An Roinn Fiontar,
Trádála agus Fostaíochta
Department of Enterprise,
Trade and Employment

Roadmap for the Introduction of a Participation Exemption to Irish Corporation tax including technical consultation

DETE Response

Roadmap to Introduction of Participation Exemption,

Tax Division,

Department of Finance,

Government Buildings,

Upper Merrion Street,

Dublin 2 D02 R583

Deirdre,

I would like to thank you and colleagues in the Department of Finance for the opportunity to contribute to the consultation process on the introduction of a participation exemption to Irish corporation tax.

Ireland's corporate tax policy, and broader industrial strategy, has consistently been successful in attracting real, substantive investment and the creation of employment. Ireland is now at a stage where careful decisions relating to the competitiveness of our corporation tax regime must be made. The Government has been fully committed to agreed international reforms and are continuing to transpose the EU Minimum Tax Directive in Ireland to provide for the 15% minimum effective corporation tax rate in Pillar Two. While it is understood that the imposition of the minimum tax rate is expected to exclude the vast majority of companies operating in Ireland, it is likely to impact a number of our key employers and corporate taxpayers. We have received feedback from business stakeholders noting substantial concerns regarding Ireland's continued ability to compete on the basis of its corporation tax rate. It is our view that if Ireland is to remain an attractive location for Foreign Direct Investment, it must align its corporation tax code with that on offer by other EU and OECD countries.

Introduction of a Participation Exemption, modelled on the UK regime

We fully welcome the Minister for Finance's decision to have an open discussion regarding preparing for the introduction of a foreign dividend exemption regime into the Irish corporation tax system, thereby rectifying Ireland's position as a clear outlier in the EU and the OECD, as noted in the consultation document. DETE is conscious of similar changes to a number of corporate tax systems in recent years, including the US, which moved from a worldwide system to a hybrid territorial system of taxation in 2018. Representing one of the most significant changes to US international tax rules over the space of more than 50 years[1], the introduction of a full exemption for foreign sourced dividends will mean that many US-based multinational companies can repatriate cash back as they are no longer required to pay additional taxes on future foreign profits[2]. The UK also exempted foreign-source dividends as far back as 2009, a move that generated greater incentives for outbound profit sharing for UK-based multinationals[3].

The decision not to legislate for a dividend exemption in Finance Bill 2023 has been a source of concern amongst some stakeholders, who do not feel that the timeline set out to introduce the legislation in Finance Bill 2024, for introduction in 2025, reflects the urgency of this issue. Concerns have been raised by clients, through our agency IDA Ireland, that this longer timeline is unnecessary. It has been further noted that Ireland is at risk of losing its competitive position, if Ireland's 'outlier' status continues. Based on this Department's interactions with

---

[1] United States - Corporate - Significant developments (pwc.com).
[2] Why US tax reform could be a game changer for your business | EY. .
[3] Home or Away? Profit Shifting with Territorial Taxation (imf.org), September 2022. .

IDA Ireland, advisors and the wider business community, there is a consensus that this matter needs to be addressed in a timely manner to ensure that firms with a multinational focus are not disincentivised from conducting their operations in Ireland.

Nonetheless, we acknowledge that the introduction of various elements of the corporation tax code is likely to place considerable pressure on resources in both the Department of Finance and the Revenue Commissioners. This Department is willing to work together with officials in the Department of Finance in achieving the best solution, in liaison with the Revenue Commissioners and IDA Ireland, through the Business Tax Stakeholder Forum and in other relevant fora.

Reducing administrative compliance: Interest Limitation rules

Ensuring that compliance with our regime is straightforward, transparent and imposes minimal cost and administrative burdens will be an important factor for competitiveness.[4] Ireland introduced its new Interest Limitation Rules under the EU's Anti-tax Avoidance Directive (ATAD) in Finance Act 2021, introducing an additional layer onto already existing onerous legislation in the TCA 1997. Submissions from various enterprise groups and agency clients have reiterated the need to address the layering of tax legislation and reform to Ireland's complex Interest Limitation Rules, however there is a sense that this request has been sufficiently addressed or acknowledged in recent updates. With regards to the tax code on the whole, and particularly with newer legislation such as the Interest Limitation Rules, it is important to ensure continued analysis of their impact so as not to place undue burden on taxpayers. Research emerging from the OECD suggests that clear, unambiguous legislation encourages compliance and reduces the tendency for taxpayers to behave in ways that were unintended by the law[5].

---

[4] White Paper on Enterprise, 2022 - 2030.
[5] Compliance Risk Management: Managing and Improving Tax Compliance, OECD, 2004.

An Roinn Fiontar,
Trádála agus Fostaíochta
Department of Enterprise,
Trade and Employment

It is critical that the Department of Finance consider the impact of Interest Limitation Rules and other changes to the tax code in recent years, in addition to examining further changes to the corporate tax system.

With regards to the specific questions raised in the consultation, we have been engaging with IDA colleagues on this matter. It is our understanding that they will follow up with specific recommendations in response to questions asked in the consultation on the introduction of a Participation Exemption regime.

I trust that you will give appropriate consideration to the areas I have raised above and I look forward to your future comments and subsequent decisions emerging from this consultation.

Yours sincerely,

Dr. Dermot P. Coates

Economic and Tax Policy Unit