had gone to court regardless of the

1 In his judgment Dyson LJ referred to the decision of *MacNiven (Inspector of Taxes) v Westmoreland Investments Ltd* [2001] UKHL 6; [2003] 1 AC 311.

outcome. It was held that a sum paid to avoid a greater loss was incurred wholly and exclusively for the purposes of the trade and was therefore deductible.

- Costs of defending actions where the sole purpose was protecting trade interests:
  - In *Hammond Engineering Co v CIR* [1975] 50 TC 313 it was held that costs incurred by a company in defending an action of reinstatement by a former director were incurred wholly and exclusively for the purposes of the trade and were therefore deductible.

Non-deductible payments include:

- Damages for malicious libel where the loss was only remotely connected to trade:
  - In *Fairrie v Hall* [1947] 28 TC 200 the taxpayer maliciously libelled a competitor in order to undermine his influence in the marketplace. The court held that he was not entitled to a deduction for the cost of the resultant damages awarded against him. The loss that he suffered was only remotely connected with his trade and was not therefore deductible.
- Professional defence costs where the primary purpose was personal protection rather than trade protection:
  - In *Knight v Parry* [1973] STC 56 a solicitor was disallowed the costs of defending himself against charges of professional misconduct on the grounds that his purpose was to protect himself from being debarred by the Law Society.
  - In *Spofforth & Prince v Golder* [1945] 26 TC 310 costs incurred by a chartered accountant and his partners in defending him against a charge of fraud were disallowed.

It is clear from the case law that first principles apply. If the damages or settlement payment is an expense that is wholly and exclusively laid out or expended for the purposes of the trade or profession, in line with s81 TCA 1997, it will be allowable as a deduction. If not, it will not be deductible.

The Gourley Principle: Avoiding Double Benefit

The *Gourley* principle, established in *British Transport Commission v Gourley* [1956] AC 185, addresses situations where damages represent compensation for loss of income that would have been subject to tax but the damages themselves are not taxable. The principle requires that damages be reduced by the tax that would have been paid on the lost income, ensuring that the recipient is not better off than if the loss had not occurred.

For the *Gourley* principle to apply, two conditions must be satisfied:

- the lost earnings, income or profits would have been subject to income tax if earned; and
- the damages payable as compensation would not be subject to tax in the recipient's hands.

The principle was endorsed by the Irish Supreme Court in *Glover v BLN Ltd* [1973] IR 432, where damages for loss of office based on future earnings were subject to termination payment rules. The court held that the exempt portion should be reduced to reflect the tax that would have been deducted, whereas the taxable portion should be paid gross as it would be subject to income tax.

It is important to be aware of the *Gourley* principle when drafting settlement agreements. If a deduction is reflected in damages that are themselves taxable, the recipient would effectively be taxed twice. If there is any doubt about tax treatment, it makes sense to include a tax indemnity in favour of the recipient.

Warranty and Indemnity Payments

In the context of mergers and acquisitions, payments by sellers to buyers under warranties result in the buyer's base cost being reduced by the compensation received. There are corresponding adjustments to the seller's disposal proceeds, potentially resulting in CGT refunds.

It is important to include provisions in share purchase agreements treating warranty or indemnity payments as reductions in the purchase price. However, payments exceeding the buyer's base cost will be taxable, so gross-up provisions are essential to ensure that buyers receive their intended compensation net of tax.

VAT Considerations

It is always important to consider whether there are VAT implications of the damages or settlement payments.

The supply test

The VAT treatment of damages and compensation depends on whether there is a "supply" for VAT purposes. Payments that are purely compensatory and do not relate to supplies of goods or services are outside the scope of VAT, including payments for unilateral breach of contract and tort claims. However, payments made as consideration for specific taxable supplies are subject to VAT. These include disputes concerning payment for earlier supplies or where recipients make taxable supplies under settlement terms.

Toleration of situations

A critical exception exists where compensation can be classified as "toleration of a situation". This occurs when recipients agree to forsake rights or refrain from action in consideration for compensation, creating a supply for VAT purposes. The phrase has broad meaning and requires careful structuring to avoid unexpected VAT charges.

Bilateral v unilateral termination

An important distinction exists between bilateral and unilateral contract termination. Where parties mutually agree to terminate contracts with one party paying the other, this constitutes consideration for a supply and attracts VAT, unlike unilateral breaches, which do not create supplies.

Conclusion

There is much to consider when thinking about the taxation of damages or settlement payments. However, unless a specific exemption applies, following first principles will be the correct approach. If you are structuring a settlement agreement, it is best practice to:

- analyse the underlying loss to determine the revenue or capital character;
- consider *Gourley* implications where tax-free damages compensate taxable income;
- include appropriate tax indemnities where treatment uncertainty exists;
- structure VAT-efficient arrangements to avoid unintended supply creation; and
- be conscious of deductibility asymmetries where payers can deduct non-taxable recipient payments.


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ViDA Unpacked: What Businesses Need to Know About the EU's VAT Reform

Introduction

The European Union's Value-Added Tax in the Digital Age (ViDA) package, formally adopted on 11 March 2025, represents the biggest shake-up of the EU VAT system since the introduction of the Single Market in 1993. This ambitious reform aims to modernise VAT rules and effectively combat tax fraud. But looking beyond Exchequer and revenue protection, ViDA also seeks to simplify VAT compliance for businesses operating across Member States, with the goal of delivering a tax environment that is fit for purpose for the digital age. ViDA is built around three principal areas of reform, or pillars, each focused on updating the VAT system to better reflect how business is done in today's digital world.

Pillar 1: Digital reporting requirements and e-invoicing

The first pillar of ViDA will mandate electronic invoicing for VAT as standard, to enable near to real-time digital reporting requirements (DRR) for cross-border transactions in the EU. The objective is to enhance transparency and reduce VAT fraud by providing tax authorities with information on a much timelier basis, ultimately replacing outdated systems such as EC Sales Lists (VIES returns).

Pillar 2: Updated VAT rules for the platform economy

This second pillar introduces new obligations – most notably, the "deemed supplier" rule – for digital platforms that facilitate short-term accommodation and passenger transport services. This measure aims to ensure a level playing field between traditional and digital businesses and to enhance VAT collection efficiency in the rapidly expanding digital marketplace.

Pillar 3: Single VAT registration

This third pillar seeks to significantly reduce the need for businesses to maintain multiple VAT registrations across different Member States. It achieves this by expanding the scope of the existing One-Stop Shop (OSS) system and introducing new mechanisms for simplified compliance, thereby reducing administrative burdens and compliance costs.

This article delves into the key pillars of ViDA, outlines its phased implementation and explains the potential challenges for VAT-affected businesses.

Modernising EU VAT for the Digital Era

Context of and rationale for ViDA

The EU's VAT system was, of course, designed long before commerce moved to its modern-day digital format, and it has been struggling to keep up with the pace of change. As online platforms and marketplaces have grown, so has the gap between the VAT that is collected and the amount that tax authorities estimate should be collected. In 2022 this "VAT gap" reached an estimated €89.3bn, much of it lost to fraud and administrative slip-ups. The patchwork of rules across Member States only adds to the complexity, making it harder for businesses to stay compliant when operating across borders.

To tackle these challenges, the European Commission launched the ViDA (VAT in the Digital Age) package. Its goals are clear: improve how VAT is collected, crack down on fraud and make compliance easier for businesses by embracing modern technology. ViDA is a major update designed to protect national tax revenues in an increasingly digital economy.

A key part of this shift is the move to digital reporting and e-invoicing. These tools are essential for tracking VAT paid on cross-border transactions, something that has historically been difficult to monitor and prone to abuse. By introducing real-time reporting and a new "Central VIES" database, ViDA is giving tax authorities near-instant insight into business activity. This marks a substantial change from traditional audit methods and places a new emphasis on businesses' providing accurate, real-time data to tax authorities to enhance their tax enforcement and decision-making.

That said, although ViDA is designed to simplify VAT compliance overall, the short-term reality is more complicated. Different countries are rolling out changes on different timelines, and full harmonisation is not expected until at least 2035. This means that businesses will need to juggle both old and new systems for some time, and navigating this transition will require a proactive, strategic approach. And, of course, it is not enough to just react to the changes – businesses that prepare early will be better positioned for compliance and leverage the changes to their competitive advantage.

Formal adoption and entry into force

The ViDA package was first proposed by the European Commission in late 2022 and went through extensive discussions and political negotiations among Member States. This process led to its formal adoption by the Council of the European Union on 11 March 2025. After this key milestone, the legislative texts were published in the *Official Journal of the European Union* on 25 March 2025. The Directive and Regulations that make up the ViDA package officially came into force on 14 April 2025.

ViDA implementation timeline: key milestones

With ViDA rolling out in stages, it is important for businesses to stay ahead of the curve and plan accordingly. To help you navigate what is coming, the table below lays out the key milestones across the three pillars.

Table 1: ViDA implementation timeline.

Date	Pillar(s)	Key changes
14 April 2025	**All**	Member States may introduce mandatory domestic e-invoicing without prior EU approval for established taxpayers.
1 January 2027	**SVR**	OSS extended to B2C supplies of electricity, gas, heating and cooling. E-invoices must include an indication if the cash accounting scheme is applied.
1 July 2028	**Platform economy, SVR**	Voluntary implementation of "deemed supplier" rule for short-term accommodation and passenger transport platforms. OSS further expanded to cover all B2C services provided in Member States where the business is not established. SVR main elements come into effect, including new scheme for transfer of own goods. Mandatory domestic reverse-charge mechanism for all B2B supplies by non-established, non-registered businesses (where the recipient is VAT-registered). The call-off stock registration simplification, which can apply where stock is held with customers in other EU Member States, will no longer be available to be applied to new transfers into call-off stock arrangements. Goods sent before that date may still benefit from the simplification until 30 June 2029.
30 June 2029	**SVR**	Call-off stock simplification will cease entirely.
1 January 2030	**Platform economy**	Mandatory implementation of "deemed supplier" rule for short-term accommodation and passenger transport platforms across all Member States. Recipient acceptance of e-invoices will no longer be required for cross-border transactions.
1 July 2030	**DRR, e-invoicing**	E-invoicing will become mandatory for intra-EU B2B and B2G transactions. DRR for cross-border B2B supplies will come into effect, replacing EC Sales Lists. National e-invoicing systems established after 2024 must be harmonised with EU standards. Holding a valid e-invoice may become a substantive condition for VAT deduction.
1 January 2035	**DRR, e-invoicing**	Member States with domestic digital real-time transaction reporting obligations in place before 1 January 2024 must align their systems with the EU standards.

Pillar 1: Digital Reporting Requirements and Mandatory E-invoicing

Pillar 1 of ViDA represents a monumental shift in how VAT is reported and managed across the EU, moving towards a digital, transaction-based system centred on mandatory e-invoicing to facilitate near-real-time digital reporting for VAT. This transformation is designed to enhance transparency, reduce the VAT gap and streamline compliance, but it introduces significant operational and technical challenges for businesses.

The shift to mandatory e-invoicing

From 1 July 2030 e-invoicing will become the default and mandatory method for cross-border business-to-business (B2B) and business-to-government (B2G) supplies of goods and services within the EU. The definition of an e-invoice under ViDA is not a PDF or a scanned

copy of a paper invoice; it is an electronic file issued, transmitted and received in a structured data format that enables automatic processing and machine-readable import into accounts payable systems without manual (human) entry. This means that current practices, such as sending PDF invoices via email or issuing traditional paper invoices and scanning them into an accounts payable system, will no longer qualify as compliant e-invoices for VAT.

To facilitate this, the mandated format of e-invoices will be standardised to align with the European PEPPOL standard EN16931, which provides a uniform data structure for electronic invoices. This standard precisely specifies the mandatory format of and information to be included on the invoice and aims to allow seamless digital processing across the EU, as the issuer and recipient should have aligned systems that can speak to each other electronically.

E-invoices will continue to include mandatory requirements, such as the invoice number and date, comprehensive seller and buyer details (crucially, including VAT identification numbers), a clear description of the goods or services supplied, detailed tax information (such as VAT rates and amounts) and payment terms. But the invoice itself will not look like a paper or PDF invoice any longer, and at least in the short term, businesses may wish to consider whether they operate VAT e-invoicing in conjunction with standard commercial invoicing.

Additional data items will also be mandated for inclusion on VAT e-invoices. These include bank details, which will enable tax authorities to track financial flows, an indication of whether the triangulation simplification is used, comprehensive payment details and a clear reference to the original invoice in the case of corrective invoices. Furthermore, as of 1 January 2027, e-invoices must explicitly indicate whether the cash accounting scheme is applied. This increased granularity of data aims to provide tax authorities with richer information for fraud detection and compliance monitoring.

A significant departure from current practice is the removal of the requirement for recipient acceptance. As of 1 January 2030, the issuance of a cross-border e-invoice will no longer be contingent on the customer's agreement; customers will be legally obliged to accept them. This change places a new onus on businesses to ensure that their systems are capable of receiving and processing structured e-invoices from their suppliers, and this will be key to delivering the simplifications and transparency promised by VIDA.

Real-time digital reporting

Facilitated by the introduction of e-invoicing, from 1 July 2030 cross-border B2B supplies of goods and services within the EU will be subject to electronic reporting to tax authorities in "real time". This means that VAT data must be transmitted when the e-invoice is issued, or should have been issued, by both the supplier and the recipient of the invoice. This is a fundamental shift from traditional periodic reporting, aiming to provide tax authorities with immediate insight into transactions, and will be a significant change for taxpayers.

In principle, both the supplier and the customer will be required to report the transaction data. However, Member States retain the discretion to exclude the customer from this reporting obligation if they can obtain equivalent assurance through other means. It remains to be seen what this might look like, and the expectation is that customer reporting requirements will also be introduced. If the customer is required to report, this must be done no later than five days after the e-invoice is received. This dual reporting mechanism is intended to allow tax authorities to cross-reference data from both sides of a transaction, significantly enhancing their ability to identify discrepancies and potential fraud.

A major consequence of these new digital reporting requirements is the replacement of the current periodical EC Sales Lists. The data collected by individual Member States will be transmitted to a new "Central VIES" database within one day. This centralised database,

overseen by the European Commission, will provide unprecedented transparency, allowing customers to see which intra-EU transactions are being reported against their VAT numbers.

Despite the emphasis on "real-time" reporting, the specified deadlines introduce a practical data lag. The ten-day invoicing deadline and the five-day customer reporting window mean that the system operates closer to "near-real-time", or "transaction-based", reporting than to instantaneous data exchange. Although this is a significant acceleration compared to current periodic reporting, it implies that a window for fraud or errors may still exist before data is fully reconciled by tax authorities.

Invoicing deadlines and formats

The general deadline for issuing an e-invoice under ViDA is set at ten days after the chargeable event or on payment, if made earlier. For self-billing arrangements, a more stringent deadline of five days from the date of supply applies.

Summary invoices, which cover multiple supplies in the same calendar month, will be permitted under specific conditions: they must be issued by the tenth day of the following month. However, Member States retain the option to prohibit their use in sectors that are deemed sensitive to fraud. This compromise reflects a balance between simplifying compliance for businesses and maintaining anti-fraud measures.

VAT deduction and e-invoices

A critical change introduced by ViDA, effective from 1 July 2030, is that Member States will be allowed to prescribe that holding a valid e-invoice becomes a substantive condition for a business to be entitled to deduct or reclaim VAT. This elevates the e-invoice from a mere formality to a prerequisite for VAT recovery.

This provision significantly increases the risk for businesses. If an e-invoice is not compliant with the EN16931 standard or is missing mandatory data, the recipient could directly face a denial of input VAT recovery. This places a greater burden on the recipient to validate incoming invoices, potentially leading to increased disputes with suppliers and a heightened need for robust automated validation systems. The direct cause-and-effect relationship between non-compliance and deduction denial means that businesses must invest in systems and processes that ensure the formal and content-related completeness of all received e-invoices.

Domestic e-invoicing requirements

ViDA also introduces an important change for domestic transactions. When ViDA passed, Member States gained the autonomy (from 14 April 2025) to introduce mandatory e-invoicing for domestic B2B and B2C transactions without needing prior authorisation or a "derogation" from EU law from the European Commission. This applies provided the measure exclusively affects taxpayers established within their own territory.

Member States that had existing domestic e-invoicing or DRR systems in place before 1 January 2024 are permitted to retain them. However, they are mandated to ensure full interoperability with the new EU system by 1 January 2035. To further support the intended convergence of all systems, any domestic e-invoicing or DRR regimes introduced after 1 January 2024 must converge with ViDA's requirements by 1 July 2030.

The ability of Member States to mandate domestic e-invoicing earlier than 2030 creates a fragmented landscape that businesses must navigate until at least 2035. Companies operating across multiple EU countries will face the complex task of managing a patchwork of different national e-invoicing standards and reporting protocols alongside the new EU-wide standard for cross-border transactions. This fragmentation requires flexible and adaptable IT solutions, as businesses cannot simply rely on a single, uniform approach in the short to medium term.

Pillar 2: Updated VAT Rules for the Platform Economy

The second pillar of ViDA addresses the complexities of VAT collection in the rapidly expanding platform economy, particularly

focusing on services where digital platforms facilitate transactions between individual providers and consumers. The core innovation here is the introduction of the "deemed supplier" rule, which fundamentally redefines VAT liability for certain platform-facilitated supplies.

The "deemed supplier" rule

The "deemed supplier" rule makes digital platforms responsible for collecting and remitting VAT on behalf of the underlying suppliers for specific services. The primary scope of this rule covers short-term accommodation rentals (defined as uninterrupted stays of a maximum of 30 nights for the same person) and passenger transport services by road.

Member States can voluntarily implement the deemed supplier rule from 1 July 2028; it becomes mandatory for all from 1 January 2030.

Under this rule the platform will be deemed to have purchased and subsequently supplied the underlying good or service itself, effectively transferring the responsibility to the platform itself for payment of VAT to the tax authorities on the underlying supply from the individual provider (e.g. a small accommodation host or driver). This move aims to simplify VAT collection for tax authorities, as they can engage with a smaller number of larger entities rather than a multitude of individual suppliers. It also seeks to ensure a uniform approach and a more level playing field between online and traditional service providers while simplifying compliance obligations for the underlying hosts and drivers.

Despite the broad scope, the deemed supplier rule does not apply under specific conditions. It is excluded if the underlying supplier provides the platform with a valid VAT identification number (from the Member State where VAT is due) or an OSS identification number and explicitly declares to the platform that the supplier will charge any VAT due on the supply. Member States may also require platforms to validate these VAT numbers. Furthermore, Member States can choose to exclude supplies made under the special scheme for small and medium enterprises (SMEs) from the scope of the deeming provision. In such cases the supply would occur directly between the SME and the customer, potentially remaining exempt owing to the SME scheme. Travel agents operating under the Tour Operator Margin Scheme (TOMS) are also explicitly excluded from the deemed supplier rule. Lastly, platforms that merely provide listings or advertising, redirect customers to other interfaces or act solely as payment service providers fall outside the scope of the deemed supplier rule.

The various exclusions and the optional implementation period will create significant complexity for platforms, particularly those operating across multiple Member States. Platforms must develop robust systems to verify supplier VAT IDs, track SME status (which can vary nationally) and understand the nuances of schemes such as TOMS to correctly apply the deemed supplier rule and its exceptions. The staggered roll-out means that platforms will need to adapt their systems and processes at various times for different markets, which will likely increase the burden on business until a consistent implementation is eventually rolled out.

Place-of-supply rules for facilitation services

Regardless of whether the deemed supplier rule applies, platforms that provide facilitation services (i.e. where either the supplier or the customer pays the platform for its services) are subject to specific place-of-supply rules for VAT purposes. For B2B facilitation services the place of supply is generally determined by where the recipient of the service is established. In such cases a reverse charge applies if the platform is not established in that Member State where VAT is due. For B2C facilitation services a special place-of-supply rule applies, making these services subject to VAT in the place where the underlying service (e.g. the accommodation rental or transport service) is supplied.

Record-keeping obligations for platforms

Additional record-keeping requirements for platforms will be introduced. These will extend to transactions on the platform where the platform is not deemed to be the supplier for VAT purposes. These records must be made available electronically to Member States on request and must be retained for a period of ten years from the end of the year during which the transaction was carried out.

Collecting, validating and securely storing extensive data from underlying suppliers and transactions for both VAT collection and record-keeping purposes is an onerous requirement. Platforms must not only capture detailed transaction data but also accurately validate supplier information, such as VAT IDs and SME status, to correctly apply the deemed supplier rule and its various exclusions.

Pillar 3: Single VAT Registration (SVR) and OSS Expansion

The third pillar of ViDA, single VAT registration (SVR), is designed to significantly reduce the administrative burden and compliance costs for businesses operating across multiple Member States. It achieves this by substantially expanding the existing OSS system, aiming to minimise the need for businesses to obtain and manage multiple VAT registrations.

Extension of the One-Stop Shop scheme

The One-Stop Shop (OSS) system currently allows businesses to fulfil VAT obligations for B2C sales of goods or certain services across the EU through a single online portal in one Member State. Under ViDA this system will be significantly expanded to further simplify cross-border trade and reduce the need for multiple VAT registrations.

From 1 January 2027 the scope of the OSS will be extended to include B2C supplies of electricity, gas, heating and cooling. This specific inclusion is particularly relevant for and aims to accommodate the electric vehicle charging industry.

A further expansion of the OSS will take effect from 1 July 2028. At this point the OSS will cover all B2C services provided in Member States where the business is not established. This includes the non-Union OSS, which will encompass all B2C services supplied within the EU, even those to customers outside the EU. Additionally, the Union OSS will include domestic B2C sales of goods made by non-established, non-registered businesses in the Member State of consumption.

This strategic goal of reducing VAT registrations and compliance costs is a cornerstone of ViDA. The expansion of the OSS to encompass a wider array of B2C supplies, including energy and all B2C services, directly addresses the fragmentation that has historically required businesses to register for VAT in numerous Member States. By enabling businesses to declare and remit VAT through a single portal, ViDA aims to streamline administrative processes, reduce compliance expenses and facilitate smoother cross-border trade.

Reporting own goods transfers through OSS

A significant new development is the ability for businesses to report movements of their own stock between Member States via the Union OSS. This measure, effective from 2025, aims to simplify VAT compliance for intra-EU transfers of goods that are intended for direct sales to consumers at a later stage. For EU businesses this reporting will be done through their Member State of establishment, whereas non-EU businesses will report through the Member State of dispatch. This change is expected to materially reduce the number of foreign VAT registrations required to be held by businesses operating cross-border within the EU, with the benefit of reducing their compliance obligations and associated costs.

Phase-out of call-off stock simplification

As a direct consequence of the OSS expansion to cover movements of own goods, the existing EU call-off stock simplification scheme will be phased out. After 30 June 2028 no new call-off

stock arrangements can be initiated. Existing arrangements that began before this date may continue under the current rules, including the 12-month transfer-of-ownership window. However, the simplification will cease entirely on 30 June 2029, as the OSS will accommodate these transactions, rendering the separate call-off stock simplification redundant. This transition underscores the EU's move towards a more centralised and comprehensive reporting mechanism for intra-EU stock movements.

Wider application of domestic reverse-charge mechanism

From 1 July 2028 the domestic reverse-charge mechanism will become mandatory for all B2B supplies of goods and services made by suppliers who are not established or registered in the Member State where the VAT is due, provided the recipient is VAT-registered in that Member State. This represents a significant harmonisation of rules that were previously optional for Member States, leading to a patchwork application across the EU. Member States may also opt to apply the reverse charge in situations where the customer is not VAT-registered.

Transactions subject to this extended reverse charge must be reported in the EC Sales List from 1 July 2028. Subsequently, from 1 July 2030, both the supplier and the buyer will be required to report these transactions in the EU DRR via e-invoicing and transaction-based reporting. This harmonisation of the reverse-charge mechanism is intended to streamline compliance for non-established suppliers, potentially reducing their VAT registration requirements and associated costs. However, it also introduces new reporting obligations for both suppliers and recipients, requiring careful adaptation of existing systems and processes.

Improvements in use of IOSS

ViDA also includes measures to improve and secure the Import One-Stop Shop (IOSS) framework, which is crucial for B2C imported sales. From 25 March 2025 the European Commission gained powers to introduce improvements to the IOSS framework to reinforce Member States' controls. A key enhancement, expected to launch by 1 March 2028, involves linking an IOSS identification number to the import consignment number, a measure designed to combat fraud. These security measures aim to promote its adoption and prevent VAT fraud around IOSS identification numbers.

Challenges and Strategic Considerations for Taxpayers

ViDA's long-term aim is to make VAT compliance simpler and less of a burden, but getting there will not be without its challenges. For businesses operating across the EU, the transition period will bring a fair amount of complexity as they adjust to new rules and systems. That is why it is so important to stay ahead of the curve. Businesses that take the time to prepare early and adapt their strategies will be in a much stronger position to manage the changes smoothly and make the most of the opportunities that ViDA offers.

Technological readiness and infrastructure investment

The shift to mandatory e-invoicing and real-time digital reporting necessitates substantial investment in technology and infrastructure. PDF or paper invoices will no longer be standard for VAT. Instead, structured electronic invoices compliant with the EN16931 standard will be the norm. Ensuring compatibility with the diverse systems of customers and suppliers, many of whom may be at distinct stages of readiness, adds a layer of complexity. The implementation of real-time reporting further demands significant upgrades to existing accounting and enterprise resource planning ("ERP") systems, enabling them to process and transmit data instantaneously while maintaining robust data security protocols. This integration is not merely a technical hurdle but a resource-intensive process requiring careful planning and execution. Businesses must consider adopting advanced digital tools and automated invoicing solutions to meet these requirements.

Increased need for data accuracy and consistency

The new reporting obligations, particularly the detailed data points required for e-invoices and DRR, underscore the critical importance of data accuracy and consistency across various platforms and jurisdictions. Businesses must ensure that their systems can accurately differentiate between B2B and B2C transactions, capture all necessary information including bank details and specific scheme indicators, and reconcile data across different business units. The enhanced data sharing between taxpayers and tax authorities also raises security vulnerabilities, increasing the need for secure and compliant data transmission. Furthermore, the requirement for platforms to retain records for ten years, extended to B2B supplies, emphasises the need for robust, audit-ready archiving solutions. Inaccurate or incomplete invoices could lead to risk of delay and challenge during tax audits/enquiries.

Tighter reporting deadlines

ViDA's tighter deadlines and new reporting mechanisms necessitate a fundamental rethinking of existing invoicing and reporting workflows. The ten-day deadline for issuing e-invoices for cross-border transactions and the five-day deadline for customer reporting demand significant streamlining of processes. Delays could result in compliance breaches, penalties and issues with VAT recovery. Businesses with complex supply chains, especially those involved in international trade, will face heightened pressure to meet these timelines. The continued coexistence of paper and electronic invoices, particularly for non-EU transactions and during what will be an effective transition period, requires businesses to manage a mixed flow efficiently. Businesses will need robust procedures in place to detect and correct errors as we move to real-time reporting.

Legal and compliance risk management

The elevation of a valid e-invoice to a substantive condition for VAT deduction introduces a critical legal and compliance risk. Businesses will need to check that incoming invoices are fully compliant to reduce the risk of subsequently being denied an input VAT deduction on the cost. In the case of platforms, ensuring correct application of the "deemed supplier" rule and its various exclusions is crucial to avoid significant VAT liabilities and obligations. The varying national implementations of domestic e-invoicing and the optional periods for certain rules further complicate the compliance landscape, requiring continuous monitoring of national legislation. Data protection and regulation requirements must also be addressed when exchanging transactional data, ensuring secure and compliant continuous data flow, including through third-party solutions.

Fragmented landscape and ongoing adaptation

Despite the EU's vision for standardisation, the ability of Member States to retain existing domestic digital reporting systems until 2035, and to introduce new domestic e-invoicing mandates earlier, creates a fragmented landscape for businesses. Companies operating in multiple jurisdictions will need to manage different formats and transmission protocols for domestic transactions alongside the new EU standard for cross-border transactions. This necessitates flexible and adaptable IT solutions that can integrate national requirements.

What Should a Business Do Now?

The long-term benefits of ViDA are clear. The widespread adoption of e-invoicing and real-time digital reporting is expected to significantly reduce VAT fraud and make business processes around tax more efficient for everyone. Paired with the expansion of the OSS and the extension of the domestic reverse-charge mechanism, it should genuinely simplify VAT compliance for cross-border trade, by reducing the need for multiple VAT registrations and the associated compliance costs.

However, the transition will demand significant effort. The phased roll-out means that

businesses must invest in technology, update operational procedures and put a renewed focus on data accuracy and compliance. To navigate the ViDA reforms, businesses are strongly recommended to consider the following action points to get "ViDA ready":

- Conduct comprehensive impact assessments – Take the opportunity now to complete a thorough review and evaluation of what ViDA will mean for your business. How will the ViDA requirements affect existing processes, systems, contracts and supply chains?
- Consider other impacted business functions – Consider other operational teams in the business affected by ViDA. IT teams must ensure system readiness and interoperability. Finance and accounting departments need to align their processes with the new requirements for invoicing, reporting and data management. Legal teams are crucial for updating contracts and ensuring regulatory compliance. Operational and commercial teams must understand how changes to invoicing and reporting impact their day-to-day activities and trading practices. A unified approach across the business will be essential to successfully deploy new system implementations, process redesign and necessary contractual adjustments.
- Do a data clean-up – Real-time reporting will only be as good as its inputs. Now is your opportunity to look across all transactional data (be that from one system or many) and to do a rigorous clean-up. Consider implementing new processes to ensure accuracy, consistency and completeness of transactional data across all business units and platforms, so that you are well prepared when the time comes to report this on a near-real-time basis.
- Engage with expert advisers and technology providers – Seek guidance from specialists. There are many technical experts you can speak to understand the impact of digital reporting and who can help you develop tailored compliance strategies. There are also software solutions that can support e-invoicing and digital reporting, and now is the time to start understanding what is available and whether those solutions might be a good fit for your business.
- Monitor local rules and changes closely – Given the varying implementation timelines and differing mandates in every country, a prepared business needs to invest time to monitor specific developments in the key jurisdictions in which it operates. There could be national legislative developments related to domestic e-invoicing or real-time reporting introduced at short notice and with limited lead-in times.
- Reframe ViDA as an opportunity for digital transformation – Reframe the ViDA mandate as an opportunity for strategic digital transformation. This is your opportunity to plan and get the budget to invest in robust e-invoicing and DRR solutions, or automation tools that will streamline overall tax and financial processes in the business to enhance efficiency.

Conclusion

ViDA represents a significant evolution of the EU VAT system, designed to align with the realities of modern digital commerce. It may also serve as a catalyst for businesses to update and streamline their tax processes. Although the long-term aim is a harmonised and simplified VAT framework, the process involves navigating a phased roll-out across multiple jurisdictions, each with its own systems and requirements. Measures will be introduced gradually, with full implementation expected by 2035. Businesses must remain agile and responsive as new rules are introduced.

Ultimately, ViDA seeks to reduce administrative burdens and improve efficiency. Achieving this will require careful planning and a strategic approach to managing the challenges of transition, and the path to full implementation will be complex. Businesses committed to compliance will need to invest time and resources to adapt. However, those that begin enhancing their digital capabilities early may be better positioned to manage the transition and benefit from the changes.

Katie Clair *(not pictured)*
Principal Officer in Revenue's Personal Division

Revenue Commissioner's Update: Local Property Tax Revaluation

Local Property Tax Charge

The next valuation period for Local Property Tax (LPT) will for five years, from 2026 to 2030. The valuation of a property at the valuation date of 1 November 2025 will determine the charge to LPT for the period 2026–2030.

Property owners are required, by 7 November 2025, to:

- determine the market value of their property
- submit that valuation band to Revenue and
- set up a payment method for 2026.

Valuation Bands and Base Charge

It is important to note that the valuation bands have been widened for the next valuation period, and the base LPT charge has increased.

For properties valued in the first 2 Valuation Bands a fixed charge applies. The fixed charge will increase by €5 to €95 for Band 1, and by €10 to €235 for Band 2. The LPT charge for properties valued between €315,001 and €1.26m (Bands 3 to 11) will be determined at a rate of 0.0906% of the mid-point value of the Band. For example, the mid-point of Band 3 (€315,001–€420,000) is €367,501 and the LPT charge will be €333 (0.0906% of €367,501).

For properties in Bands 12 to 19, valued between €1.26m and €2.1m the part of the mid-point value which is up to €1.26 million will be charged at the rate of 0.0906%, and the part exceeding €1.26 million will be charged at 0.25%.

Properties valued over €2.1 million (Band 20) will be charged based on their actual value.

- The initial €1.26 million will be charged at the rate of 0.0906%,
- the value between €1.26 million and €2.1 million will be charged at the rate of 0.25%,
- the value exceeding €2.1 million will be charged at the rate of 0.3%.

The above three amounts will be aggregated to determine the LPT charge.

Local Authorities have discretion to adjust the LPT rate for their areas up or down by 15%. This rate, the Local Adjustment Factor (LAF), is applied to the base LPT charge to determine the final LPT charge. From 2027, Local Authorities can vary the amount upwards by 25%.

Property owners are not expected to calculate the base LPT charge, or the LAF. Once they determine the Valuation Band of their property, the LPT Portal will automatically calculate the LPT charge.

Full details of valuation bands and charges will be available on revenue.ie.

Deferral of LPT

Eligible persons can defer payment of LPT where certain criteria are met. From 2026 onwards, the single person income threshold for deferral of LPT will increase from €18,000 to €25,000, and from €30,000 to €40,000 for a couple. Further information on the criteria to be met in order to qualify for a deferral can be found on the Revenue website.

A deferral is not an exemption, as the deferred LPT becomes payable at a later date and remains a charge on the property until it is paid. Interest accrues on the unpaid amount until it is paid and Revenue clearance for the sale or transfer of a property will not be granted where payments are still deferred. The interest rate for the first valuation period from 2013 to 2021 is 4% and is 3% from 2022 onwards.

LPT Exemptions

Certain properties are exempt from LPT if they meet the qualifying conditions. The most common exemption claimed is for properties unoccupied for an extended period due to illness of the owner.

From 2026, the LPT exemption for properties damaged by defective concrete blocks will be expanded to include properties in Clare, Limerick and Sligo. The exemption is already available to properties in Mayo and Donegal. An exemption to LPT can be claimed when submitting the LPT Return.

Appendix 1 - Valuation Bands

	Current Band Structure and charges		New Band Structure and charges	
	Band	*Charge*	*Band*	*Charge*
1	1 – 200,000	90*	1 – 240,000	95*
2	200,000 – 262,500	225*	240,001 – 315,000	235*
3	262,501 – 350,000	315	315,001 – 420,000	333
4	350,000 – 437,500	405	420,001 – 525,000	428
5	437,501 – 525,000	495	525,001 – 630,000	523
6	525,001 – 612,500	585	630,001 – 735,000	618
7	612,501 – 700,000	675	735,001 – 840,000	713
8	700,001 – 787,500	765	840,001 – 945,000	808
9	787,501 – 875,000	855	945,001 – 1,050,000	903
10	875,001 – 962,500	945	1,050,001 – 1,155,000	998
11	962,501 – 1,050,000	1,035	1,115,001 – 1,260,001	1,094
12	1,050,001 – 1,137,500	1,189	1,260,001 – 1,365,001	1,272
13	1,137,501 – 1,225,000	1,408	1,365,001 – 1,470,001	1,535
14	1,225,001 – 1,312,000	1,627	1,470,001 – 1,575,001	1,797
15	1,312,501 – 1,400,000	1,846	1,575,001 – 1,680,001	2,060
16	1,400,001 – 1,487,500	2,064	1,680,001 – 1,785,001	2,322
17	1,487,501 – 1,575,000	2,283	1,785,001 – 1,890,001	2,585
18	1,575,001 – 1,662,500	2,502	1,890,001 – 1,995,001	2,847
19	1,662,501 – 1,750,000	2,721	1,995,001 – 2,100,000	3,110
	Rate = 0.1029% (*fixed charge in first and second bands)		Rate = 0.0906% (*fixed charge in first and second bands)	

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The Role of Tax and Policy as Drivers of Ireland's Energy Transition

Introduction

Ireland stands at a pivotal moment in its journey toward decarbonisation. Fundamentally, we need to decarbonise to create a greener, healthier and more resilient world for current and future generations and to achieve energy security. We have also set ambitious (and legally binding) targets, enshrined in the Climate Action and Low Carbon Development (Amendment) Act 2021, that we are required to achieve. Meeting our energy transition commitments poses a significant challenge. A recent report published by the Irish Fiscal Advisory Council and the Climate Change Advisory Council[1] found that, on a per capita basis, Ireland currently has the highest emissions target gap of any EU Member State, meaning that it is the least likely to meet its 2030 target on the basis of its current trajectory. Furthermore, failure to meet these commitments could result in severe financial penalties, estimated at between €8bn and €26bn.

1 Irish Fiscal Advisory Council and Climate Change Advisory Council, *A Colossal Missed Opportunity: Ireland's Climate Action and the Potential Costs of Missing Targets* (Dublin: 2025).

Ireland, with its unique geographic landscape, has an opportunity to lead as a major provider of renewable and sustainable energy resources and to capitalise on the significant economic opportunity that this presents. This article explores how Ireland can leverage tax as an instrument to influence and mobilise the necessary investment and behavioural change to fund and achieve our net-zero ambitions and commitments and unlock the significant economic opportunity that decarbonisation presents. It also highlights examples of other jurisdictions that have successfully implemented energy-transition focused tax policies to support their decarbonisation.

The Role of Tax in Shaping Ireland's Energy Transition

Leveraging tax policy to achieve strategic aims is a relatively well-trodden path. In Ireland we have a long and successful history of using tax measures, particularly corporate tax policy, to drive necessary economic and societal change. Since the 1960s, when an explicit strategy to open up and modernise the Irish economy was formulated, a progressive approach to tax legislation has been a key element of the economic formula offered to domestic companies and international investors, specifically to attract activities that would lead to increased employment and wealth creation. It is consistent and established reasoning that we would again seek to utilise strategic and targeted tax policies to unlock the essential investment and innovation required to ensure that Ireland's energy transition delivers both economic and social value.

Tax is a powerful lever for influencing investment decisions and shaping the behaviour of businesses and consumers. Although it cannot singlehandedly deliver decarbonisation, it can contribute hugely to the broader ecosystem necessary for change. Uncertainty is inherent in large-scale infrastructural renewable energy projects. Whether it surrounds the duration of the planning and appeal process or macro financial factors such as changes in interest rates on capital borrowings, it is something that all project management teams must factor into their planning.

Well-designed tax measures can help to mitigate areas of uncertainty by providing stable predictable after tax profits, reducing other financial barriers (e.g. cost of investment) and, critically, signalling government commitment to perceived risk. The complexity of tax legislation will not be the sole risk item within a project. However, well designed tax measures that provide clarity and stability will be beneficial for stakeholders, especially within the renewable sector given the lengthy timeframe from development to operation. This is especially important in a sector where upfront investment costs are significant and long-term stability is essential for investment. Such procedures, frameworks and structures can be instrumental in influencing investment decisions such as, where and how much capital investors are willing to deploy.

International Examples

International experience underscores the impact that targeted tax measures can have on driving investment in the energy transition. The United States Inflation Reduction Act was introduced in August 2022 under the Biden Administration. A key focus of the Act was to accelerate investment in domestic energy production and clean energy, and it contained several tax policies aimed at supporting these objectives, including:

1. a 30% tax credit for investments in renewable energy systems, such as solar, wind and geothermal, and energy storage;
2. additional tax credit "boosts" where specific criteria are met:
    - +10% tax credit for using US-produced materials in the manufacture of clean-energy products,
    - +10% tax credit for investments located in "energy communities" (i.e. former fossil fuel towns) and
    - +10–20% tax credit for investments located in low-income communities; and
3. an ability to sell excess tax credits to unrelated parties for cash.

In the period 2022–2024 it was estimated that the measures introduced under the Act contributed to the creation of more than 170,000 clean-energy jobs and over $300bn in private sector clean energy investments were announced, with some economists describing it as "turbo-charging" the green economy in the United States. It should be noted that the One Big Beautiful Bill (OBBB) Act, which was signed by President Trump on 4 July 2025, has effectively repealed many of the 2022 Inflation Reduction Act measures. However, the level of investment, employment and economic activity generated in the two-year period before the OBBB demonstrates the significant impact that strategic and targeted tax policy can have on driving investment in decarbonisation.

Similarly, Australia's "A Future Made in Australia" and Scotland's Offshore Wind Policy have shown success in combining fiscal incentives with strategic investment and demonstrate how tax measures can be aligned with national priorities to drive sectoral growth and innovation.

At the European level, the European Commission (EC) unveiled the Omnibus Package in February of this year – a set of proposals aimed at simplifying EU rules, boosting competitiveness and unlocking investment capacity. A key component of this is the Clean Industrial Deal (CID), which focuses on raising funds and driving innovation to accelerate decarbonisation and foster a circular economy. On 2 July 2025 the EC published its Recommendation on Tax Incentives to support the CID, which outlines a strategic framework for EU Member States to design cost-effective tax measures to stimulate private investment in clean technologies and industrial decarbonisation. The Recommendation focuses on two "core instruments"; accelerated depreciation (including immediate expensing) and the use of targeted tax credits.

Considerations for Ireland

These international examples highlight the potential and opportunity for Ireland to use tax policy as a strategic lever to advance its energy and climate ambitions. The implementation of targeted incentives could accelerate the pace of decarbonisation and attract the private investment that will be critically important to develop much-needed renewable energy infrastructure, establish green supply chains and foster innovation. Although current Irish tax legislation includes some reliefs, credits and exemptions, enhancements to these might assist to position Ireland as a centre for green innovation, driving associated economic opportunities, and crucially, help us move closer to achieving our legally binding climate targets.

Suggested measures include:

- the reintroduction of the tax relief for investments in renewable energy generation projects;
- the provision of tax relief for renewable energy projects' decommissioning costs (currently not tax-deductible);
- an extension of the accelerated capital allowances regime for energy-efficient equipment beyond 31 December 2025;
- an expansion of the scope of the research and development (R&D) tax credit to include the area of sustainability to the extent that there is no uncertainty but opportunity to improve and change;
- the introduction of an innovation tax credit (similar to the R&D tax credit) to boost investment and activity in priority areas, such as digital and green technologies and high-value services; and
- the introduction of a tax deduction to offset fully or partially the higher upfront cost of using low-carbon materials for key public infrastructure projects.

If new or amended reliefs or incentives are introduced, consideration will need to be given to EU State Aid rules. The recent Recommendation on Tax Incentives published by the EC includes new provisions under the Clean Industrial State Aid Framework (CISAF).

The new CISAF framework simplifies State Aid rules for five key target areas:

- the roll-out of renewable energy and low-carbon fuels;
- temporary electricity price relief for energy-intensive users to ensure the transition to low-cost clean electricity;
- decarbonisation of existing facilities;
- the development of clean-tech manufacturing capacity; and
- de-risking support for private investment in areas across clean energy, decarbonisation, clean tech, energy infrastructure projects and projects supporting the circular economy.

Impact of Tax Policy on Project Structuring and Maintaining Compliance

The corporate structure of energy transition projects is a critical component of the financial model when it comes to monitoring the financial performance and extracting financial returns from projects. Tax policy and supporting legislative provisions can influence decisions from the earliest stages of development through to operation and divestment.

A strategic approach to corporate structuring of energy transition projects can aid in ensuring that projects are resilient, efficient and positioned to take advantage of opportunities as they arise. It also supports effective risk management and tax compliance, which are increasingly important as the sector grows in scale and complexity. By integrating tax considerations into project planning from the outset, stakeholders can optimise outcomes and build a strong foundation for long-term success.

A common corporate structure utilised in this sector is the development company (DevCo)/ operating company (OpCo) model. The role of the DevCo is to search for, evaluate, develop and support projects. The role of the OpCo is to bring projects to completion and subsequently manage their operation.

The DevCo/OpCo structure provides a commercial separation for distinct parts of the energy transition project and can enable tax relief for early-stage development costs, particularly for projects that are unsuccessful. This delineation enables better financial reporting and monitoring of different aspects of the business and can also avoid the need to carry out a restructure before a transaction, such as a refinance or divestment.

Debt financing accounts for a large proportion of the funding of energy transition projects. Tax relief is available for interest costs, but the legislative provisions governing this area of Irish tax relief are complex, and great care should be taken when designing a financing structure.. In 2024 the Department of Finance launched a consultation to seek feedback from stakeholders, indicating that the Irish Government is conscious of this. The objective of this review is to untangle and modernise Ireland's interest deduction rules while ensuring that they are coherent, business-friendly and compliant with EU and global standards. The public consultation period closed on 30 January 2025, and the Department of Finance are in the process of considering the responses.

More broadly, from a wider tax compliance perspective, stakeholders should ensure that their structures are compliant across all relevant tax heads. Furthermore, they should ensure that the operating models employed are compliant and as efficient as possible from a tax perspective. Key areas for consideration include:

1. *When does an energy transition project commence to trade?*

As provided for in Section 21 TCA 1997, the rate of corporation tax that applies to trading profits is 12.5%. A rate of 15% can apply where companies are subject to Pillar Two. While Section 21A TCA 1997 sets out provisions relating to excepted trades, it should be noted that activities related to typical renewable energy projects should not generally be

regarded as coming within the provisions of Section 21A TCA 1997.

Irish tax legislation does not include a general legislative provision to determine when a trade has commenced, This is generally a matter of fact but the Tax and Duty Manual Part 04-03-03 Commencement Rules provide guidance on determining the date of commencement of a trade. The date of commencement of a trade is important as it will be from this point that profits/losses are computed under Schedule D Case I ("Case I") principles.

Section 76A TCA 1997 provides that, for the purposes of Case I, the profits of a trade carried on by a company are to be computed in accordance with generally accepted accounting practice subject to any adjustment required or authorised by law in computing such profits. Section 81 TCA 1997 legislates for the general rules for corporation tax deductions. These provisions do not apply until such time as the trade has commenced.

Determining when a trade has commenced in renewable energy generation projects require a continual review of the facts and circumstances of projects and application of such facts to relevant jurisprudence. This is due to the significant lead time and extended development phases that occur before projects becomes operational and have reached the point of generating electricity (i.e. "energisation").

The lifecycle of a typical renewable energy project usually includes distinct phases. Each of the different phases represents the achievement of key milestones, but in isolation do not definitively establish the commencement of trading. While progress through these stages may provide support for demonstrating that trading has commenced prior to energisation, this determination is highly fact-specific and should be assessed on a case-by-case basis, to account for the circumstances of each project.

2. *The recovery of input VAT in the development phase*

S.59 VATCA 2010 sets out the provisions relating to the deduction of VAT incurred by "accountable persons" for the purposes of their taxable supplies or "qualifying activities". It should be possible to recover input VAT incurred during the development phase of renewable energy projects, before energisation has been achieved, provided there is clear intention that the project will make future taxable supplies (i.e. the generation and supply of electricity). Taxpayers are likely to be requested by the Revenue Commissioners at the time of applying for a VAT registration to provide evidence of their requirement to be registered for Irish VAT (e.g. proof of intended economic activity).

3. *Identify capital expenditure that qualifies for capital allowances*

Corporation tax relief for capital expenditure is available through capital allowances. Section 284 TCA 1997 provides for wear and tear allowance for capital expenditure incurred on qualifying "plant or machinery" used in a trade and expenditure directly related to the provision of plant or machinery for trade purposes. The wear and tear allowance commonly referred to as capital allowances is generally claimed over eight years.

For renewable energy projects, it is recommended to identify and review capital expenditure as it is incurred, particularly during the development phase. Conducting annual reviews of expenditure on large-scale assets throughout the development period allows for a more accurate and efficient assessment, as access to supporting documentation is more readily available. Waiting until the project assets come into use for the purpose of the trade can make it challenging to determine what costs qualify for capital allowances, especially given the long lead times of renewable energy generation projects, and the risk of missing or misclassifying older expenditure. Proactive tracking and assessment of capital expenditure

can help maximise the potential for capital allowance claims and reduce the risk of overlooking eligible costs.

Section 284 TCA 1997 does not include a definition of what is qualifying "plant or machinery" or what costs that are necessary to bring the asset into use. These points have been subject to voluminous cases in recent years in the renewables sector. Most recently in March of 2025, in *Orsted West of Duddon Sands (UK) Limited & Ors v. The Commissioners for HMRC* [2025] EWCA Civ 279, the Court of Appeal in the UK determined in favour of the taxpayer that the preliminary/feasibility studies, which were required to be performed, could be included in the qualifying costs for capital allowances purposes. While this is a UK tax case, it can have persuasive authority in Ireland. At the time of writing, the latest update regarding this case is that HMRC have been granted permission to appeal this decision to the UK Supreme Court.

4. *Determining what is Irish "land" in the context of onshore or offshore renewable energy projects*

Assessing what is an Irish "land" asset is important for Irish tax purposes. The assets in scope are broader than just the ordinary meaning of 'land'/buildings in the State and include other assets/rights e.g. exploration or exploitation rights in the Continental Shelf. However, for the purpose of this article, we refer to "land" in the State, as it is the most common asset considered in practice in the renewable energy sector. The conclusion reached can impact certain provisions in TCA 1997, inter alia if the shares of a company derive their value or greater part therefor from Irish "land":

- An Irish tax resident company disposing of the shares cannot claim capital gains tax relief – Section 626B TCA 1997
- A non-Irish tax resident company disposing of the shares is within the charge to Irish capital gain tax. This would be in conjunction to being subject to tax in their home jurisdiction – Section 29 TCA 1997
- Capital gains withholding tax clearance is required from Revenue, or the purchaser must withhold 15% of the consideration and remit this to Revenue – Section 980 TCA 1997.

The "value or greater part of their value" test is a 50% test on gross assets. In practice what is required for the purpose of conducting the tax analysis is a list of the assets of the project company (OpCo) and a valuation of the company, with an allocation of this valuation across different asset classes.

It should be noted that "land" is not defined in TCA 1997, other than to refer to "land" as including "any interest in land". The meaning of ""land" is defined in the Interpretation Act 2005 as including "tenements, hereditaments, houses and buildings, 'land' covered by water and any estate, right or interest in or over "land". The case of *Cintra Infraestructuras Internacional SLU v Revenue Commissioners [2023] IEHC 72* has established legal precent on the interpretation of "land" and non "land" assets for Irish capital gains tax purposes. The case examined whether a non-resident company's sale of shares in an Irish toll road operator was subject to Irish capital gains tax on whether the shares directly or indirectly derived their value from Irish "land". On the facts of the *Cintra* case, the High Court determined that a licence did not amount to an interest in land.

To make a determination on what is "land"' is challenging and will differ depending on whether the project is onshore or offshore. All assets, permissions, rights, leases, licenses owned or held by the project company should be reviewed in detail to ascertain what are "land" and non '"land" assets, and the values of same. In reaching a conclusion on, what is "land" in the State it is necessary to also consider the legal classification of the asset, examples of which include:

- Onshore – Land and Conveyancing Law Reform Act 2009, and
- Offshore – the recently enacted Marine Planning Act 2021 which replaced the Foreshore Act 1933. Furthermore, the distance of the projects from the Irish coastline is

a factor, and how the maritime areas (i.e. territorial waters, contiguous zone, exclusive economic zone and continental shelf) are treated for tax purposes.

5. *Designing and implementing an appropriate transfer pricing model*

The basic rule on transfer pricing as set out in Section 835C TCA 1997 is that transactions between associated persons must be priced in accordance with the arm's length principle. If the consideration paid or received is not at arm's length, the taxable profits or losses must be adjusted as if the transaction had been conducted at arm's length.

As referenced earlier in this article, renewable energy project corporate structures are commonly structured as an OpCo/DevCo structure. It is necessary to understand how supplies across a domestic or international corporate group structure of companies are priced and that they are priced on an arm's length basis, and that the supporting contemporaneous documentation is in place.

For financing structures, the principles of the arm's length nature of transactions between associated persons (e.g. provision of funds) will remain but the way the arm's length rate is calculated is likely to differ to that of the OpCo/DevCo model (e.g. provision of development services).

Overlaying all of this is the transfer pricing documentation obligation on taxpayers. The mandatory Irish transfer pricing documentation obligations are set out in Section 835G TCA 1997 and include circumstances where:

- consolidated group revenues are in excess of €750m – Local File, Master File plus Country-by-Country Report ("CbCR") required,
- consolidated group revenues are above €250m but less than €750m – Local File plus Master File required,
- consolidated group revenues above €50m but less than €250 – Local File required,
- consolidated group revenues less than €50m – below documentation threshold.
- a public CbCR requirement is in force for the first time for financial years beginning on or after 22 June 2024. The report must be published within 12 months of the balance sheet date for that financial year. For calendar year entities, this means the first reports will be due by 31 December 2026.

It is important to note that the above does not take account of the contemporaneous documentation (e.g. transfer pricing models, benchmarking etc.) that need to be in place to support the calculation of arm's length nature of transactions.

6. E*nsuring compliance with Relevant Contracts Tax ("RCT") where applicable*

RCT is a withholding tax mechanism to ensure tax compliance in certain industries, including the industry of producing energy – electricity, wind farms etc. Where RCT applies, withholding tax of 0%/20%/35% applies to payments made, dependent on the RCT rate held by the subcontractor. In summary RCT applies where a "Principal Contractor" engages a "Subcontractor" under a "Relevant Contract" to carry out "Relevant Operations" in the State.

Each of the terms are defined in legislation under Section 530 TCA 1997 and in the context of offshore renewable energy the territorial scope of RCT is wide and brings in work carried out offshore within Ireland's Exclusive Economic Zone.

Companies that come within the scope of RCT need to plan and have the appropriate processes in place within their procurement function to ensure that the RCT control framework is robust. Penalties for non-compliance are punitive as they are levied as a percentage of the contract sum even if the correct rate of RCT was 0%.

Furthermore, a domestic reverse-charge for VAT exists where "construction operations" (as defined) are supplied by a Subcontractor to a Principal Contractor under a Relevant Contract.

7. *Assessing whether R&D credits may be available*

In addition to the core tax and compliance considerations, stakeholders in any renewable energy project should assess the potential availability of R&D tax credits. Where qualifying R&D activities are undertaken in Ireland, companies may be eligible for valuable R&D tax credits, and these can reduce the overall tax expense and enhance project returns. Section 766, 766A, and 766B TCA 1997 provide for a tax credit for certain expenditure on R&D activities, plant and machinery and buildings. For accounting periods commencing on or after 1 January 2024, the credit is given at 30% of allowable expenditure, an increase from the historic rate of 25%.

The development and implementation of renewable energy projects whether wind, solar, or other technologies often involve significant innovation, particularly during the feasibility, design, and construction phases. R&D activities are defined within Section 766 TCA 1997. A principal part of coming within this definition is that the activities do not constitute R&D unless they seek to achieve scientific or technological advancement and involve the resolution of scientific or technological uncertainty.

In the years ahead, as Ireland's energy transition sector evolves, so will the regulatory and tax environment. Staying ahead of these changes requires a proactive approach to compliance. This is not a static exercise but an ongoing process that underpins the credibility and stability of projects. Robust compliance practices and tax control frameworks build investor confidence, protect against unforeseen challenges and ensure alignment with broader policy objectives.

The increasing complexity of international tax rules, such as the implementation of the OECD's Pillar Two minimum tax and the EU's Anti-Tax Avoidance Directive, means that Irish taxpayers must navigate an increasingly dynamic landscape. Adapting to new requirements demands a strong compliance culture and a willingness to engage with evolving standards. This enables projects to manage tax risks effectively.

Conclusion

Ireland is at a critical juncture in its pursuit of decarbonisation and energy security, facing both significant challenges and unique opportunities. The country's ambitious, legally binding climate targets demand innovative and effective strategies to close the current emissions gap and avoid substantial financial penalties. As demonstrated by international examples, targeted tax policy can be a powerful catalyst for investment, innovation and sectoral growth in renewable energy.

Ireland's historical success in leveraging tax policy for economic transformation provides a strong foundation for using similar approaches to drive the energy transition. By enhancing existing tax reliefs, introducing new incentives and aligning with evolving EU frameworks, Ireland can attract the investment necessary to develop renewable infrastructure, foster green supply chains and stimulate research and development in sustainability.

Strategic corporate structuring and robust tax compliance are essential to maximise the benefits of these policies, manage risks and ensure long-term project viability. As the regulatory and tax landscape continues to evolve, a proactive and adaptive approach will be crucial for maintaining investor confidence and achieving Ireland's climate ambitions. Ultimately, well-designed tax policy, integrated with sound project planning and compliance, can unlock the economic and social value of decarbonisation, positioning Ireland as a leader in the global energy transition.


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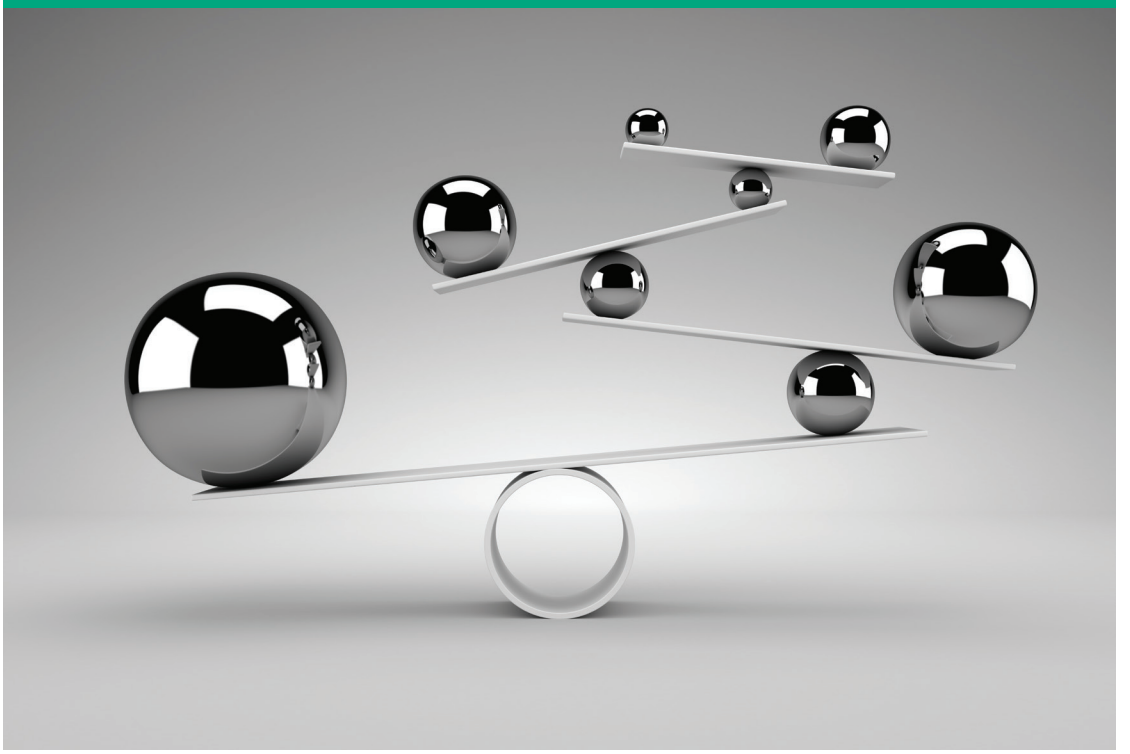
Taxpayer Rights: A Look at Revenue's Customer Charter



Introduction

The Revenue Commissioners published their first charter, known as the Charter of Rights, in January 1989.[1] This inevitably brought about a change in the relationship between the taxpayer and the tax authority with the emphasis placed on treating taxpayers as customers. On 7 March 2025 Revenue announced that it had updated its current charter, which is now known as the Customer Charter.[2]

Evolution of Taxpayer Rights and Service Charters

Before examining Revenue's current Customer Charter, it is worth considering at the outset the purpose of such charters. Formalising taxpayer rights by way of a customer charter delivers on several fronts. A customer charter promotes trust in the administration of tax, which in turn improves the relationship between the taxation authority and taxpayers. It encourages taxpayers

1 See "Revenue – The first 100 years", https://www.revenue.ie/en/rev-100/articles/100-years.aspx.

2 See Revenue eBrief No. 057/25.

to actively engage with a tax authority, which ultimately leads to greater voluntary compliance. A customer charter establishes the standard of services that is to be expected from the taxation authority, which leads to greater accountability and public trust in the tax system.

The purpose of customer charters is to guarantee continuity of services for taxpayers when engaging with tax authorities. Customer charters are akin to a company's mission statement, in effect ensuring that certain standards will be met when engaging with the tax authority. The implementation of such charters has resulted in a change in the dynamic between tax authorities and taxpayers, ensuring a move to a more balanced, service-oriented engagement with taxpayers. In this article we consider the structure and application of Revenue's Customer Charter, its broader implications for tax administration and the extent to which the charter affords rights and protections to taxpayers.

It should be noted that customer charters are not the only means of fostering mutual obligations between a tax authority and taxpayers. Tax administration can also be governed by a bill of rights, which we also consider the benefits of. For example, in the United States, the Internal Revenue Service adopted a Taxpayer Bill of Rights, which details ten fundamental rights that a taxpayer is legally entitled to. These rights include the right to be informed, the right to a quality service and the right to privacy. The Taxpayer Bill of Rights is not legally enforceable but lists a series of rights that are already statutorily guaranteed.

In Ireland, Revenue has adopted a service-based model for its charter. The Customer Charter focuses on Revenue's administrative commitments, targets and mutual obligations. In effect, it delivers Revenue's mission statement in a clear and comprehensible manner so that a taxpayer knows what to expect from Revenue, and it acts as the roadmap for how the relationship will function. However, notably, it does not provide a taxpayer with any enforceable rights.

Revenue's Customer Charter

The Customer Charter is not underpinned by legislation but, rather, is a codification of expectations that reflects a collaborative model of tax administration and emphasises the shared responsibility between Revenue and a taxpayer. The most recent Customer Charter does not create any additional legal rights but reiterates the existing practices of Revenue. In doing so, of course, the Customer Charter is also seeking to balance the Revenue's core function, which is to collect taxes and duties fairly and efficiently.

The Customer Charter can be found on Revenue's website[3] and is also discussed in Tax and Duty Manual Part 37-00-01, "Revenue Customer Service Charter". The manual states that the Customer Charter "reflects the mutual expectations of Revenue and its customers and seeks to ensure that our organisation conforms to the highest principles of professional public service".

Six categories of expectations can found in the Customer Charter:

- consistency, equity and confidentiality;
- courtesy and consideration;
- information and assistance;
- presumption of honesty;
- compliance costs; and
- complaints, reviews and appeals.

The first category is consistency, equity and confidentiality. Taxpayers can expect that the law will be applied in a consistent fashion and reasonably and that they will be treated fairly. Revenue's aim is not to profit from taxpayers but, rather, to recover those taxes that it believes to be due and owing. This first principle emphasises the importance of information's being used only for its intended purpose and being handled in accordance with the General Data Protection Regulation and other data protection law.

The second category is courtesy and consideration, whereby it is mutually expected

3 See https://www.revenue.ie/en/corporate/information-about-revenue/customer-service/customer-charter/index.aspx.

that all of the parties will be treated in a non-discriminatory manner and will treat each other with respect.

The third category governs information and assistance. By virtue of Revenue's function, it engages with a wide-ranging and diverse taxpayer base. Given the different customer issues, Revenue's aim is to deliver tax information in plain language that is more accessible to and understandable by the public. However, it is also incumbent on a taxpayer to provide accurate and complete information in a timely fashion.

The presumption of honesty is essential for any interaction between Revenue and a taxpayer. This presumption creates parity between the parties and fosters engagement. The starting point for all taxpayers is that the information is accurate unless contrary evidence is found to say otherwise. This principle seeks to foster voluntary compliance.

The aim of the fifth category is to promote cost reductions and efficiencies. Revenue, understandably, seeks to reduce administrative burdens while expecting taxpayers, in return, to maintain proper records and accounts.

The sixth and final category sets out the complaint, review and appeal procedures. This helps to instil confidence in the Customer Charter and ensures accountability.

The Customer Charter is helpful in that it details the expectations for everyone and encourages awareness. However, the absence of legal enforceability for breaches of the Customer Charter may restrict its effectiveness and the extent to which it safeguards the rights that it sets out. As a result, it is important to consider how the Customer Charter operates in practice.

Does the Customer Charter Have Any Practical Application?

A charter is useful only if it is visible and there is awareness of it among those acting on behalf of the tax authority and its customers. It is important that it is not considered in isolation but is applied throughout all of a taxpayer's dealings with Revenue.

A taxpayer may seek to invoke the Charter during an audit or other intervention by Revenue. The Code of Practice for Revenue Compliance Interventions is the framework governing how tax compliance interventions are conducted. It expressly refers to the Customer Charter. Revenue officers are not statutorily obliged to refer a taxpayer to the Customer Charter, but one would hope that an officer would direct a taxpayer and or their agent to it on the commencement of an audit/intervention.

A practical example of the Customer Charter's use is during an audit. A taxpayer may cite the Charter if they felt that the audit process lacked transparency or that information was being unfairly withheld without basis.

It is in everyone's interest to be cognisant of the Customer Charter as it governs the relationship and expectations of the parties and ensures fair procedures. Revenue has extensive powers with respect to information gathering, such as the power to raise enquiries pursuant to s899 of the Taxes Consolidation Act 1997 (TCA 1997); a Revenue officer can require a person to furnish information relating to a person's tax liability pursuant to s990/901 TCA 1997 and or gather information from third parties, such as financial institutions, pursuant to s902/902A/906A/908 TCA 1997. In light of the foregoing powers it is useful to maintain an open dialogue and ensure that there is a reasonable flow of information. If a taxpayer is honest and assists the Revenue officer, this cooperation may help if penalties were to subsequently arise.

The Customer Charter reminds taxpayers of what "fundamental services"[4] they are entitled to and what they can anticipate from Revenue officers. This will reassure taxpayers that the Customer Charter is guiding Revenue's

4 Code of Practice for Revenue Compliance Interventions.

approach and decision-making during its interactions with them. The Customer Charter is also referred to on Revenue's digital platforms, such as myAccount and ROS, where taxpayers are reminded of their rights and obligations.

Revenue's commitment to the Customer Charter is reaffirmed by the publication of regular performance reports regarding the delivery of its services. These quarterly reports are a method by which Revenue can be held accountable. According to its Service Delivery Report for quarter 1 of 2025, Revenue received 633,738 online enquires via MyEnquiries and responded to 53% of them within 5 working days and 77% within 20 working days.[5] More recently, Revenue has emphasised the need for a digital-first service while maintaining its phone and in-person support for complex and/or accessibility-related issues. In furtherance of Revenue's aims regarding the digital access of information, it is continuing to invest in and develop tools such as an AI-driven system that will provide estimated response times for responses to MyEnquiries.[6]

Although digitisation of services can streamline matters, this is true only if its end users are digitally literate and digitally enabled. There is a vast spectrum of technological readiness among businesses and individuals. Further digitisation of services can result in increased compliance costs, especially for small businesses. It would appear that Revenue is aware of such difficulties, and its Statement of Strategy 2023–2025 says that it "recognise[s] that not all of the community can become digitally enabled at the same pace, and we will ensure that we continue to serve the needs of all". New technologies should be consistent with minimising compliance costs, where possible, in tax administration while delivering services in an accessible and user-friendly manner.

Remedies and Enforcement: What Happens When Standards Are Not Met?

Taxpayers who believe that their Customer Charter rights have been infringed may avail of certain remedies. However, it is essential for tax practitioners to distinguish between a breach of customer service standards and a breach of legal rights before deciding on the appropriate course of action. A customer service breach typically involves administrative failings by Revenue, such as an officer's behaving discourteously or failing to provide reasonable information during an audit. In contrast, a breach of legal rights involves the infringement of a statutory or constitutional right, which may necessitate seeking a legal remedy. If a taxpayer believes that Revenue has breached the Customer Charter, they can lodge a complaint with Revenue via its complaint procedure, as detailed in its CS4 leaflet. There is no time limit for the lodgement of a CS4 review, but the leaflet suggests that "an application to have the case reviewed should be made before the making of an assessment or a determination by the Revenue".[7]

The first step is to lodge a complaint with the local office where the taxpayer's case is being handled, known as stage 1. If the taxpayer is dissatisfied with the outcome, they can request a Local Review to be performed by the Principal Officer of the local office, known as stage 2. The leaflet notes that in exceptional circumstances a taxpayer can request the Principal Officer from the Divisional Office to review the complaint; however, what may constitute such circumstances are not expanded on. Stage 3 is when the taxpayer remains dissatisfied with the decision of the Local Review; they can request a review by an independent internal or external reviewer, who will make a final decision regarding the issue that is the subject of the complaint.

5 "Service Delivery Report, Q1 2025", https://www.revenue.ie/en/corporate/documents/sdr-q1-2025.pdf.
6 "Service Delivery Report, Q1 2025", https://www.revenue.ie/en/corporate/documents/sdr-q1-2025.pdf.
7 "Revenue Complaint and Review Procedures Leaflet – CS4", p. 5.

The taxpayer must lodge their request within 30 working days of the date of the Local Review decision.

It must be stressed that the CS4 procedure has a specific, albeit limited, use: it is primarily focused on breaches of customer services standards. According to the CS4 procedure, it will review a difference of opinion regarding a point of law only where a case officer has clearly misapplied the law in the forming of their opinion.[8]

If a taxpayer believes that there has been a misapplication of the law by Revenue, then the appropriate forum is the Tax Appeals Commission (TAC). Practitioners should note that using the CS4 procedure does not prevent time from running for the purpose of an appeal against an assessment to the TAC or the bringing of judicial review proceedings. In addition to these modes of redress, a taxpayer can contact the Office of Ombudsman if they believe that Revenue has treated them unfairly or can bring a claim to the Workplace Relations Commission pursuant to the Equal Status Acts 2000–2011 if they believe that they have been discriminated against.

Does Revenue's Customer Charter Effectively Fulfil Its Intended Role?

Revenue's updated Customer Charter is a helpful resource in Irish tax administration. It is an important document that clearly establishes enforceable standards for both taxpayers and Revenue. However, the question to be asked is whether the Customer Charter is effective or is it simply a hopeful mission statement.

A common criticism of Revenue's Customer Charter, and similar charters, is that a breach of a customer service right amounts to little more than an empty infringement, lacking meaningful consequence or redress.

The language used in the Customer Charter is one of customer service obligations and is not framed in the context of legal rights and due process. If a taxpayer is to utilise the complaints procedure during an audit or intervention as recommended by Revenue, it could be viewed as burdensome and time-consuming when one is already engaged in an audit/intervention, which can be laborious.

It is arguable that the Customer Charter is merely akin to a mission statement and is aspirational in nature. Consequently, a breach of the Customer Charter is akin to a customer service issue, and thus, there is a possible risk of minimising the seriousness of a breach. In the UK, HMRC's charter is underpinned by legislation which was introduced by the Finance Act 2009 and which required the Commissioners to prepare a Charter which "must include standards of behaviour and values to which Her Majesty's Revenue and Customs will aspire when dealing with people in the exercise of their functions". The Commissioners are also required to report at least annually "reviewing the extent to which [His] Majesty's Revenue and Customs have demonstrated the standards of behaviour and values included in the Charter".[9]

The primary concern is that the Customer Charter is not legally binding, and thus, there is no statutory mechanism of enforcement. The CS4 procedure is not a substitute for an appeal to a statutory tribunal or a court. That procedure can deal with legal issues but only if the complaint is that the officer applied the law in a manner that is grossly incorrect and could not have reasonably formed that opinion.

There is an argument that it would be preferable to move away from the customer service language used in the Customer Charter and towards a rights-based approach. Such a departure would lead to greater enforceability and perhaps more tangible accountability.

8 "Revenue Complaint and Review Procedures Leaflet – CS4", p. 4.

9 Section 16A of the Commissioners for Revenue and Customs Act 2005.

See article by Nina E. Olson "*What Good is a Taxpayer Bill of Rights, Anyway?", Irish Tax Review* Issue 1, 2020.

As against a bill of rights, it is arguable that a move to a rights-based approach might discourage Revenue officers from providing information to taxpayers during audits and interventions. It could discourage a more collaborative approach. Revenue, in its Statement of Strategy, has expressly stated that it wants to engage with the community. It remains committed to continuing its efforts in producing Tax and Duty Manuals and providing information on its website in a clear and understandable manner to assist taxpayers in meeting their tax obligations.

It could also be argued that the availability of redress from the Ombudsman, the TAC and the Workplace Relations Commission already affords the taxpayer ample opportunity to air a complaint and a method to seek redress. The proposed change to a rights-based model could lead to more litigation and complicate audits further, which, in the authors' views, undermines Revenue's aims of reducing compliance costs and improving enquiry times.

To return to the question posed – whether the charter is effectively fulfilling its intended role – on balance, the charter is achieving the goal of providing a roadmap of customer service expectations. Revenue's Customer Charter remains a helpful tool in modernising tax administration. It fosters a culture of mutual respect and transparency between the parties. However, the Customer Charter's effectiveness is limited by its non-binding nature and its primary emphasis on customer service. This emphasis reduces its value as a robust mechanism for safeguarding taxpayers' rights.

With a growing economy, greater digitalisation and the growth of AI, there is a greater need for clear and enforceable standards that guide both taxpayers and tax authorities. It is a difficult balance to strike between an efficient tax collection system and a strong safeguard for taxpayers' rights.


Liam Gleeson
Associate, PwC Ireland

Orla Maher
Director, PwC Ireland

Understanding the VAT Concept of Fixed Establishment

Introduction

The concept of fixed establishment for VAT has, in recent years, been increasingly analysed by the tax authorities of EU Member States, which has resulted in a new wave of cases being decided by the Court of Justice of the European Union (CJEU). The Advocate-General in the case of *SC Adient Ltd & Co. KG v Agenția Națională de Administrare Fiscală* C-533/22 noted that:

> "This is now the fifth request for a preliminary ruling since 2018 concerning the criteria for determining whether a fixed establishment exists...Of those requests, it is already the third since the judgment in *Dong Yang* [C-547/18] in 2020 that asks, in essence, whether a controlled company or a group company is to be regarded as a fixed establishment of the parent company or another group company. That development is astonishing in view of the fact that there had been, up to that point, a total of just six comparable requests for a preliminary ruling since the introduction of the Sixth Council Directive

77/388/EEC (that is to say during a period of more than 40 years)."

With increased scrutiny of what determines a fixed establishment for VAT purposes, it is important to understand what factors the tax authorities are relying on in concluding that a fixed establishment exists. This article sets out the development of the concept of fixed establishment, why it is an important concept, the critical factors required to have a fixed establishment and some of the key areas in VAT where the concept of a fixed establishment is relevant. This is not to be confused with the concept of permanent establishment for income and corporation tax purposes.

Prior to changes to the place-of-supply rules in 2010, "establishment" was defined in section 1 of the Value-Added Tax Act 1972 as meaning:

> *"any fixed place of business, but does not include a place of business of an agent of a person unless the agent has and habitually exercises general authority to negotiate the terms of and make agreements on behalf of the person or has a stock of goods with which he regularly fulfils on behalf of the person agreements for the supply of goods".*

This definition was deleted with effect from 1 January 2010.

Although the term "fixed establishment" is not defined under Irish VAT legislation, a broad definition is provided in EU VAT legislation under Article 11 of the EU Implementing Regulation No. 282/2011, which defines it as:

> *"any establishment…characterised by a sufficient degree of permanence and a suitable structure in terms of human and technical resources to enable it to receive and use the services supplied to it for its own needs".*

Place-of-Supply Rules

From a VAT perspective, where services are supplied on a cross-border basis, it is critical that the correct taxing jurisdiction can be determined and the correct taxable person identified. The law regarding the place of supply for services sets out a cascading set of rules to determine the correct place of supply, with a common factor being "establishment".

Article 44 of Council Directive 2006/112/EC ("the Directive") provides that, in the context of business-to-business supplies, the place of supply of services will be where the recipient has established their business or has a fixed establishment to which the service is supplied. In the absence of a fixed establishment, the place of supply shall be the permanent address of the recipient. The rules were transposed into Irish law by s34 of the Value-Added Tax Consolidation Act 2010 (VATCA 2010).

For example, an Irish service provider that ordinarily charges VAT at the standard rate of 23% to its Irish customers would not charge VAT to a business customer with a fixed establishment in Germany. The German customer would self-account for VAT under the reverse-charge mechanism, as s34(a)(ii) VATCA 2010 deems the place of supply to be Germany (i.e. where the customer is established). Linking the place of supply with the fixed establishment of the customer brings certainty to the taxing jurisdiction and the entity that is required to account for VAT.

Case Law Summary

Before the adoption of the Implementing Regulation (EU) No. 282/2011, the case of *Gunter Berkholz v Finanzamt Hamburg-Mitte-Altstadt* C-168/84 was one of the primary sources of guidance concerning fixed establishment. It was held that an accountable person must have "the permanent presence of both the human and technical resources" that are required to provide its services. It was not enough to deem services to have been provided where the supplier had established their business (which in this case was the operation of gaming machines on board ferries).

The Implementing Regulation codified this definition of fixed establishment in EU law.

There are several common themes through the abundance of cases that have since come through the courts, and these establish wider criteria for determining whether a fixed establishment exists.

In the case of *Dong Yang Electronics Sp. z o.o.* C-547/18 Dong Yang Electronics, a Polish company, provided assembly services to LG Korea and invoiced these services as not subject to Polish VAT, based on LG Korea's assertion that it did not have a fixed establishment in Poland. The Polish tax authorities argued that LG Korea's Polish subsidiary (LG Display Polska) constituted a fixed establishment of LG Korea, thus making the services subject to Polish VAT.

The question referred to the CJEU was whether the Polish subsidiary could be considered a fixed establishment of its parent company. The court found that the mere existence of a subsidiary does not automatically create a fixed establishment for the parent company; the economic and commercial realities and the contractual relationships must be examined. It was held that Dong Yang was not obliged to inquire into contractual relationships between LG Korea and its subsidiary to determine the existence of a fixed establishment in the EU. Taxpayers need to examine thoroughly the economic and commercial realities of the contractual relationships with customers, given that the legal structure alone does not determine whether a fixed establishment exists.

The CJEU case of *Titanium Ltd v Finanzamt Österreich* C-931/19 concerned a Jersey-based company that owned and let a property in Austria to two Austrian traders, with all management decisions retained by Titanium and day-to-day operations handled by an Austrian real estate management company. The Austrian tax authorities argued that the property constituted a fixed establishment for VAT purposes, thereby making Titanium liable for Austrian VAT on the rental income from the property.

The court was asked to determine whether Titanium Ltd could be considered to have a fixed establishment in Austria if it owned and let property but did not have any staff in Austria. The CJEU found that a structure without its own staff cannot fall within the scope of the concept of a "fixed establishment".

The Austrian property did not have any human resources enabling it to act independently and therefore did not satisfy the criteria that have been established by case law to constitute a fixed establishment. This case is critical to understanding the need for the presence of a degree of human resources that would enable a business to provide services independently (although not necessarily the business's own human and technical resources).

The issue in the case of *Berlin Chemie A. Menarini SRL v Administrația Fiscală pentru Contribuabili Mijlocii București* C-333/20 was whether the mere existence of a subsidiary providing services to its parent company constituted a "fixed establishment" where an extensive range of services closely linked to making sales were supplied. Berlin Chemie AG, a German pharmaceutical company, sold medicinal products in Romania with the support of a local subsidiary. The Romanian subsidiary provided marketing, regulatory and promotional services exclusively to the parent company. The Romanian tax authorities argued that Berlin Chemie AG had a "fixed establishment" in Romania owing to its exclusive access to the subsidiary's personnel and technical resources.

The CJEU ruled that simply having a subsidiary that provides services does not automatically create a fixed establishment for the parent company in that Member State, even if those services are exclusive and closely linked to the parent's business.

The court clarified that a fixed establishment requires a sufficient degree of permanence and a suitable structure of human and technical resources, but these resources must be at the disposal of the company **as if** they were its own, not merely accessible via a service contract over which it has no control. The company must be able to direct and control the relevant resources. Where the resources are

made available by way of a service contracts, it must not be possible for the service provider to terminate the contract at short notice. From a practical standpoint, in scenarios involving a branch or subsidiary, the relationship between entities must be considered. One of the questions that a court will reckon with is whether the branch or subsidiary has the available resources and independence to be a fixed establishment of the parent company.

The question of whether inter-company arrangements relating to the provision of toll manufacturing services or manufacturing and ancillary services triggers a fixed establishment was examined in *SC Adient Ltd & Co. KG v Agenția Națională de Administrare Fiscală* C-533/22 and in *Cabot Plastics Belgium SA v État belge* C-232/22. The *Adient* case sought to establish whether Adient Germany, a company established in Germany, should be regarded as having a fixed establishment for VAT purposes in Romania owing to its contractual relationship and business activities with its Romanian affiliate. Adient Germany engaged Adient Romania to provide manufacturing services (cutting and sewing upholstery components for car seats) and ancillary services (storage, inspection, management of materials and products).

The Romanian tax authority argued that Adient Germany had a fixed establishment in Romania because of the human and technical resources available through Adient Romania's branches. The CJEU held that merely belonging to the same group or having a service contract does not, by itself, create a fixed establishment.

The existence of a fixed establishment depends on whether the recipient company has its own human and technical resources in the Member State, used independently for its own needs. Preparatory or auxiliary activities (such as administrative support, storage or quality control) are not sufficient to establish a fixed establishment for VAT purposes. The resources must be distinct from those used by the service provider and must enable the recipient to receive and use the services for its own business.

In the *Cabot* case Cabot Switzerland GmbH entered into a tolling agreement with Cabot Plastics Belgium SA, a legally independent but related group company, for the processing of raw materials into plastic products. The Belgian tax authority claimed that Cabot Switzerland had a fixed establishment in Belgium for VAT purposes owing to the exclusive use of Cabot Plastics' resources.

The main question was whether a non-EU company receiving services from a legally independent but related service provider in an EU Member State could be considered to have a "fixed establishment" in that Member State, based on the exclusive contractual use of the provider's human and technical resources. The Belgian State argued that the exclusive use of Cabot Plastics' facilities and staff by Cabot Switzerland constituted a fixed establishment in Belgium. Cabot Plastics contended that the place of supply should be Switzerland, as Cabot Switzerland did not have its own suitable structure in Belgium.

The CJEU clarified that a fixed establishment requires a suitable structure in terms of human and technical resources that the recipient can use as if they were its own. The mere existence of an exclusive service contract does not automatically transfer the toll service provider's resources to the recipient for VAT purposes. The court held that Cabot Switzerland did not have a fixed establishment in Belgium, as it did not possess a suitable structure of its own in terms of human and technical resources, even though the service provider (Cabot Plastics) provided services exclusively under contract.

From the judgments of the CJEU highlighted above, it is clear that in determining the place of supply of services received under Article 44 of the VAT Directive, the primary reference point is the place where the business customer has established its business. If this does not lead to a rational result or creates a conflict with another Member State, then the secondary point of reference of fixed establishment must be taken into consideration, i.e. it is an exception to the general rule. For a fixed establishment

receiving services to exist, it must be able to receive and use the services supplied for its own purposes by virtue of a sufficient degree of stable human and technical resources.

Entitlement to Register for VAT

There are several benefits for a business having an EU VAT number (on the assumption that the business is entitled to be VAT registered or is obliged to be VAT registered). A VAT number can prevent double taxation in both the country of origin and the Member State to which services are supplied. It allows a business to reclaim VAT on goods and services purchased within the EU, where so entitled. Additionally, a business will be able to avail of schemes such as the One-Stop Shop, which greatly simplifies compliance and tax burdens across the EU.

However, although the fact that a VAT registration is beneficial for taxpayers is a widely accepted axiom, its inherent value creates a problem for many tax authorities, as traders may seek to obtain a VAT number to acquire VAT-free goods from a Member State and falsely claim VAT refunds ("missing trader" fraud is a significant issue in the EU). In this regard the burden of proof under Irish case law rests with the taxpayer, and it is their obligation to discharge this burden to establish that they are entitled to become an accountable person.

Whether a fixed establishment exists can play a key role in determining whether a business will have a taxable presence in the State. The Tax Appeals Commission (TAC) has determined a number of cases in this regard.

TAC determination 145TACD2023 related to a UK-registered limited company that supplied corporate resellers and that sought an Irish VAT registration. Although the appellant had indicated in its submission that it would consider setting up a physical presence in Ireland, this intention alone did not constitute enough to discharge the burden of proof.

The Commissioner determined that Revenue was correct to disallow the VAT registration, finding that the appellant did not have a physical presence or employees within the State; it was a business operated in the UK that was supplying services to Ireland that had not submitted sufficient proof that it had a fixed establishment in Ireland.

Determination 129TACD2022 concerned an Irish jewellery supplier that argued that as its sales contract with its UK suppliers was concluded in Ireland, the UK suppliers had a permanent establishment in Ireland, and the supplies would be within the scope of Irish VAT. The Commissioner found that, based on the information submitted, the transport of the goods going to Ireland had commenced in the UK and the place of supply would therefore be the UK, as provided for by s29(1) VATCA 2010.

In analysing the facts, the Commissioner cited EU case law, specifically *Dong Yang Electronics Sp. z o.o.* C-547/18, wherein it was stated that "the appropriate test for VAT purposes is not whether a permanent establishment exists but whether a fixed establishment is in place".

A VAT registration is not a simple matter of ticking a box on a registration form, and there is a significant level of scrutiny placed on each registration, further highlighting the need for a taxpayer to be well prepared when applying for registration.

Electronic VAT Refund Reclaims: Thirteenth Directive

The entitlement to reclaim input VAT regularly features in cases before the courts in the context of VAT incurred in the taxable person's own Member State. However, it is also an issue for consideration where VAT is incurred by a taxable person in another jurisdiction, and the concept of establishment must be considered as part of the analysis. The EU VAT legislation lays down various rules and procedures for reclaiming VAT in those situations.

In the case of *Planzer Luxembourg Sàrl v Bundeszentralamt für Steuern* C-73/06 Planzer Luxembourg Sàrl, a Luxembourg-incorporated haulage company, applied for a refund of VAT paid on fuel in Germany. The German tax

authority rejected the application, questioning whether the company was genuinely established in Luxembourg or was actually managed from Switzerland. The case centres on the definition of "establishment" and "business" for VAT refund purposes under the Eighth and Thirteenth VAT Directives (as they applied before 2010) and whether a certificate of VAT status from Luxembourg is conclusive proof of establishment.

The court held that although a certificate issued under the Eighth Directive creates a presumption of establishment in the issuing Member State, tax authorities in the refunding Member State may, if there are doubts, verify the economic reality. It clarified that for the Thirteenth Directive the "place of business" is where essential management decisions are made and central administration functions are exercised, not merely where a company is registered or has a "brass plate" presence. The court ruled that the German authorities could investigate the actual place of management and administration to determine whether the company was truly established in Luxembourg for VAT purposes, rather than relying solely on formal documentation. The judgment in this case formed the basis for the wording used in Article 10 of the Implementing Regulation (referred to above) in relation to place of "establishment".

Under the Thirteenth Directive a taxable person established outside of the EU is entitled to apply for a refund of VAT paid on goods or services supplied to it by a taxable person within the EU. These refunds must be applied for by the non-EU taxable person, and the tax authorities of the Member States will determine the practical arrangements for claiming refunds at their own discretion by setting time limits and minimum amounts.

In Ireland the legislative provisions for a Thirteenth Directive reclaim are set out in s102 VATCA 2010 and Regulation 37 of the Value-Added Tax Regulations 2010. Regulation 37(a) specifies that a claimant must "provide proof, in the form of a written document from the relevant official department of the country in which that person has an establishment, that he or she is engaged in carrying on an economic activity".

Conclusion

As supply chains become more complex in a globalised economy, fixed establishments for VAT have become an increasingly complex topic. The common theme emerging from the body of case law is the need for the presence of human and technical resources to either receive or make supplies, and understanding the real economic and commercial substance of the activities carried out by each party in the supply chain.

We see European tax authorities taking increasingly aggressive positions on what constitutes a fixed establishment in tandem with an increase in the volume of such cases coming before courts. The tax authorities appear to have focussed on cases involving related parties, whether branches or subsidiaries. However, one of the most interesting aspects of these cases is how often the CJEU has sided with the appellant. In the majority of the cases mentioned above the final judgements ruled against the tax authorities. Tax authorities in several cases seem to have failed to consider the economic realities of the services that were being provided or correctly analyse whether all of the criteria for a fixed establishment (as provided for by the Implementing Regulation) have been met.

It is essential to have a detailed understanding of the roles of each party in any given supply chain. It is clear that the courts will examine each case in meticulous detail to determine the economic reality of how cross-border supply chains operate, and taxpayers must take an equally careful approach to conclude on the existence (or non-existence) of a fixed establishment.

News & Moves

Eight New Director Appointments at BDO Ireland

BDO Ireland is pleased to announce the appointment of eight new Directors across the firm including Gerard Meehan, Private Client.

Gerard Meehan is a Fellow of Chartered Accountants Ireland, a Chartered Tax Adviser (CTA) and a Trust and Estate Practitioner with the Society of Trust and Estate Practitioners. He has over 22 years' experience in tax services, specialising in income tax, capital gains tax, capital acquisitions tax and succession planning. Gerard also has extensive experience representing clients in engagements with the Revenue Commissioners.

Cooney Carey Becomes Part of Azets Ireland

In recent months, Cooney Carey has officially become part of Azets Ireland, marking an exciting new chapter for both organisations, their people and their clients. The deal bought together two of Ireland's leading business advisory firms, with a shared focus on people and client relationships that are built on trust, responsiveness and a combination of technical excellence and practical advice. As part of Azets Ireland, Cooney Carey's clients receive the same high-quality advice and responsiveness from the same trusted advisors they know and rely on – now with the added benefit of wider access to new services and specialisms. The expanded Azets Ireland team shares a commitment to building long-lasting relationships through a deep understanding of their clients' businesses and delivering personalised, people-led services that consistently support evolving needs with peace of mind.

Neil Hughes, Ireland CEO at Azets, and Tony Carey, Director and Head of Advisory at Cooney Carey

Darren Maher Elected to Succeed Michael Jackson as Managing Partner of Matheson

Matheson LLP is pleased to announce that, in advance of the completion of Michael Jackson's final term as Managing Partner at the end of this year, the partners have unanimously elected Corporate partner, Darren Maher, to succeed him with effect from 1 January 2026.

Mr Maher is head of the firm's Financial Institutions Group and co-head of its Corporate Department.

Darren Maher joined Matheson in 2003, having completed his law degree in UCD, and has worked with the firm since. Following his training, he initially worked in what was then the Banking and Financial Services team, joining the firm's Financial Institutions Group (FIG) on its establishment in 2010. He was promoted to partner in 2012 and was appointed as head of FIG in 2017, succeeding the late Tim Scanlon. Most recently, in 2023, Darren was appointed as co-head of the Corporate Department, alongside David Fitzgibbon.

Matheson Managing Partner Michael Jackson and incoming Managing Partner Darren Maher – June 2025

Philip Lee LLP Appoints Michael McGivern as Head of Tax

Philip Lee, headquartered in Dublin with offices in London and New York has announced the appointment of Michael McGivern as Head of Tax to lead the firm's tax advisory service.

Michael McGivern (CTA) brings over 25 years of experience in tax advisory services. Prior to joining Philip Lee, he held senior positions at S&W (formerly Smith & Williamson) and Grant Thornton, where he advised large Irish and international corporate clients across several sectors including technology, manufacturing, services, retail, leisure, and real estate. His specialisms include domestic and international mergers, acquisitions and reconstructions and domestic and international tax planning, including IP structuring. He also has extensive tax experience in succession planning and passing on family businesses.

Walkers Promotes Two CTAs in Dublin

Walkers in Ireland has promoted two lawyers to the partnership and 21 other professionals in the firm's annual promotions round which saw 129 people promoted.

Eimear Burbridge has been promoted to Tax Partner. As a recognised tax expert in the financial services field, Eimear has been with Walkers for over 14 years. She is a Chartered Tax Adviser (CTA) and specialises in the taxation of financial services transactions, advising across all manner of capital markets, securitisation, investment funds, aircraft financing and insurance linked securities deals.

Michael Gallagher (CTA) has also been promoted to Senior Associate in the firm's Tax team. He joined Walkers over eight years ago as a paralegal and now specialises in financial services taxation and advises on all manner of finance, investment funds, capital markets, securitisation and collateralised loan obligation (CLO) transactions.

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