DFIN Briefing submitted to DoT for PfG Talks

Contents

Response on Carbon Tax 08/06/20 [GP]....2

Note on Borrowing Costs 27/05/20 [FG]....2

Questions on Medium Term Fiscal Strategy 20/03/20 [GP]....4

Response re Cycle to Work 12/03/20 [SF]....7

Response to Query re Tax Relief on Pensions 09/03/20 [GP SF]....8

DFIN Responses 09/03/20 [FF] [GP]....9

Response Incapacitated Child Tax Credit 09/03/20 [SF]....11

DFin Responses 05/03/02 [GP SF]....12

Technical Note for the Committee on Finance on the potential consequences of changes to the treatment of Corporation Tax Loss Relief in respect of Banks 05/03/20 [GP SF]....18

DFIN DFAT Response MFF CAP 03/03/20 [GP]....36

Economic and Fiscal Briefing 03/03/20 [GP FG FF SF SD's]....38

DFIN Response Car Parking Levy 27/02/20 [GP]....48

DFIN Responses GP 26/02/20 [GP]....48

DFIN Update Note on Apple Case 26/02/20 [SF]....59

Carbon Tax Increase Response 24/02/20 [SF]....60

Response on Carbon Tax 08/06/20 [GP]

BRIEFING REQUEST

DoF 27: “What is the expected annual increase in revenue, relative to the 2020 base, from increasing the carbon tax by €7/tonne every year until 2030?”

RESPONSE:
The additional carbon tax receipts from increasing the carbon tax rate from €20/tCO2 to €26/tCO2 was estimated at €130m in a full year. This estimate was based on equivalent volumes of fuels with 2019. On the same basis, increasing the carbon tax by €7/tCO2 would increase carbon tax receipts by approx. €150m in a full year.

The following should be noted:

Revenue has recently revised the carbon tax forecast in light of Covid. For this exercise, “the 2020 base” in the request has been interpreted as the original rather than revised forecast;

The numbers are “full year” receipts and are silent on the possibility of delayed commencement until 1 May each year for non auto fuels; and

Auto fuels rate increases will apply from budget night – thus delivering additional receipts in the current year (about €12m) as well as the following year. However, this is not factored into the numbers.

Note on Borrowing Costs 27/05/20 [FG]

Note on Borrowing Costs

27 May 2020

Overview

- The Government published its *Draft Stability Programme Update* on 21st April. This set out an updated economic and fiscal scenario, for this year and next, including a general government deficit projection of €23 billion for this year.
- In light of the updated fiscal position, including the Exchequer Borrowing Requirement of €15.6 billion, the NTMA has announced a revised bond funding range of €20 billion to €24 billion for the year.
- The interest rate environment is accommodative owing to European Central Bank policy action and the introduction of its €750 billion Pandemic Emergency Purchase Programme (PEPP).

- There are a number of important considerations in relation to Ireland's sovereign debt, including:
  - Ireland's sovereign debt levels are already high;
  - All countries are currently borrowing heavily from sovereign debt markets and Ireland must ensure it is not a negative outlier; and
  - Ireland is heavily reliant on international sources of sovereign debt financing (as compared to larger countries) and therefore like other smaller countries is a price taker in sovereign debt markets.
- The IMF is forecasting an average increase in the euro-area debt to GDP ratio of 13 percentage points this year. The SPU projects a c.10 p.p. increase for Ireland, just below the euro-area average.
- Although our annual debt interest bill has dropped from a peak of over €7.5bn to c. €4bn this year, many of the high-coupon bonds have already been replaced. Therefore, we must be mindful of the impact of (i) sharply increasing debt levels and (ii) potentially higher refinancing costs. Our experience shows sovereign credit ratings and rates can change dramatically (rates rose from 4% to 14% during the financial crisis).
- With gross public debt possibly heading towards the €250bn mark, an average interest rate of less than 2% (which is the current position) generates an annual debt interest bill in the €4-€5bn range. However, an average rate of 3% could see that annual bill grow to €7.5bn and at an average rate of 4% it could be €10bn per annum.

1. Debt redemption schedule over the next five years or so

- Approximately €38 bn will need to be financed (not including financing of very significant deficits) in the period to 2025. The bond redemptions are [note: doesn't include short-term (<1 year) money and rounding affects totals]:

  2021 = €0 bn

  2022 = €12 bn

  2023 = €7 bn

  2024 = €8 bn

  2025 = €12 bn
- While we have a "gap year" next year with no bond maturities, there are two bond maturities in 2022, the first of which is in March. The total outstanding balance on these bonds is close to €12bn at present.
- These bonds which were issued in January 2015 and October 2017 carry annual coupons of 0.8% and 0% respectively. The likelihood is that these will have to be refinanced at higher rates.

- Additionally, there is €41bn outstanding in EU loans at present, equivalent to approximately one-fifth of public debt. The redemption of these loans from the EFSF and EFSM is also coming into view, as they start to mature from 2027. Unless these maturities can be funded from running regular, sizable budgetary surpluses, they will need to be refinanced in the market place. Again, we should plan for refinancing these loans at potentially higher rates than those currently pertaining.

- Unlike in recent years, and depending on the pace of recovery, we could be issuing and refinancing debt against a less favourable backdrop and at a time of increasing debt ratios.

2. **Evolution of borrowing costs over 2006-10 period (roughly)**

- The average rate on bond issuance over the five year period 2006-2010 was just over 4.5%.

3. **Average borrowing costs during the 80s, 90s, 2000s**

- The average interest rates (on 10-year money) in the respective decades were:
  - 1980s = c.11%
  - 1990s = c. 7½ %
  - 2000s = c. 4½ %

- These interest rates illustrate how today's interest rate environment is exceptionally low, which as we know (from our recent experience) can reverse very quickly when a country becomes a fiscal outlier and is perceived to have lost the support of EU institutions (Irish rates rose from 4% to 14%).

Questions on Medium Term Fiscal Strategy 20/03/20 [GP]

Questions for the Department of Finance on the Medium Term Fiscal Strategy

Question 1

What exactly does the unallocated budgetary package for each year refer to? Is it an increase relative to the first year or the previous year? How does the accounting work for capital and current projects?

Capital project

Take the following simple example of a capital project:

If you have a policy with a capital spend of €10bn in 2020 and the government increases this capital budget to €10.5bn in 2021, and to €11bn in 2022. Would that reduce the 2021 fiscal space from 1.6bn to 1.1bn, and the 2022 fiscal space from 2.2bn to 1.7bn as shown in interpretation A below?

Interpretation A

	2020	2021	2022
Total unallocated		1.6	2.2
Total project annual capital budget	10	10.5	11

y-o-y increase		0.5	0.5
Remaining headroom		1.1	1.7

Or do you subtract the cumulative increase from the unallocated package? In other words, would the above example reduce the 2021 fiscal space by €500m (down to €1.1bn) and the 2022 fiscal space by €1bn (down to €1.2bn) as shown in interpretation B?

Interpretation B

	2020	2021	2022
Total unallocated		1.6	2.2
Total project annual capital budget	10	10.5	11
y-o-y increase		0.5	0.5
Remaining unallocated		1.1	1.2

Current Projects

The same question applies to current projects.

Consider a social welfare scheme with a current budget of €10bn. If the government increased the generosity of that scheme (say by increasing the rate of payment) leading to an increase in the budget of €500m in 2021, and they followed that with an additional rate increase costing a further €500m, would this bring the remaining headroom down to €1.7bn (interpretation A) or to €1.2bn (interpretation B).

Interpretation A

	2020	2021	2022
Total unallocated		1.6	2.2
Total project annual current budget	10	10.5	11
y-o-y increase		0.5	0.5
Remaining unallocated		1.1	1.7

Interpretation B

	2020	2021	2022
Total unallocated		1.6	2.2
Total project annual current budget	10	10.5	11
y-o-y increase		0.5	0.5
Remaining unallocated		1.1	1.7

Question 2

The National Development Plan allocates €3 billion of exchequer funding to housing retrofit. Is this €3bn, or the portion of it that is due to be spent by 2025, included in the fiscal strategy, or would the next government need to use some of the €11bn headroom to pay for it?

Question 3

Does the fiscal strategy assume payment of the Christmas bonus social welfare payment or would it need to come out of the €11bn headroom?

BRIEFING REQUEST **23**. What exactly does the unallocated budgetary package for each year refer to? Is it an increase relative to the first year or the previous year? How does the accounting work for capital and current projects?

1. The annual unallocated resources figure given in the Medium-Term Fiscal Strategy (MTFS) is the combination of the amount of resources forecasted to be remaining annually following the below pre-committed expenditure items:

   - Demographic costs every year 2021 - 2025
   - Public Service Stability Agreement (PSSA) in 2021
   - Capital Carryover costs in 2021
   - Pre-committed capital 2021 - 2025

   And the achievement of a fiscal surplus each year of the amount given in the MTFS publication. In other words, the unallocated resources figure is the amount of funding available after all pre-commitments are met and the surplus is achieved.

2. Generally speaking, in capital projects spending does not 'enter the base' as it is once- off in nature. As such, a Government decision to increase spending in one year does not necessarily result in a reduction of available resources the following year. The unallocated resources available in each year are unaffected by capital spending in the previous year. Interpretation A in the question documentation is therefore correct.

3. By its nature, current spending does 'enter the base' so two consecutive decisions to increase an annual payment by €500m, would result in a €1 billion cost in year two. In the example provided, this means that the available resources in 2020 are reduced by €1 billion to €1.1 billion.

4. Given recent and ongoing events — most notably the Government's decision to direct €3 billion of expenditure towards Ireland's response to COVID-19 — the framework that the MTFS represents is no longer as relevant.

5. Increased expenditure and reduced taxation receipts in 2020 and possibly beyond, will mean the achievement of a 1 per cent surplus next year is highly unlikely. In fact, such a strategy would be counterproductive given the need for strong counter-cyclical policy measures to cushion any economic downturn.

Department of Finance

19th March 2020

BRIEFING REQUEST

25 Does the fiscal strategy assume payment of the Christmas bonus social welfare payment or would it need to come out of the €11bn headroom?

1. The social welfare Christmas bonus is a fully discretionary measure, the size and timing of which can be decided upon by the Government of the day.

2. As a discretionary measure it is not included in the list of pre-commitments and is therefore not included in the annual budget package outlined in the Medium-Term Fiscal Strategy. A decision to introduce the measure in any given year would therefore reduce the amount of resources available that year.

Department of Finance

19th March 2020

Response re Cycle to Work 12/03/20 [SF]

PROGRAMME FOR GOVERNMENT REQUEST

21.

1. Background on cycle to work scheme
2. The cost of increasing the €1,000 spend limit on the Bike to Work Scheme to provide adequate support for the purchase of e-bikes

1. The Cycle To Work scheme provides an exemption from tax on the first €1,000 of expenditure incurred by an employer in connection with the provision of a bicycle or safety equipment to an employee or director. The bicycle must be for the employee/director's personal use in undertaking the whole or part of the journey to or from work. Safety equipment includes helmets, lights, bells, mirrors and locks but does not include child seats or trailers.
   The scheme applies to a pedal cycle, tricycle and a pedelec. A pedelec means a bicycle or tricycle which is equipped with an electric motor (with a maximum continuous rated power of 0.25 kilowatts) which cuts out when a speed of 25 kilometres per hour is reached, or sooner if the cyclist stops pedalling the bicycle or tricycle. It also applies to so called "cargo bikes".
   There is no maximum price and the cost of a bicycle purchased under the scheme may be more than €1,000. However, the exemption from tax does not apply above this limit.

The most recent Tax Expenditure Report by the Department of Finance estimated the cost in terms of taxes foregone at €4 million per annum based on an assumed 20,000 availing of the scheme. Separate returns are not required for this scheme in order to achieve administrative simplicity so it is not possible to be definitive on numbers. The Department of Finance and Revenue do not know how many employees availed of the scheme or the rates of tax they pay.

2. The cost of increasing the limit for the scheme would depend primarily on the amount by which the limit is raised. Raising the limit to €2,000 with the same number of people availing of the scheme would increase the cost to an estimated €8 million on a straight line basis. Such an increase could be expected to
    - lead to more people availing of the scheme,
    - increase the average price of bicycles covered, and
    - increase the number of people in the higher tax bracket availing of the scheme

    so the exchequer cost is likely to be higher than this estimate.

Department of Finance

11 March 2020

Response to Query re Tax Relief on Pensions 09/03/20 [GP SF]

BRIEFING REQUEST
GPSF 5: To ask D/Finance if tax relief on pensions is standardised at 20 per cent, what would the impacts be?

1. Individuals can obtain income tax relief at their marginal tax rate (either 20% or 40%) on contributions made by them or on their behalf to pension schemes and personal pension plans, subject to age-related percentage limits and an overall annual earnings cap. The purpose behind this relief is to encourage people to make provision for their income in retirement throughout their working lives.
2. A move from marginal rate tax relief on pension contributions to a standardised rate would reduce the cost of tax relief on pensions generally. A reduction to standard rate income tax relief for all employee and individual contributions to pension schemes and plans is currently estimated to yield around €400million in savings in a full year.
3. There are a range of issues to be considered in the context of any decision to amend the marginal rate of tax relief applying to employee and individual pension contributions including:
    a) A reduction in the marginal rate of tax relief on pension contributions would represent an effective pay cut for those PAYE employee members of occupational pension schemes across both the public and private sectors liable to tax at the higher rate, including middle income earners (a single person commences to pay higher rate income tax on income over €35,300 while a married couple with one earner pays the higher rate on income over €44,300). This is due to the way in which such contributions and deductions are currently tax-relieved under the "net

pay" system whereby pension contributions for PAYE employees are deducted from gross pay before applying tax.

b) A change to a lower rate of tax relief could therefore lead to claims for compensating pay increases for significant numbers of PAYE workers. This would need to be carefully considered in the context of public sector pay in particular regarding:
   i. following the introduction of the Additional Superannuation Contribution (ASC) in 2019 which was agreed with public service unions under the PSSA, public service workers are now paying significant contributions towards the cost of their pension entitlements. Overall average pension contributions for public service workers, when the ASC and pre-existing pension contributions are combined can be up to 15% of salary.
   ii. It follows that a reduction in the marginal rate of tax relief applying to pension contributions would have significant impacts for most public service workers. It is estimated that such a measure would result in reductions in take home pay of between 2-3% for groups such as nurses, Gardaí and teachers. This would be regarded by public service unions as a de facto pay cut. It could amount to a loss of approximately €1,300 a year or €25 a week for the average public service worker.
   iii. Significant industrial relations difficulties in the public service context could be anticipated. Unions could be expected to pursue compensatory pay adjustments, over and above other pay demands. This may negate to a large extent the Exchequer savings referenced above from a reduction in the marginal rate of tax relief on pension contributions.

c) The behavioural impacts of the tax relief change are also unclear. Pension savings may be regarded as "deferred income" since the expectation is that while the savings will be tax-relieved in the contribution and growth phases, they will be taxed at the individual's marginal rate on draw down of the pension benefits after retirement. A reduction in tax relief such that the benefits are taxed more heavily than the savings are relieved may impact on the incentive to save for many.

d) Changes to the relief would mean administrative and operational changes to the way in which any revised relief could be delivered (involving Revenue administration, Revenue and private sector IT development and employer payroll systems changes) which it is estimated could take at least 1 year to deliver effectively.

Department of Finance

6 March 2020

DFIN Responses 09/03/20 [FF] [GP]

D/Finance

Q: Information on Commercial stamp duty and its application to agricultural land.

Legislation

The relevant legislation (Stamp Duty Consolidation Act 1999) simply differentiates between residential and non-residential property. Non-residential property includes land (agricultural and non-agricultural), sites, commercial property and other business assets.

Rate Change Budget 2020

The rate of stamp duty on non-residential property has been increased from 6% to 7.5% by Budget 2020. This was primarily a revenue raising measure, which based on Revenue's Ready Reckoner is estimated to raise an additional €141 million in a full year. (Note - Stamp duty is a transactional tax, and activity in the sector can be lumpy and difficult to predict. As a transactional revenue source there are inherent risks should there be a deterioration in the performance of the sector).

Table 1 – Stamp Duty receipts from non-residential property transactions 2011 to date

Property:	2011	2012*	2013	2014	2015	2016	2017	2018*	2019 *	2020 (Jan)
	(€m)	(€m)	(€m)	(€m)	(€m)	(€m)	(€m)	(€m)	(€m)	(€m)
Non-Residential	90.06	48.51	86.85	173.29	177.64	256.66	213.27	488.21	537.50	54.23

*Years in which the non –residential rate has been amended.

Agricultural land

As outlined, agricultural land is classified as non-residential property for stamp duty purposes. There are no plans to re-categorise agricultural land for the purposes of stamp duty. To do so would not be considered appropriate and may be viewed as inequitable in terms of providing agriculture with an additional advantage over other forms of business.

A number of stamp duty related reliefs have been put in place to mitigate the impact of recent rate increase for the acquisition of agricultural land. These include Farm Consolidation Relief, the Young Trained Farmer Stamp Duty Relief and Consanguinity Relief.

According to the CSO data, there has been a substantial reduction in both the number of transactions, volume and values of land sold in recent years. It should be noted however that these transactions represent land sold purely for agricultural use and there are a number of exclusions from the statistics. For example, any land sold with a dwelling attached to the land or transactions for non-agricultural purposes.

Depending on sources quoted, the average national price per acre for agricultural land without a residential holding increased by 15% between 2017 and 2018 according to Society of Chartered Surveyors and Teagasc Agricultural Land Market Review (2019) while the Irish Farmers Journal Agricultural Land Price Report stated that the average price of land per acre in 2018 (approx. €9,000) was unchanged from 2017 and up 3.4% from 2016. The latter report also highlighted that the supply of land offered to the market in 2018 was 70,000 acres, an 11% decrease on 2017.

The outlook for the agricultural land market remains unclear due to Brexit and other changes within the agricultural sector. Extreme weather events in 2018 also affected the supply of land offered to the market. The reduction in supply of agricultural land hasn't materially impacted on price.

Q: Information on the fiscal space especially regarding the ability or otherwise to invest monies from NAMA.

The *Medium Term Fiscal Strategy* published in January set out a five year economic and budgetary overview. Within the headline balances and budget packages €11 billion remains to be allocated.

NAMA currently estimates that it will return a surplus in the region of €4 billion to the Exchequer by the time it completes its work.

The projections capture the return that is envisaged to commence later this year, following repayment of NAMA's remaining subordinated debt and private investors. It is currently estimated that NAMA will return €2 billion to the Exchequer in June 2020 with a further transfer of €1.2 billion in cash to the Exchequer in 2021 and a further €500 million in 2022. This timeline is contingent on NAMA's projected surplus of €4 billion remaining unchanged and prevailing market conditions that may determine the timing and disposal proceeds of residual assets.

These estimates take into account the retention of NAMA's social housing vehicle, NARPS, in State ownership. NARPS has a value of €300 million and will be retained following a direction by the Minister in 2019.

The NAMA surplus paid to the Exchequer is not recognised as general government revenue as it will be considered a financial transaction in line with Eurostat rules.

Therefore additional expenditure would worsen both the headline and structural balance.

However, transfer of the surplus will reduce the Exchequer Borrowing Requirement, decreasing the rate at which debt is incurred by the state. This is taken into account in the projections for public debt published by the Department of Finance.

Response Incapacitated Child Tax Credit 09/03/20 [SF]

BRIEFING REQUEST

20. The number of recipients of incapacitated child tax credit

The Exchequer cost and number of recipients of the incapacitated child tax credit are as follows (2017 the most recent year available):

Year	Credit Value	Exchequer Cost (€m)	Number of recipients
2017	3,300	82.1	27,700
2016	3,300	75.5	25,000
2015	3,300	66.7	22,800
2014	3,300	59	20,300
2013	3,300	51	17,700
2012	3,300	45.6	15,900
2011	3,300	41.9	14,700
2010	3,660	39.1	13,000
2009	3,660	38	12,200
2008	3,660	39	12,300
2007	3,000	31.4	12,000
2006	1,500	16	11,000
2005	1,000	10.3	10,400
2004	500	5	9,800

DFin Responses 05/03/02 [GP SF]

D/Finance

Q: What is the scope to smooth taxation receipts associated with intangible assets, specifically can clarity be provided as to whether a legal challenge may arise in relation to ensuring changes apply to the period 2015-2018.

Scope to Smooth Tax Receipts

Section 291A of the TCA 1997 provides relief in the form of capital allowances on capital expenditure incurred by companies on the provision of intangible assets for the purposes of a trade. The allowances can be used only against trading income generated by those assets. The scheme applies to intangible assets, both acquired and internally developed, which are recognised as such under generally accepted accounting standards and which are listed as a "specified intangible asset" in section 291A.

Prior to Finance Act 2014, there was a cap in place which provided an 80% limit on the quantum of relevant income against which capital allowances for intangible assets, and any related interest expense, may be deducted in a tax year. In Finance Act 2014, the cap of 80% was increased to 100%, effective for accounting periods commencing on or after 1 January 2015. The 80% cap was re-introduced in Finance Bill 2017, for all expenditure incurred from 11 October 2017.

The cap was re-introduced in 2017 not to raise additional revenue, but rather to effect a smoothing of corporate tax receipts over time. It does this by restricting up to one-fifth of the capital allowances available in a tax year and carrying them forward for use in a future year instead. This can result in a higher tax liability in the year in which the allowances are restricted and a lower tax liability in a future year when the carried-forward capital allowances are used.

Assets on-shored 2015-2017

For the purposes of certainty, changes to tax law are generally made on a prospective basis such that they apply only from the date on which they have legal effect. It would therefore be open to affected taxpayers to take a legal challenge to an application of the cap to assets acquired/onshored prior to the re-introduction of the cap in 2017.

Basis for hypothetical yield calculation

It should first be noted that the cap does not change the overall quantum of allowances available over an asset's lifespan. It operates only to change the timing of the relief available by putting a cap on the amount of income that can be sheltered in any one accounting period. Any excess allowances are carried forward for use in subsequent accounting periods.

Based on intangible assets claims on tax returns for 2017 and earlier years, it is tentatively estimated there could be a short-term temporary cashflow gain in the region of €722m. This is arrived at by taking the figure for all capital allowances on intangible assets claimed in 2015 (€28.9bn), assuming that 20% of that amount would have been restricted (€5.77bn), resulting in additional corporation tax at 12.5% of €722m. As noted above, this restriction is a timing measure only – allowances restricted through the operation of the cap in one year carry forward for use in future years.

It is also important to stress that this is a hypothetical figure based on the assumptions set out above. The figure of €28.9bn is the total amount of capital allowances for intangible assets that were claimed as available in 2015. That does not necessarily mean that the allowances were actually used to offset relevant income in that year (which is assumed in the calculation). Where, due to insufficiency of relevant income in

the year of claim, the capital allowances are not fully utilised, the unused allowances may be carried forward and used against relevant income in a subsequent period.

Furthermore, the calculation also assumes that the cap would have been relevant to all claimants, i.e. that the income generated by qualifying assets is less than 125% of the available allowances in the year. Where the income generated is greater than 125% of the available allowances, a restriction of relief for capital allowances to 80% of qualifying income would still allow full relief for the available allowances, therefore the claimant would not be affected by a cap.

Also, as information is not currently available in respect of the timeline of capital allowance claims, some of the capital allowances may have already expired, which would reduce this potential cashflow gain. Finally, it should be noted that the calculation does not take into account any potential behavioural changes that might result from a change to the relief.

Q: Can D/Finance provide a paper that examines the issue of the banks' ability to write down losses?

A Technical Note on Corporation Tax Losses, with specific reference to bank losses, was provided to the Committee on Finance, Public Expenditure & Reform and Taoiseach in August 2018. This original Technical Note is available here: https://assets.gov.ie/4003/071218113138-0ba1ccc1c89345388cbe4badabe7073a.pdf

An update to the Technical Note was provided to the Chairperson of the Committee and to the Cathaoirleach of the Seanad during the course of debate on Finance Bill 2019. This provided an update to the figures contained in the report only, and did not make any substantive changes to the report. A copy of this update is attached.

Q: Can D/Finance outline any work done on air passenger duties, revenue raised by previous measures, and any impacts that were identified across socio-economic groups and any varying regional impacts?

Background

The Air Travel Tax in place between 2009 and 2014 raised some €316m over the period. The tax applied to departures of passengers on flights from certain Irish airports. The initial Air Travel Tax structure introduced in 2009 had two rates, €2 for each departing passenger whose flight destination was within 300km of Dublin airport and €10 for passengers with destinations further away. The existence of two different rates of tax to air travel within the EU were found to be contrary to EU law around free movement. In Budget 2011 a single revised rate of air travel tax of €3 was introduced to come into effect from 1 March 2011. This rate was abolished with effect from April 2014. A summary of the scope and structure of the tax is outlined in Annex 1[1]

Revenues raised by previous measures

Table 1: Air Travel Tax Revenue Receipts 2009 - 2014

[1] More detailed information on the operations and exemptions of the tax can be found at: https://www.revenue.ie/en/tax-professionals/tdm/excise/air-travel-tax/air-travel-tax-manual.pdf

Year	Rates	ATT Receipts €m
2009	€10 and €2	84
2010	€10 and €2	105
2011	€10 and €2 to end February 2011; €3 from 1 March 2011	48
2012	€3	34
2013	€3	35
2014	€3	10
Total		**316**

Department scoping work on re-introduction of Air Travel Tax

The 2019 Tax Strategy Group paper on Climate Action and Tax included a section on ongoing developments around aviation taxation. Subsequent work has been carried out by the Department to scope potential revenues from options to reintroduce an air passenger tax. Based on the 2019 provisional volumes of departures from Irish airports, and applying the same exemptions as were previously applied when the tax was in place, table 2 below shows estimates of receipts for two different scenarios.

Table 2: Estimated receipts from Air Travel Tax based on two scenarios

Tax Structure	Estimated Full Year Receipts (€m)
SCENARIO 1: Single rate of €3 to all destinations	50
SCENARIO 2: Two Bands, with rate of €7 to EEA destinations and €15 to rest of world	150

Annex 1: Summary of the Scope and Structure of the previous Air Travel Tax at time of abolition

1	Levied on departing passengers	Y
2	One World Tax Zone	Y
3	Levied on 'empty seat departures' (i.e. no ticket purchased)	N
4	Levied on freight	N
5	Exemption for disabled persons and their carers	Y
6	Exemption for child under 2 not occupying a seat	Y
7	Exemption for transit or transfer passengers	Y
8	Exemption for cabin crew	Y
9	Levied on departures from airports carrying less than 50,000 passengers in the previous year	N
10	Levied on passengers departing on small airplanes (<20 passengers)	N

Q: Can D/Finance request that the ESRI update its study on wealth (Lawless and Lynch (2016) Scenarios and Distributional Implications of a Household Wealth Tax in Ireland, ESRI), in particular to reflect recent CSO data on wealth?

The research paper referred to was produced by Martina Lawless (ESRI) and Donal Lynch (Department of Finance) under the Department's Joint Research Programme on the Macroeconomy, Taxation and Banking with the ESRI. Under this programme, a number of research papers are produced each year by Department of Finance staff and ESRI researchers working collaboratively. While the funding and research topics for 2020 have already been agreed, the Department can explore whether there is scope to update the paper.

Q: What are the implications of Ireland implementing a FTT? In particular in the context of Brexit. Has a cost-benefit analysis been carried out?

Ireland currently has a tax on financial transactions: 1% stamp duty on the acquisition of the stocks and marketable securities of Irish incorporated firms.

This stamp duty yielded €425.34 million in 2017 and €413.48 million in 2018. The provisional figure for receipts from this stamp duty in 2019 is €383.62 million.

Instruments used in the financial services industry such as derivatives are generally exempt from Irish stamp duty, unless they relate to immovable property in Ireland or shares in Irish registered companies.

At EU level, ten Member States are currently engaged in an enhanced cooperation process for the negotiation of a draft directive proposing an FTT. Many other countries, like Ireland, have in place their own national taxes on financial transactions .

EU Proposal

An EU wide FTT was initially proposed by the European Commission (EC) in 2011, but as agreement on the proposal could not be reached by all 28 Member States, 11 countries were given permission to pursue it via 'enhanced co-operation' in Jan 2013 (Estonia subsequently stepped out).

The 10 Member States still engaged in the enhanced cooperation procedure on FTT are Belgium, Germany, Greece, Spain, France, Italy, Austria, Portugal, Slovenia and Slovakia, with France and Germany currently

being the most active of the 10 in this area. Progress on the proposal has been slow, but negotiations have gained a new momentum in the past 12-18 months.

The FTT, aimed at the capital markets, was to be levied on all financial instrument transactions between financial institutions where at least one of the transaction parties is located within the EU. The proposed rate on exchanges of shares was 0.1% and the proposed rate for derivative transactions was 0.01%. The tax would be levied on financial institutions – non-financial institutions would not be subject to it.
The latest proposal emerging provides for a minimum rate of 0.2%, with no other form of FTT permitted to operate in participating MS's, the tax would be applicable only to financial instruments issues by firms with a market capitalisation in excess of €1 billion, with a wide range of instruments covered, including derivatives.

Ireland's position has consistently been that a FTT would be best applied on a wide international basis to include the major financial centres to prevent the danger of activities gravitating to jurisdictions where taxes are not levied on financial transactions.

Impacts

Taxing highly mobile financial products like derivatives at an individual member state level, in the absence of an equivalent EU or wider measure would create a significant relocation risk and as such it would be very difficult to approximate a yield.

A number of EU Member States, like ourselves, currently operate forms of financial transactions tax. These include France and Italy where such taxes are applied to shares in companies with market capitalisations in excess of €1 billion and €500 million respectively. If such conditions were to be applied to the Irish Market, it is likely that any revenue that Ireland might collect under it would be significantly lower than the yield from the Irish stamp duty of 1% on transactions in shares, stocks and marketable securities (€425.34m 2017; €413.48m 2018).

It is not possible to accurately estimate potential yield from introduction of FTT in Ireland, from data held by Revenue. It is also noted that when the Commission looked at this area in 2011, and again in 2013, it estimated the introduction of such a tax (0.05% tax on derivatives across the EU) would lead to a reduction in FX and OTC interest rate derivatives trading volume of between 70% -90% due to relocation and evasion by other means. A market reaction to a tax on derivatives would be highly uncertain and would create strong incentives for market participants to relocate activity or otherwise evade the tax.

Brexit and FTT

The UK currently charges Stamp Duty Reserve Tax (SDRT), at 0.5% on share purchases made electronically (e.g. an online share dealing account). For non-electronic deals, Stamp Duty is charged at 0.5% on transactions valued over £1,000. No duty is payable when buying shares traded on the London Stock Exchange's AIM market or on Exchange Traded Funds (ETFs).

Ireland is the only MS of the EU that does not currently have its own CSD (Central Securities Depository) and we currently use CREST (Securities depository) in London to settle securities traded on the Irish Stock Exchange. Post-Brexit, it will no longer be possible to collect much of the 1% stamp duty levied on the acquisition of the stocks and marketable securities of Irish incorporated companies.

A proposal for a new stamp duty collection process has been agreed, and work is ongoing between Revenue, this Department and Euroclear Bank to have the necessary systems, procedures and legislative changes in place to allow for the switchover to take place in early 2021 to maintain and protect the collection of the stamp duty.

The reduction in revenue from the Irish stamp on stocks and marketable securities over the past few years is felt to be most likely due to continued uncertainty in the market throughout 2019 linked to Brexit, leading to lower than expected volumes of share transactions and consequently lower Stamp Duty receipts. Receipts from the Irish stamp duty on shares in 2019 were down 7.2% yoy (UK stamp taxes on shares (SDRT and SD) were provisionally down 11.9% for the same period).

There is no indication at this time what, if anything, the UK intends to do in this area once the transition period lapses at the end of 2020.
Cost-benefit analysis

While no formal cost-benefit analysis of Ireland implementing a FTT has been carried out by this Department, we continue to monitor developments at EU level under enhanced co-operation provisions to introduce a FTT.

Work also continues on the new stamp duty collection process to be implemented with Euroclear Bank.

Q: What is the scope for using the EIB to support public investment? Are EIB borrowings subject to the fiscal rules?

Assuming the public investment is delivered by either the Exchequer (Voted capital expenditure) or other general government body:

The fiscal rules, arising from the Stability and Growth Pact (SGP) that Ireland is bound to adhere to, are intended to promote budgetary discipline and were designed to ensure stable public finances that underpin sustainable economic growth. The main elements are:

• a binding 3 per cent of GDP threshold for the headline deficit;
• a 60 per cent debt-to-GDP threshold (and 1/20th correction rule);
• a balanced budget after adjusting for the cycle (the structural balance), and
• the expenditure benchmark.

If a general government body in Ireland borrows then the level of debt increases. There is no exception for borrowing from the EIB. Therefore borrowing from the EIB will be relevant to the debt criteria.

Furthermore, public investment is counted as general government expenditure. Therefore, when spent, the EIB borrowings will be relevant for the remaining fiscal rules – the headline balance, structural balance and expenditure benchmark.

It is important to note that the rules include provisions to promote public investment – the expenditure benchmark assessment ‘smooths’ investment spending.

In Ireland, however, it is important to recognise that there has been a marked pick-up in capital spending from €3.4 billion in 2013 to €7.3 billion in 2019. This was facilitated within the scope of the fiscal rules.

Q: What are the challenges or barriers related to the development of a public banking model in Ireland?

Two reports analysing the public banking model have been completed. The first was a report from the Department of Finance and the Department of Rural and Community Development in 2018 and the second was completed by Indecon Consultants in 2019**. Both concluded that there was not a justifiable case for the establishment of a public bank.

The reports found that there is extensive provision of banking services by the commercial banks, An Post and Credit Unions, as well as a significant range of existing supports funded by the Exchequer to help SMEs and micro-enterprises. Indecon described the Credit Unions as a de facto community bank.

A successful public banking model could have a detrimental impact on the viability of credit unions, certainly the smaller ones.

It is not clear that there would be sufficient demand for such a bank; the SME Credit Demand survey shows a demand for SME credit of c. 20% and the existing banking sector has the capacity to meet this demand.

Indecon's analysis showed that there is no correlation between the SME bank finance application rates and the number of banks in a region. Their econometric analysis shows that the rurality of the county in which the SME was based was insignificant.

An Irish funding model could not replicate a German funding model, meaning that interest rates in an Irish public bank would not be the same as those in the German Sparkassen.

There is a significant cost to the State of such a proposal. The figure suggested in the Irish Rural Link proposal was €170m; analysis by the Department of Finance suggests that the cost would likely be much higher than this.

A public bank does not take account of the ongoing developments in FinTech with a move away from physical banking structures to online banking and finance provision.

There are likely to be State Aid issues with the development of a new state owned bank. Furthermore, if there was a difficulty with a state owned public bank, the Exchequer may be expected to bail it out leading to significant costs to the State.

The statistical classification of a public banking model would have to be considered and the outcome would depend on the policy choices made about how such a model is required to operate. If it were to be classified in general government, then the impact on general government debt and balance could be significant.

Securing regulatory approval from the Central Bank represents a significant challenge and success should not be assumed, especially in the short term.

Technical Note for the Committee on Finance on the potential consequences of changes to the treatment of Corporation Tax Loss Relief in respect of Banks 05/03/20 [GP SF]

An Roinn Airgeadais
Department of Finance

Technical Note for the Committee on Finance,

Public Expenditure & Reform and Taoiseach

DFIN Briefing submitted to DoT for PfG Talks
on the potential consequences of changes to the treatment of

Corporation Tax Loss Relief in respect of Banks

[Update – November 2019]

Background 2

Introduction 3

Rationale for Lifting of Section 396C in 2013 4

Current Banking Sector Contributions to the Exchequer 4

Update on size of tax losses and estimated time horizon for full utilisation 7

A: (Re)introduction of a tax loss restriction for the NAMA participating banks or the banks in which the State has a shareholding 8

i. Restricting tax losses would impact capital and put additional pressure on PTSB 8

ii. Potential impact on competitiveness, and cost of lending and deposits 11

iii. Valuation of the State's investments would be impacted 12

iv. State credibility with investors would be damaged 13

v. State Aid implications 13

B: Widen loss restriction to include all retail banks 14

i. State Aid implications 14

ii. Competition Considerations 14

C: Introduce a general restriction on loss relief for companies (profits cap or sunset clause). 16

Conclusion 18

DFIN Briefing submitted to DoT for PfG Talks
Background

At the meeting of 9th November 2017 of the Committee on Finance, Public Expenditure and Reform and Taoiseach (the Committee) to discuss Finance Bill 2017, the Minister for Finance, Mr Paschal Donohoe T.D., committed to providing a paper to the Committee on the possible consequences of changes to the treatment of corporation tax loss relief in respect of banks.

This paper is in response to that commitment. It sets the tax treatment of bank losses in the wider context of loss relief for all corporate entities, and sets out policy considerations in relation to the following potential options:

(A) (Re)introduction of a tax loss restriction for the NAMA participating banks or for the banks in which the State has a shareholding.

(B) Introduction of a new loss restriction to include all retail banks.

(C) Introduction of a system of loss restrictions across the board for all companies (such as a sunset clause or annual cap on profits that can be sheltered by losses).

With regard to options A and B above, the potential consequences examined in this paper include the impact on:

i) the valuation of the State's banking investments;

ii) capital levels and the possible knock on regulatory impacts such as timing and quantum of capital returned to the State, and;

iii) competition and non-domestic banks operating in Ireland.

The term Deferred Tax Asset (DTA) is frequently used in connection with discussion of corporate losses. DTA is an accounting term which describes an asset on a company's balance sheet which may be used to reduce any subsequent period's tax expense. DTAs have two main sources:

- Timing differences – timing of accounting recognition of an item versus recognition for statutory tax purposes e.g. accounting depreciation versus wear and tear allowance.
- Tax losses – trading losses in a financial year which can be offset against profits in a future year(s) in calculating a company's tax liability.

Trading losses carried forward represent almost the entirety of Deferred Tax Assets (DTAs) of the Irish banks.

Notwithstanding the commitment given by the Minister to provide this paper to the Committee, it is noted that the Minister stated during the discussion of Finance Bill 2017 that he did not intend to change how losses are treated for Irish banks as he believed that "there could be consequences that would make it difficult for me to fulfil other objectives that the House and the Irish people want me to fulfil in respect of the Irish banking code."

Introduction

Corporation Tax loss relief is provided for by section 396 of the Taxes Consolidation Act (TCA) 1997. Loss relief for corporation tax is a long standing feature of the Irish Corporate Tax system. It allows for losses incurred in the course of business to be taken into account when calculating a business's tax liabilities.[2] Loss relief is a standard feature of Corporation Tax systems in all OECD countries. It recognises the fact that a business cycle runs over several years and that it would be unbalanced to tax profits earned in one year and not allow relief for losses incurred in another.

With regard to the treatment of losses in banks, Part 10 of Schedule 3 of the National Asset Management Agency Act 2009, inserted a new Section 396C to the Taxes Consolidation Act (TCA), 1997. Section 396C restricted loss relief for NAMA participating institutions (AIB, BOI, Anglo Irish Bank, Irish Nationwide Building Society and the Educational Building Society (EBS)), such that losses could be used to shelter only 50% of taxable profits in any given year.

The restriction was introduced as a form of claw-back for the taxpayer who provided an enormous capital injection during the banking crisis to support the banking system. Its intention was to ensure that, when the banks returned to profitability, they would make some annual contribution to the Exchequer in the form of corporation tax, notwithstanding the significant losses carrying forward. It did not disallow any tax losses from being utilised, but rather lengthened the period over which they would be utilised by limiting the amount that could be used each year.

At the time of the introduction of Section 396C, the Government had limited involvement in the banking system. However, by Finance Bill 2013, the State had acquired substantial holdings in the banking sector following the re-capitalisation of the banks – 99.8 per cent ownership of AIB and 15 per cent ownership of BOI[3]. Due to the State's substantial holdings in the banking sector, the restriction in section 396C was considered to have outlasted its initial purpose to the point where it was deemed to be acting against the State's interests.

As part of Budget 2014, the then Minister for Finance, Mr. Michael Noonan T.D., announced the removal of the 50% restriction on the use of tax losses for the remaining NAMA participating institutions. Following the various bank restructuring measures in the interim, only AIB and BOI remained of the five NAMA participating institutions. It is important to highlight that the provision to allow the carry-forward of losses for offset against future trading profits is available not only for banks, but for all Irish corporates. With the removal of Section 396C, AIB and BOI were restored to the same position as other Irish corporates, including other Irish banks, which effectively levelled the playing field.

Rationale for Lifting of Section 396C in 2013

Section 396C was repealed in Budget 2014 to reduce the State's role as a 'backstop' provider of capital and to protect the existing value of the State's equity and debt investments.

In the lead up to the introduction of new capital rules on 1 January 2014 under the EU's Capital Requirements Directive (CRD) IV, Section 396C no longer served its original purpose and indeed worked against the taxpayer:

i) It created the risk that the accounting value of these tax losses could be reduced on foot of auditor recommendations, and with it the capital benefit, which would impact negatively on the State's equity investments.

[2] Under Section 1085 TCA 1997 the use of losses is restricted in a year when a return is filed after its due date.
[3] In addition to the holdings acquired in AIB and BOI, the State also acquired a holding of 99.2% in PTSB. PTSB was not a NAMA participating financial institution.

ii) It increased the risk that the State might have had to put more capital into one or more of the participating institutions as a result.

The CRD IV rules, which are being phased-in over a 10-year period from 2014, mean that DTAs in respect of trading losses will no longer be considered to be Core Tier 1 capital. The carrying value of DTAs in AIB and BOI in 2013 represented around a third and a fifth of their Core Tier 1 capital respectively.

The repeal of Section 396C shortened the time-frame over which the losses were likely to be used and therefore the deduction from capital required under CRD IV in respect of DTAs in respect of trading losses became less material. It put the institutions in a stronger position when being assessed by regulators and investors and reduced the risk of a future requirement for State support. It also protected the value of the State's equity and debt investments in the pillar banks, as investors give some value to the accounting and cash benefit provided by the DTAs.

It therefore follows that there would be a material negative impact on the valuation of the State's investments in the banks if any change in the tax treatment of accumulated losses were to be introduced.

Current Banking Sector Contributions to the Exchequer

It is critically important to understand that the State is actually getting value today from these tax losses through share sales. In addition, despite the scale of losses accumulated, the banks are also contributing to the Exchequer through the financial institutions levy.

To recognise the part that the banks played in the financial crisis, in 2013, the Government decided that the banking sector should make an annual contribution of approximately €150 million to the Exchequer for the period from 2014 to 2016 via the financial institutions levy. In Budget 2017, the payment of this levy was extended until 2021. It is anticipated that the bank levy will raise €750 million in Exchequer revenue over those five years.

Table 1 shows the usage of DTAs (which, as noted above, relate primarily to losses carried forward) in 2017 (2016 in the case of BOI, as explained in footnote 4), which is effectively the corporate tax that would have been paid if no relief for losses carried forward were available (€233m across the three). [November 2019 update: €207m across all three banks in respect of 2018.] It also shows an estimate of the tax that would have been paid in Ireland if a 50% restriction on the use of losses carried forward, similar to the s.396C "NAMA" restriction, had been in place. For completeness Table 1 includes PTSB although that bank was not a NAMA participating institution and was therefore not subject to the restrictions under section 396C. Table 1 also shows how this hypothetical tax payable of €117 million compares to the bank levy actually paid by those banks in 2017, totalling €101 million. [November 2019 update: Table 1A shows this hypothetical tax payable of €103 million compares to the bank levy actually paid by those banks in 2018, totalling €101 million.]

It should also be noted that the Irish banks do currently pay some Irish corporation tax, as the tax losses do not shelter profits made in all their corporate entities in Ireland. At a recent Oireachtas committee meeting, Bank of Ireland indicated that it paid corporation tax of €31m in Ireland last year. AIB also disclosed that it paid €58m in corporation

tax in Ireland over the two[4] years 2016/7 which would be an average of €29m each year. Adding these figures to the levy, the total in revenue generated from the banks in 2017 was c.€161m (€101m bank levy and c.€60m corporation tax).

Table 1: Estimate of corporation tax forgone versus bank levy

	Value of tax losses - ROI	**Value of tax losses utilised in 2017 for brought forward tax losses[5]**	**Hypothetical CT payable had 50% restriction on loss relief applied**	**Bank levy collected - 2017[6]**
AIB	€2.8bn	€137m	€69m	€49m
BOI	€1.2bn	€84m	€42m	€29m
PTSB	€0.4bn	€12m	€6m	€23m
Total	**€4.4bn**	**€233m**	**€117m**	**€101m**

Source: Bank annual reports, 2017; DoF estimates.

November 2019 Update:

Table 1A: Estimate of corporation tax forgone versus bank levy

	Value of tax losses - ROI	**Value of tax losses utilised in 2018 for brought forward tax losses[7]**	**Hypothetical CT payable had 50% restriction on loss relief applied**	**Bank levy collected - 2018[8]**
AIB	€2.7bn	€114m	€57m	€49m
BOI	€1.1bn	€91m	€46m	€29m
PTSB	€0.37bn	€2m	€0m	€23m
Total	**€4.17bn**	**€207m**	**€103m**	**€101m**

Source: Bank annual reports, 2018; DoF estimates.

[4] In 2016 tax paid was €109m and in 2017 the bank received a refund of €51m. An average of the two is taken to give an indication of a more typical year

[5] This is effectively the additional tax that would have been paid with no tax losses in existence as it represents the "usage" in 2017 of tax losses. Note the banks have tax losses in both Ireland and the UK though the latter represents only a small portion of the total and therefore this figure is a close proxy for the tax that would have been paid in Ireland during the year. **Note:** BOI executed an inter-group transaction in 2017 for the purpose of capital optimisation which reduced the quantum of tax losses utilised in the year to €17m. Accordingly, the amount of tax losses utilised in 2016 of €84m has been used in Table 1 as being representative of a more typical year.

[6] In addition to the banks in which the State has an equity stake, other banks between them paid a total of €49m, bringing the total take from the levy in 2017 to €150m.

[7] This is effectively the additional tax that would have been paid with no tax losses in existence as it represents the "usage" in 2018 of tax losses. Note the banks have tax losses in both Ireland and the UK though the latter represents only a small portion of the total and therefore this figure is a close proxy for the tax that would have been paid in Ireland during the year.

[8] In addition to the banks in which the State has an equity stake, other banks between them paid a total of €49m, bringing the total take from the levy in 2018 to €150m.

Table 2 details the value of the tax losses in each of the three banks in which the State has a shareholding. Notwithstanding the removal of Section 396C of the Taxes Consolidation Act and the fact that the three Irish banks have now returned to profitability, it is expected that tax losses held by those banks will take a considerable number of years to be utilised.

In its 2017 financial statements, AIB estimated under one scenario that it would take less than 20 years to utilise the full tax loss, with 51% utilised within 10 years and 89% utilised within 15 years. PTSB, in its 2017 financial statements, estimated a full utilisation period of c.23 years. BOI did not provide an equivalent estimate in its most recent annual statements but, for year-end 2016, indicated that the majority of the tax losses would be used after 13 years.

Table 2: Tax losses – 31 December 2017

Bank	Value of Accumulated losses
AIB	€2.8bn
BOI	€1.2bn
PTSB	€0.4bn

Source: Bank financial statements, December 2017.

Table 2A: Tax losses – 31 December 2018

Bank	Value of Accumulated losses
AIB	€2.7bn
BOI	€1.1bn
PTSB	€0.37bn

Source: Bank financial statements, December 2018.

Consideration of the three policy options noted above will now follow.

A: (Re)introduction of a tax loss restriction for the NAMA participating banks or the banks in which the State has a shareholding

As noted above, only AIB and BOI remain of the five NAMA participating institutions previously subject to Section 396C. Reinstating the NAMA-linked tax loss restriction would therefore impact only AIB and BOI. However some commentary on the proposed re-introduction of the loss relief restriction points to a rationale based on the capital support provided by the State to the “bailed out” banks. This would extend the potential scope of any measure to include also PTSB.

Widening the scope of the loss relief restriction to encompass other banks recapitalised by the State would be problematic. The Section 396C loss relief restriction was linked to the NAMA 2009 Act and those banks that applied to become participating institutions. BOI and AIB are the only surviving banks who did so, and they remain participating institutions as long as NAMA remains in existence. PTSB is not a NAMA participating institution so another mechanism would have to be found in order to include that bank in any proposed new loss relief restriction.

A number of factors would need to be considered in assessing the potential return to the State from a restriction on loss relief of that nature:

i. Restricting tax losses would impact capital and put additional pressure on PTSB

Assuming a mechanism could be found to (re)introduce a 50% loss relief usage restriction for all three of the banks in which the State has an investment, this would mean the period of utilisation would be extended over a considerably longer timeframe than currently anticipated.

This would increase the likelihood that bank auditors would seek a write down in the current value of the DTAs, primarily comprised of losses, thereby reducing shareholders’ funds in the banks’ financial statements, and the banks’ transitional capital equity tier 1 ratios (CET1), the primary legal definition of capital. It is not possible for the Department to estimate a precise value of this accounting write down, as it would be done on a bank-by-bank basis in agreement with each individual bank’s auditors. Accordingly, the impact on capital ratios cannot be calculated accurately.

What can be said, however, is what the DTAs, primarily comprised of losses, represent as a percentage of each bank’s transitional CET1 as at 31 December 2017, before any purported write down, and this is set out in Table 3 below. In summary, for AIB it represents 3.7 percentage points of its ratio of 20.8%, for BOI it represents 1.8 percentage points of 14.0%, and for PTSB it represents 2.3 percentage points of 17.1%. [November 2019 update: see table 3A.]

It cannot be said what the reaction from the regulator would be if some or most of this value was removed from each bank’s capital ratio. That is a matter for the European Central Bank, the Single Supervisory Mechanism (SSM), and it would vary by bank. However, at a minimum, it could be expected to impact the quantum of dividends the State could expect to receive from these banks in the near term, and could colour the regulator’s views on their non-performing loan (NPL) reduction strategies given concerns that disposals may negatively impact on capital in the coming years.

AIB paid the State c.€231m in dividends in 2018 (2017: €250m) even though the State's shareholding in the bank has dropped to 71%. BOI also paid a dividend in 2018 with the State receiving around €17m through its 14% share. [November 2019 update: dividends paid to the State in 2019 were €327m by AIB and €24m by BoI.]

Table 3: Bank transitional CET1 ratios as at December 2017 – impact of DTAs[9]

€m	AIB	BOI	PTSB
	€m	**€m**	**€m**
As reported: Transitional			
- CET1	10,768	7,122	1,812
- Risk weighted assets (RWAs)	51,728	45,000	10,593
- CET1 ratio	**20.8%**	**15.8%**	**17.1%**
Pro-forma: Transitional CET1 with DTA fully deducted			
- CET1 as reported	10,768	7,122	1,812
- DTA: remaining deduction*	(1,935)	(805)	(240)
- CET1 adjusted	8,833	6,317	1,572
- RWAs	51,728	45,000	10,593
- CET1 ratio adjusted	**17.1%**	**14.0%**	**14.8%**
Reduction in CET1 ratio	**(3.7%)**	**(1.8%)**	**(2.3%)**

*calculated as DTA less transitional deduction at 31st December 2017

Source: Bank financial statements, 31 December 2017; DoF estimates.

[9] The analysis in this table is based on the full deferred tax asset as the tax loss element is not identifiable separately. However, as tax losses make up almost the entirety of the total deferred tax asset at each of the banks, the outcome is not materially impacted.

Table 3A: Bank transitional CET1 ratios as at December 2018 – impact of DTAs[10]

	AIB	**BOI**	**PTSB**
	€m	**€m**	**€m**
As reported: Transitional			
- CET1	10,909	7,151	1,768
- Risk weighted assets (RWAs)	51,596	47,800	11,990
- **CET1 ratio**	**21.1%**	**15.0%**	**14.7%**
Pro-forma: Transitional CET1 with DTA fully deducted			
- CET1 as reported	10,909	7,151	1,768
- DTA: remaining deduction*	(1,618)	(658)	(201)
- CET1 adjusted	9,291	6,493	1,567
- RWAs	51,596	47,800	11,990
- **CET1 ratio adjusted**	**18.0%**	**13.6%**	**13.1%**
Reduction in CET1 ratio	**(3.1%)**	**(1.4%)**	**(1.6%)**

[10] The analysis in this table is based on the full deferred tax asset as the tax loss element is not identifiable separately. However, as tax losses make up almost the entirety of the total deferred tax asset at each of the banks, the outcome is not materially impacted.

ii. Potential impact on competitiveness, and cost of lending and deposits

The (re)introduction of a restriction on loss relief for AIB, BOI and PTSB could potentially have implications for the profitability of their business in Ireland, with possible knock on implications for the cost of lending and deposits and on willingness to invest in Ireland.

It is likely that this would have a consequential negative impact for consumers, with the increased cost base for the banks being passed on to consumers in the form of higher fees, higher interest rates on mortgages and business and personal loans, and/or lower deposit interest rates.

Furthermore if other banks operating in the Irish market, such as Ulster Bank, KBC etc., were not subject to a new loss relief restriction, it is likely that this would damage the competitiveness of the banks subject to the restriction.

Robust competition in the banking sector is essential in generating value for the benefit of consumers. For example, it is one of the means by which high variable mortgage interest rates have been addressed, through the establishment of a new code of conduct for switching mortgage provider to be administered by the Central Bank of Ireland. The presence of a number of strong banks in the market, competing for the available pool of borrowers and lenders, drives the development of new products and new rates tailored to market needs. Any distortion in the ability of banks to compete for market share is likely to be to the detriment of consumers if opportunities to switch to better rates or terms become more limited.

Access to credit is also vital for the continued growth of Irish Small to Medium Enterprises (SMEs) and any tightening of credit conditions by banks would have a significant impact on them. Government policy continues to be focused on ensuring that all viable SMEs continue to have access to both bank and non-bank finance. SMEs play a critical role is the economy, accounting for ninety nine per cent of all active enterprises and contributing almost fifty five percent of gross value added.

Lack of competitiveness and pressures on profitability and future investment could also have an impact on employment within those banks. It should be noted that collectively AIB, BOI and PTSB have c.23,000 employees, with AIB and BOI both being in the top 25 employers in the State.

In addition to consequential impacts for their customers, this would have negative consequences for the banks' shareholders, of which the State is the largest – currently 71% AIB, 75% PTSB and 14% BOI.

iii. Valuation of the State's investments would be impacted

Aside from the question of any capital and regulatory effects, the impact on the valuation of the State's investments from any change in tax treatment of losses carried forward would be very real and material. It is also critically important to understand that the State is actually getting value today from tax losses through its share sales.

In the case of AIB, the bank's DTAs (primarily comprised of losses) of c.€2.8bn is in the shareholders' funds, or book value of the bank, and the State sold 29% of the bank in the recent Initial Public Offering (IPO) at a valuation of close to book value (0.95x). That yielded proceeds of c.€3.4bn.

In fact the State's remaining 71% investment is currently valued at around [1.0x] the bank's book value, so based on the current tax treatment the State should continue to get hundreds of millions in proceeds linked to the tax losses as it sells down its shares.

This value can be illustrated in broad terms as follows. In theory investors should be prepared to pay a certain value for the tax losses. This is the discounted cash benefit to the bank from the delay in paying taxes. The value ascribed to this should go up and down somewhat as expectations of the long term growth in profitability of the business changes. However in reality this view is unlikely to change much from week to week or month to month.

At the time of the AIB IPO, many investors specifically assessed the tax losses in their valuation of AIB and informally told the Department of Finance in feedback that they were prepared to pay around 40% of par value for the tax losses on AIB's balance sheet. Some investors said 30% was nearer the mark and some said higher. Using 40% of par that suggests a value of around €1.1bn was ascribed by investors to the current value of AIB's tax losses. As the State sold 29% of the bank in the IPO, it could be extrapolated that c.€300m of the sales proceeds of €3.4bn related to the tax losses. The State will continue to receive value for the balance of tax losses as future sell-downs complete.

It is difficult to estimate the potential loss in value which could result from a change in the tax treatment of losses. The reality is that, as investors buy and sell the shares in the market on a daily basis, the exact value they ascribe to the tax losses is not something that they focus on explicitly, given that it is only part of the bank's shareholders' funds. Hence this makes it more difficult to determine what would be the impact from changing the rules around the tax treatment of losses. This is particularly so given that the bank's share price has risen by around 10% since the IPO, i.e. forecast profitability is seen as higher which would benefit the value investors would ascribe to the losses.

Having said that, in Table 4 the Department has run an estimate, on a discounted cash flow basis (using a discount rate of 10%), which suggests that the market value ascribed to AIB's losses could fall by c.€500m [November 2019 update: c.€430m] as a consequence of reintroducing the NAMA-based loss restriction, while a similar adjustment for PTSB and BOI would raise this figure to c.€730m [November 2019 update: c.€670m]. Adjusting for the percentage of shares the State owns in each bank, the aggregate reduction in value of the State's shareholdings would be around €420m [November 2019 update: c.€360m]. This estimate should be seen as indicative only given the range of variables involved.

Table 4: Estimated Loss in value

	Discounted Cash Flow (DCF)		**Estimated loss in value**	
	Current rules	50% restriction	Total	State's share*

AIB	€1,423m	€930m	€493m	€350m
BOI	€702m	€525m	€177m	€25m
PTSB	€158m	€101m	€57m	€43m
Total	**€2,283m**	**€1,556m**	**€727m**	**€418m**

** Based on applying the State's % shareholding*

Source: DoF estimates based on Irish loss run-off from end 2017 values. Projections grow profits at 5% p.a. out over the estimated life of the losses.

Table 4A: Estimated Loss in value

	Discounted cash flow (DCF)		**Estimated loss in value**	
	Current rules	50% restriction	Total	State's share*
AIB	€987m	€560m	€427m	€303m
BOI	€568m	€372m	€196m	€27m
PTSB	€106m	€62m	€44m	€33m
Total	**€1,661m**	**€994m**	**€667m**	**€363m**

** Based on applying the State's % shareholding*

Source: DoF estimates based on Irish loss run-off from end 2018 values. Projections grow profits at 5% p.a. out over the estimated life of the losses.

iv. State credibility with investors would be damaged

Aside from a direct impact on valuations, the State's credibility with institutional investors would be damaged as it sold shares in the AIB IPO on the basis that there were no plans to change the policy with respect to tax losses. A change to this policy could have knock-on consequences for investor appetite and valuations in future disposals of the State's shareholdings in banks. Based on current market valuations, the State has another c.€9.5bn worth of AIB stock to sell in the coming years, in addition to substantial investments in BOI and PTSB.

v. State Aid implications

The Issue of State Aid implications would need to be considered as the measure would be a targeted measure focused exclusively on some banks and not others. A clear rationale for the measure and for it focusing on one set of corporate entities would need to be present and the measure would need to be proportionate to the issue it seeks to address.

B: Widen loss restriction to include all retail banks

As an alternative to a restriction focussed on NAMA-participating banks or re-capitalised banks, a provision limiting loss relief for all retail banks in Ireland could be considered. However, as is the case with aspects of the proposal at A above, it should be noted that this could prove problematic from a legal perspective.

i. State Aid implications

As with A above, the issue of State Aid would need to be considered as it would be a targeted measure focused exclusively on corporate entities within one economic sector. A clear rationale for the measure and for it focusing on one set of corporate entities would need to be present and the measure would need to be proportionate to the issue it seeks to address.

It is also likely that significant technical difficulties would be encountered in attempting to draft a provision applying broadly to the retail banking sector, without also encompassing other financial services activities. It is common for banking groups to have involvement also in other activities, such as insurance and assurance, pensions and investments, etc. In view of the range of services and service providers, it would be difficult to ring-fence the restriction specifically to losses relating to banking activities.

ii. Competition Considerations

Similar to A above, widening the scope of any proposed loss relief restriction to include other retail banks would have implications for the profitability of their business in Ireland which is still recovering from the last downturn. This can be illustrated through consideration of the public filings of some of the main market competitors, Ulster Bank and KBC Ireland.

Ulster Bank made a loss before tax of €168m in Ireland in 2017. This outcome was after the impact of €192m in conduct charges. Excluding this charge from expenses, the bank would have recorded a profit but its ratio of operating costs to total income would still have been 85% which compares with a 50%-60% target range for many retail banks. Following a strategic review completed some time ago, RBS the bank's parent company committed to supporting Ulster Bank. However senior executives from RBS have publicly expressed the view that Ireland is still a very difficult market in which to operate.

KBC Ireland announced in early 2017 that after a period of review by the bank's parent, it remained committed to the Irish market. Unlike the other main retail banks their strategy is to grow their business through a more limited physical footprint of branches and maximise the potential of online channels. KBC made a pre-tax profit of €211m in 2017 in Ireland according to the bank's local annual report. Contributing to this outcome were two large non-recurring items – a charge of €116m for the Central Bank tracker investigation and an impairment gain or write-back of c. €215m. While no details of operating efficiency are published in the bank's Irish annual report, KBC Group figures show that the bank's Irish business recorded a ratio of costs to income of c. 66% in full year 2017 if one excludes the €116m tracker related charge.

Similar to the other banks, both KBC and Ulster Bank are also dealing with high levels of non-performing loans. Factoring in recently announced loan disposals each bank will still have a NPL ratio that is still many multiples of the European average.

As noted in A above, any negative impact on profitability could have knock on implications for the cost of lending and deposits for consumers in Ireland. It could also impact on the willingness of those banks to further invest in Ireland particularly in the areas of operations, IT and branch banking which clearly be of benefit to business and consumers.

Furthermore it could colour how prospective new entrants view the Irish banking market. Following the economic and financial downturn, the number of participants in the Irish retail banking market is far lower than it was a decade ago, and the Minister for Finance wishes to foster an environment where the number of firms competing in the banking industry increases in the years ahead, be they traditional players or in the Fintech space.

C: Introduce a general restriction on loss relief for companies (profits cap or sunset clause).

As already noted above, Corporation Tax loss relief is a standard feature of every progressive tax administration. The provision of relief for genuine business losses recognises the fact that a business cycle runs over several years and that it would be unbalanced to tax profits earned in one year and not to allow relief for losses incurred in another. Losses incurred in a trade are a fact of business life and provision of relief for such losses is a standard feature of our tax code and that of all other countries of the OECD.

It has been suggested that Ireland could consider the introduction of a broad-based restriction on the use of losses carried forward by all companies, i.e. including, but not restricted to, banks. This could take the form of a cap on the length of time that a company can carry a loss forward against future profits, a so called 'sunset clause', or a provision similar to Section 396C which would limit the proportion of profits in any given year that could be sheltered by losses carried forward.

A number of other jurisdictions have loss restriction provisions of this nature, however direct comparisons are of limited value as they often do not compare like with like due to other long-standing differences between tax systems in different jurisdictions.

The tax system in Ireland is a 'schedular system' of taxation in which income and gains are divided into different categories based on their source. Australia, Canada and the UK all have similar systems. For example: trading income is taxed under Schedule D, Case I; Irish rental income under Schedule D, Case V; certain dividend income under Schedule F, etc. Under this schedular system, loss relief under section 396 is restricted by ring-fencing losses carried forward so that they can only be utilised against a profit from the same source of income as the losses. E.g. A Case I trading loss carried forward can only be offset against future Case I trading profits, it cannot be offset against (for example) Case V rental profits.

In many other jurisdictions the tax system is based on a net income principle which allows for 'sideways' loss relief that allows losses carried forward to be used to reduce taxable income from other income sources.

In 2017, the UK carried out a reform of their loss regime, introducing a restriction on the use of losses carried forward to shelter profits in excess of stg£5million. Each standalone company or group will be entitled to shelter the first £5million in profits annually with losses forward from a previous accounting period (if available), but will only be able to shelter 50% of profits above £5million per year. A 'sunset clause' was not introduced, so any unused or restricted losses will continue to carry forward for use in future years.

However, in parallel to the introduction of this restriction, other restrictions in the UK loss relief system were relaxed, allowing most carried forward losses incurred from April 2017 to be used more flexibly against total taxable profits rather than particular types of profits of a company and its group members.[11]

[11]https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/634406/Reform_of_Corporation_tax_loss_relief_draft_guidance.pdf

If a similar restriction on the use of losses carried forward were to be introduced in Ireland it could be expected that requests for an improvement in the ability to offset losses sideways against profits from other sources would follow. Further research would be required to determine if this would result in a net cost or yield to the Exchequer.

Another characteristic of the system of loss relief in Ireland is that losses carried forward are fungible – i.e. losses carried forward from prior years form a single pool of losses and legislation does not currently specify the order in which such losses are used. If a sunset clause were to be introduced, provisions specifying the order in which losses are to be used would also be required, and the position of pools of losses incurred prior to the introduction of any restriction would need to be considered.

The introduction of a restriction on loss relief would add complexity to the corporation tax system, increasing the compliance burden for taxpayers and Revenue. However this could potentially be mitigated if it were accompanied by a removal of restrictions on the sideways offset of losses carried forward that resulted in an overall simplification of loss relief rules.

It should also be noted that loss relief is also available to income tax payers, such as sole traders and individuals earning profits from partnership trades. The structure relief for trading losses incurred in a trade liable to income tax is broadly similar to corporate loss relief, so any review of loss relief for corporation tax purposes may need to be extended to consider also loss relief for income tax purposes.

DFIN Briefing submitted to DoT for PfG Talks
Conclusion

Irish banks currently pay some corporation tax in Ireland in entities that are not sheltered by tax losses. The State also receives value for these tax losses, when it sells its shares on the market and it is estimated that in the region of €300m of the total proceeds from AIBs IPO were related to this source.

The Department's analysis indicates that the re-introduction of a tax loss restriction for the banks in which the State has a shareholding (AIB, BOI and PTSB) could potentially result in an annual Exchequer yield of c.€117 million, assuming no change to the bank levy.

However such a change would have an impact on the capital position of the banks, and their market value resulting in an immediate reduction in value of the State's shareholdings of in excess of €400 million. It would also have the potential to damage the State's credibility in the international markets, and this could have negative consequences for values achieved in future share sales.

From a consumer perspective, increased costs and reduced competitiveness in the banks as a result of a restriction on loss relief could potentially lead to pricing increases or reduced services. This could have a negative impact on consumers – for example through increased fees, increased mortgage interest rates, or reduced lending to Irish businesses – or on employment in the Irish banks if cost-cutting measures are required.

A wider tax loss restriction for all banks operating in Ireland would have similar impacts on the capital position of the banks in partial State ownership, and similar pricing issues for consumers. In the longer term it could lead to a reduction in the level of investment and/or competition in the sector as a whole.

Targeting a loss relief restriction at some or all of the banks would also require consideration of State Aid restrictions, given the targeted nature of the proposed measure.

The introduction of a wider general restriction on loss relief for all companies (such as a profit cap or sunset clause) would be less problematic to introduce from a State Aid perspective. However it would require consideration of wider issues, such as the offset of losses forward against income and gains from other sources, loss relief for income tax payers, and costs of administration for taxpayers and Revenue.

These factors would need to be considered carefully in framing future policy with regard to relief for trading losses.

DFIN DFAT Response MFF CAP 03/03/20 [GP]

Joint DFAT/Finance Briefing for Questions from the Green Party on the MFF

What is the latest estimate on the size of the EU budget arising from the MFF talks?
In May 2018 the European Commission published its proposal for the Multiannual Financial Framework (MFF) 2021-2027. The total expenditure proposed for the period 2021-2027 is €1,135bn (2018 prices) - equivalent to 1.11% of EU27 GNI. This represents an increase of approximately 5% in expenditure compared with the current MFF. The European Commission's proposals are based on an EU of 27 Member States and the loss of the UK contribution from 2021.

In its proposal, the European Commission outlined an MFF that would be split across three main areas, with:
- 29.24% allocated to Cohesion,
- 28.59% to CAP, and
- 42.17% to the five remaining Headings (Single Market and Innovation / Migration and Border Management / Security and Defence / Neighbourhood and the World / European Public Administration).

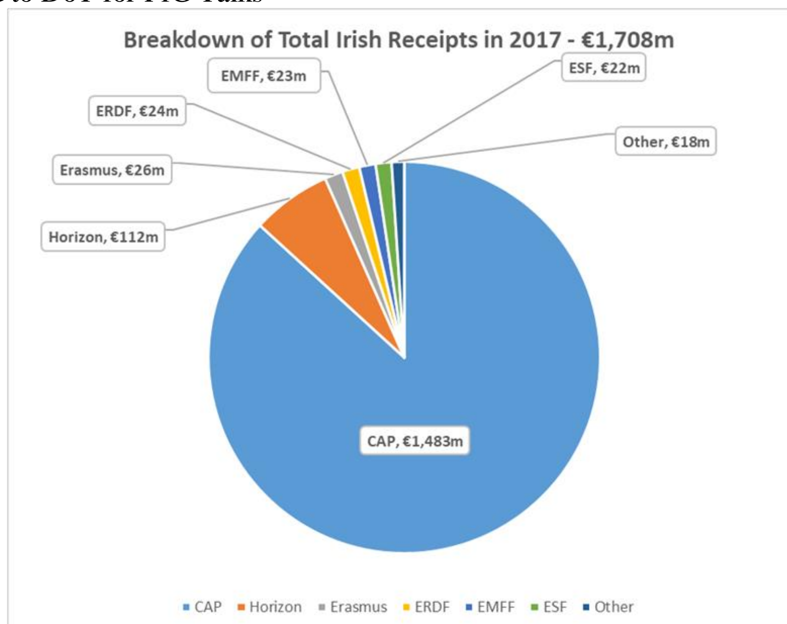
A revised proposal tabled by the President of the European Council, Charles Michel, on 14 February 2020 represents the current negotiating basis for the MFF. This proposed an overall expenditure ceiling of €1,095bn (2018 prices), equivalent to 1.074% of EU27 GNI, for the 2021-2027 period.

The revised proposal tabled by President Michel shifted the balance slightly in favour of CAP (30.1%) while Cohesion's share of the total MFF (29.55%) remained broadly stable.

What is the latest estimate on how much the CAP budget will be cut by?
In its May 2018 proposal, the European Commission proposed a total CAP budget for the EU27 of €324.3bn (2018 prices). This represented a 15% cut from the 2014-2020 EU27 CAP envelope of €383bn (2018 prices) and reduced the overall CAP share of the MFF from 35% currently to 28.59% post 2020.

The proposed CAP envelope in the Charles Michel proposal is €329bn (2018 prices) (€257bn for Pillar 1 and €72bn for Pillar 2) which reflects a 14% cut (€54bn) from the 2014-2020 EU27 CAP envelope of €383bn (2018 prices). Pillar 1 is cut by 10% (€29bn) and Pillar 2 is cut by 25% (€24bn).

It should be noted that the ongoing negotiations on CAP will form an important element of the overall discussions on the MFF and the above figures are therefore subject to change.



Dept. Foreign Affairs and Trade
Dept. of Finance
26 February 2020

Economic and Fiscal Briefing 03/03/20 [GP FG FF SF SD's]

Economic and Fiscal: high level briefing points[12]

CONTEXT

Fiscal policy must meet two overarching needs:

1. to contain emerging demand pressures in the economy (counter-cyclical)
2. to ensure sustainability (to reduce public debt so that we can continue to provide goods and services over the medium and long-term, especially in the context of an ageing population).

Section 1: Economic developments and outlook

GDP in Ireland is projected to expand by 3.9 per cent this year and by around 2¾ per cent per annum over the medium-term. Measurement issues are increasingly problematic, with traditional metrics such as GDP flattering the underlying economic picture. Modified domestic demand, a proxy for the 'domestic economy', is projected to increase by 3½ per cent this year, and averaging 3 per cent in the medium term.

Table 1: economic outlook

	2020	2021	2022	2023	2024	2025
GDP growth	3.9	3.0	2.8	2.7	2.7	2.5
Employment growth	1.8	1.7	1.6	1.6	1.6	1.6

[12] Joint Dept. of Finance / Dept. of Public Expenditure and Reform briefing.
Note that all forecasts will be updated in the *Stability Programme Update* (a legal requirement), which will be published in April.

Unemployment rate	4.8	4.8	4.8	4.8	4.7	4.7

This is the baseline scenario – such a pace of growth is conditional upon a **benign trade agreement between the EU and UK** as well as a gradual recovery in the global economy over the course of this year and into next year. This cannot be taken for granted and, at the current juncture, risks to the economic outlook – mainly on the external front – are firmly tilted to the downside, not least due to the recent outbreak of **coronavirus which is expected to impact on global supply chains** this year.

After 7 straight years of employment growth of around 3 per cent per annum, the labour market is effectively at, or possibly beyond, most estimates of 'full-employment', with employment growth projected to moderate as a result. The unemployment rate of 4¾ per cent is equal to the average seen over the period 2000-2007. Wage pressures are picking up, with private sector pay growing by c. 4 per cent, and capacity constraints are increasingly binding, particularly in construction.

Risks to the forecasts are firmly tilted to the downside in the short-term and can be classified into a number of categories:

- Domestic – overheating economy
- Global – external growth remains sluggish and does not pick-up
- Structural – a trade deal is not agreed between the EU and UK
- Other – EU/US trade tensions; coronavirus

Table 2: Risks to the outlook

	DOMESTIC	EXTERNAL
DOWNSIDE	Overheating economy Pharma – trade tension	EU / US trade tensions EU / UK trade on WTO terms Pandemic – coronavirus Prolonged global weakness Rising market interest rates
UPSIDE	Sectoral strength (ICT, pharma) Housing supply	

Section 2: Fiscal developments and outlook

A general government surplus of **0.7 per cent of GDP is expected this year** - on the back of an estimated surplus of 0.4 per cent last year. A further improvement to 1.0 per cent of GDP is envisaged next year, reaching 1¼ per cent in the medium term. The underlying structural position is not as positive as the headline position, averaging ¼ per cent per annum over the 2020-2025 period.

Budgetary policy must be counter-cyclical: it must stabilise (not amplify) the cycle – the economy is already at full-employment and there is a need to **build up fiscal buffers** to help smooth the next downturn.

Table 3: medium term fiscal strategy (as per January 2020)

	2020	2021	2022	2023	2024	2025
General budget balance (% GDP)	0.7	1.0	1.1	1.1	1.2	1.3
Structural budget balance	0.3	0.4	0.4	0.1	0.2	0.1
Total budget package	2.9	3.6	2.9	3.3	3.4	3.4
: Tax reduction [a]	(0.4)	0.6	0.6	0.6	0.6	0.6
: Expenditure	3.3	3.0	2.3	2.7	2.8	2.8
- Current	2.6	2.0	2.1	2.4	2.2	2.3
- : pre-committed [1+2+3]	1.1	1.0	0.5	0.5	0.5	0.5
1. demographics	0.5	0.5	0.5	0.5	0.5	0.5

2. PSSA	0.3	0.3	-	-	-	-
3. carryover	0.3	0.2	-	-	-	-
- : pre-capital	0.8	1.0	0.2	0.3	0.6	0.5
Total unallocated	-	1.6	2.2	2.5	2.3	2.4
Memo: debt-GNI* (approx.)	95	-	-	-	-	-

The sharp increase in **corporation tax receipts** is a key factor behind the improvement in the fiscal accounts in recent years: **these could reverse potentially very quickly**. The *medium term fiscal strategy* allows for a decline of €2 billion in receipts by 2025, the Department of Finance has identified an upper bound risk of €6 billion.

These projections set out in table 3 assume:

- annual increases in current expenditure of 3¼ per cent (€2.2 billion) per annum,
- a reduction in corporation tax receipts of €0.5 billion per annum from 2022 and
- a €600 million annual tax reduction package.

Ireland remains one of the **most heavily indebted countries in the developed world** - €42,000 per capita and Ireland's debt-GNI* ratio is currently around 100 per cent.

Section 3: Fiscal rules

There is a legal requirement to comply with fiscal rules:

- structural deficit of no more than 0.5 per cent of GDP,
- (net) spending increase in line with trend (not actual) economic growth
- Debt-GDP ratio below 60 per cent

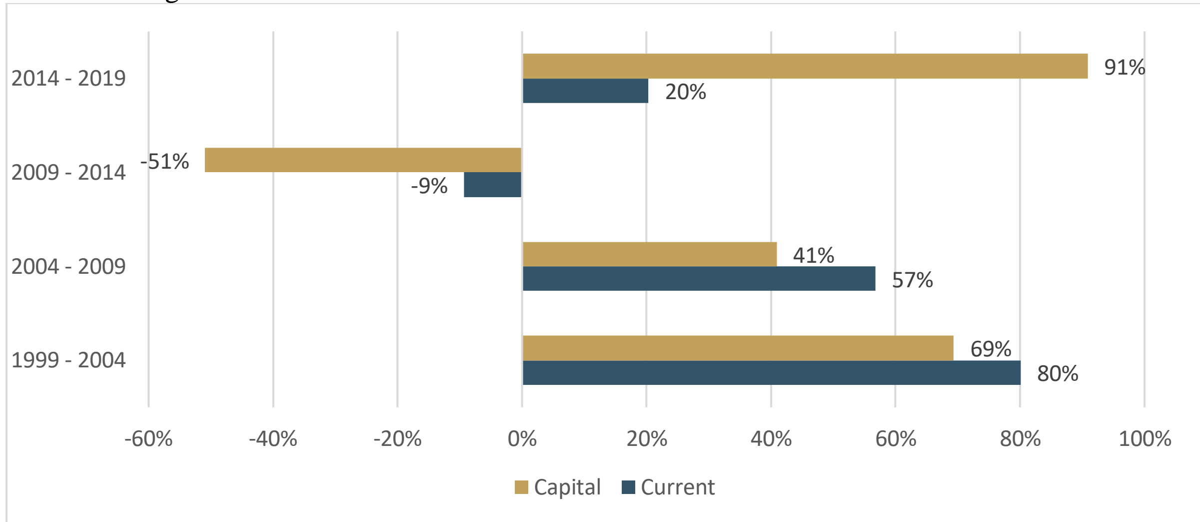
The Department of Finance has highlighted that minimum compliance with these rules would be inappropriate (for instance, because GDP is distorted in Ireland, the debt-GDP ratio implies an excessively benign situation).

Section 4: Expenditure

Context: Recent Trends in Public Expenditure

Future plans for public expenditure need to reflect the significant growth in public expenditure in the period since 2014. Recent expenditure increases have been more moderate than in the pre-crisis period, with a focus on capital investment, but still represent a very substantial increase in social provision and public infrastructure.

Figure 3: Current and Capital Expenditure Growth Five-Year Intervals*



** 2014-2019 adjusted to reflect disestablishment of HSE Vote and change in Irish Water funding arrangements.*

Specifically, growth in the last five years in current expenditure has averaged just under 4% a year. Health, which accounted for just over 25% of overall expenditure in 2015, has received over 40% of the increase in expenditure in the last five years. As shown below, growth in expenditure has been stronger in the last three years, reflecting higher allocations – both current and capital – across a broad range of sectors. Appendix 2 sets out further details on this three-year trend.

Table 4: Gross Voted Expenditure Growth 2014-2019* (€m)

	2014	2015	2016	2017	2018	2019**
Total Gross Voted Current	**49,501**	**50,864**	**51,775**	**54,019**	**57,057**	**60,048**
y-o-y increase (€)		*1,363*	*911*	*2,245*	*3,038*	*2,991*
y-o-y increase (%)		*2.8%*	*1.8%*	*4.3%*	*5.6%*	*5.2%*
Total Gross Voted Capital	**3,597**	**3,730**	**4,212**	**4,601**	**5,996**	**7,366**
y-o-y increase (€)		*133*	*483*	*389*	*1,394*	*1,370*
y-o-y increase (%)		*3.7%*	*12.9%*	*9.2%*	*30.3%*	*22.9%*
Total Gross Voted Expenditure	**53,098**	**54,594**	**55,987**	**58,620**	**63,052**	**67,414**
y-o-y increase (€)		1,495	1,393	2,633	4,432	4,362
y-o-y increase (%)		2.8%	2.6%	4.7%	7.6%	6.9%

**2014 adjusted to reflect disestablishment of the HSE Vote. Technical adjustment in relation to Irish Water increased current expenditure by €0.3 billion and capital by €0.5 billion in 2018.*
*** Includes capital carryover of over €0.2 billion.*

Reductions in the public service pay bill, both pay rate reductions and reductions in staff numbers, formed a key element of the expenditure consolidation in the period 2008 to 2014. Since 2014 there has been an increase of over 15½% in public service numbers. With pay constituting 50% of gross voted current expenditure, excluding Social Protection payments, decisions in relation to staffing levels and pay rates have a significant impact on overall expenditure.

Table 5: Public Service Numbers 2008 to 2019 (Thousands of Whole Time Equivalents)

	2008	2014	2014 v 2008		2015	2016	2017	2018	2019	2019 v 2014	
Civil Service	37.4	34.8	(2.6)	(7%)	35.0	35.9	37.1	38.5	40.8	6.0	17%

CS Industrial	1.9	1.4	(0.5)	(26%)	1.3	1.3	1.4	1.5	1.5	0.1	7%
Defence	11.3	9.8	(1.5)	(13%)	9.7	9.6	9.7	9.4	9.1	(0.7)	-7%
Education	95.0	94.0	(1.0)	(1%)	96.4	99.8	104.1	106.9	109.8	15.8	17%
Health	115.8	101.5	(14.3)	(12%)	107.3	110.3	114.1	117.9	119.8	18.3	18%
Justice	15.7	12.8	(2.9)	(18%)	13.0	13.4	13.9	14.4	14.7	1.9	15%
Local Auth.	35.0	26.8	(8.2)	(23%)	26.6	26.9	27.4	28.3	29.2	2.4	9%
NCSA	13.1	12.3	(0.8)	(6%)	12.2	12.7	13.0	13.7	14.3	2.0	16%
Total	**325.2**	**293.4**	**(31.8)**	**(10%)**	**301.5**	**309.9**	**320.7**	**330.6**	**339.2**	**45.8**	**16%**

Outlook and Objectives for Expenditure Policy

The recently published update to the Fiscal Strategy proposed by the Department of Finance was prepared on the basis of running surpluses to mitigate risks to the economy and public finances. The strategy would allow potential expenditure growth up to 4½% p.a. on average, inclusive of both current and capital expenditure, over the coming 5 years assuming no taxation reductions. Decisions on tax side measures would affect the scope for expenditure growth.

In line with practice in recent years, the amounts included as "pre-commitments" in table 3 above reflect the Public Service Stability Agreement, the impact of demographics in Health, Education and Social Protection, the carryover of prior year measures, and increases under the NDP. Taking into account the experience in the years leading up to the fiscal crisis, there is no indexation applied to expenditure items. Consequently, future pay deals and Social Welfare rate increases would fall to be met from the overall unallocated resources of €11 billion over this five-year period.

Managing within this overall envelope will require targeting of resources at key sectors. For other sectors consideration could be given to reprioritising expenditure to fund new measures and to the introduction of lower growth rates for staffing in these areas. Key enablers of maintaining expenditure growth within the parameters set out in the updated fiscal strategy are:

- A strengthened Medium-Term Expenditure Framework;
- Strengthened in-year budgetary management and control within agreed allocations; and
- Effective Delivery of Infrastructure Investment under Project Ireland 2040.

Over the past three years, we have already seen expenditure growth rising at a faster-than-planned rate, in response to both political and public demands for policy action, and weaknesses in budgetary discipline in certain areas with in-year increases accommodated by way of Supplementary Estimates. Bringing this trend towards more acceptable levels will depend on the success and rigour of budgetary management in the various sectors, not least Health.

Table 6: Year-on-Year Increases 2019 v 2020

	2019			2020***		
	Gross	Increase	Increase	Gross	Increase	Increase
	€bn	€bn	%	€bn	€bn	%
Social Protection*	20.4	0.4	2.1%	21.1	0.6	3.2%
Health	16.7	1.3	8.3%	17.5	0.7	4.4%
Education	9.9	0.5	4.9%	10.3	0.3	3.2%
Justice	2.7	0.2	6.1%	2.7	0.0	1.2%
Others	9.9	0.7	7.2%	10.5	0.5	5.3%
Total Current	**60.0**	**3.0**	**5.3%**	**62.0**	**2.0**	**3.3%**
Total Capital**	**7.4**	**1.4**	**22.9%**	**8.2**	**0.8**	**10.9%**

Overall (Current & Capital)	67.4	4.4	6.9%	70.2	2.8	4.1%

**For comparison purposes, Christmas Bonus is not included here as it is not provided for in REV 2020.*
***Includes capital carryover of over €0.2 billion.*
****Timing related cash costs of €0.2bn not included in 2020.*

Looking ahead, there are potential cost pressures arising from demographics. These are included as pre-commitments within the updated fiscal strategy – there are also higher capital allocations included. **This leaves an overall unallocated resources of €11 billion over this five year**. There are expectations in in relation to pay increases, following the end of the Public Service Stability Agreement 2018 to 2020, Social Welfare increases, and potential pressures from other areas. The table below sets out some potential cost pressures likely to arise over the medium term.

Table 7: Potential Additional Annual Costs Pressures (€ billion)

	Average Cost
Pay Rates after end of PSSA (c.2% to 2½%)	0.4-0.5
Social Welfare Weekly Rates (Inflation)	0.35
Public Service Pensions Pressures	0.2
Total	**0.95-1.05**

In addition, if staff numbers are not managed adequately, or if the Government were to accede to demands for additional staff numbers in certain areas – e.g. Gardaí, nurses – the expenditure pressures would be intensified.

Risks and Challenges to Effective Infrastructure Delivery

Project Ireland 2040

Capital investment has been a particular focus in recent years with spending growing from €3.6 billion in 2014 to €8.2 billion in 2020. This will bring capital investment as a percentage of GNI* to almost 4% in 2020. This doubling of investment is creating capacity challenges within the system and in the wider construction sector. Further measures are planned and these need to be carefully managed to avoid further price pressure in the sector. Appendix 3 sets out the capital envelope by Department to 2022.

Project Costings

The NDP includes very early stage cost estimates for numerous projects (for example MetroLink, Bus Connects, the Eastern-Midlands Water Supply Project, the M20 Limerick-Cork). In many cases, these published estimates are outdated, do not include inflation, nor do they account appropriately for risk or full project scope; these will need to be refreshed.

Construction Capacity

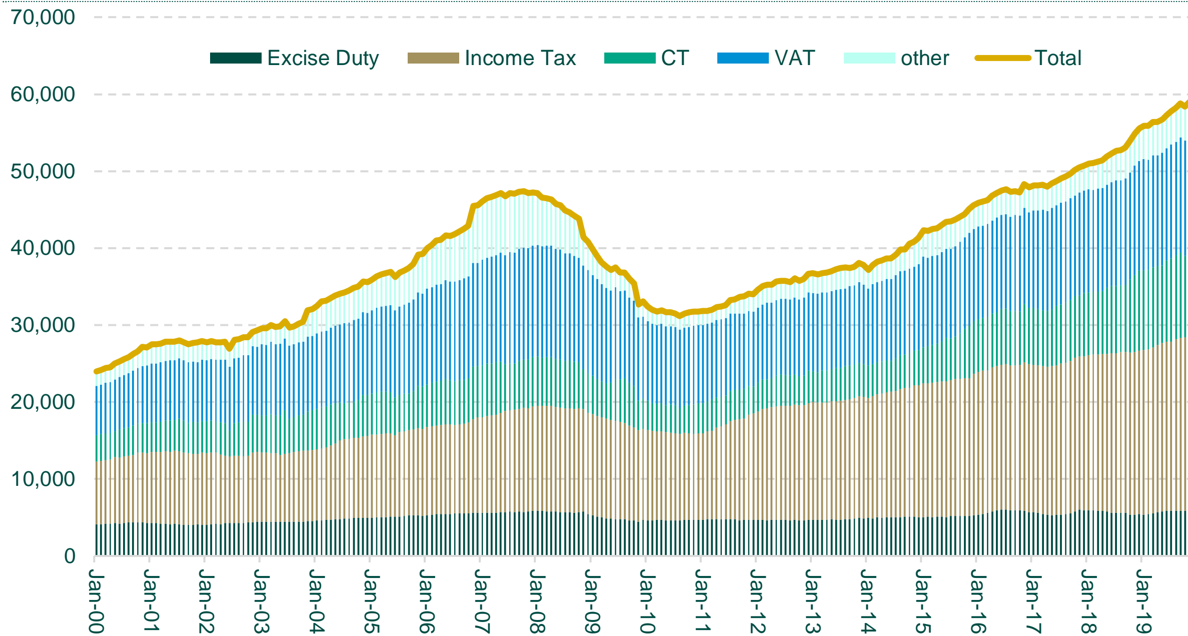
We are now up against clear capacity constraints in the construction industry; therefore further increases in overall investment risk overheating the market. While total investment in building and construction increased by approx. 11% in 2019, construction employment growth slowed to 2% in Q3 2019.

Prioritisation of where construction capacity should be focused will be necessary in order to achieve particular policies e.g. meeting housing demand instead of continuing increases in the commercial sector. Capacity challenges are also exacerbated by stagnant productivity growth in this sector, with slow adoption of modern approaches (e.g. off-site construction, digitisation) especially in the housing sector.

Annex 1: Taxation – the macro picture

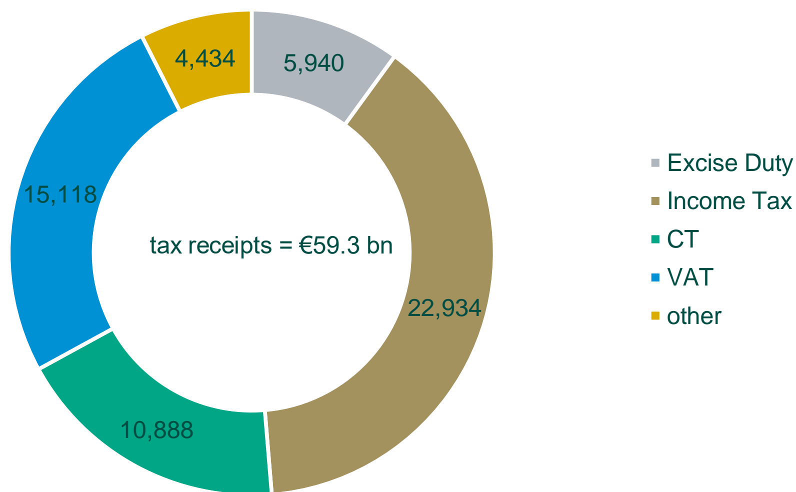
- The evolution of tax over the past two decades is set out in figure 1 below.
- The collapse in tax revenue in 2008-2010 was due to the over reliance on transitory receipts **and the narrowing of the income tax base.**
- Figure 2 sets out the share of taxation accounted for by the main tax heads last year.

Figure 1: taxation revenue, 2000 – present Error! Bookmark not defined.**,** € millions



CT: corporation tax.
From 2011, income tax includes the Universal Social Charge.

Figure 2: share of taxation revenue in 2019. € millions



CT: corporation tax.
From 2011, income tax includes the Universal Social Charge.

Annex 2: Expenditure Growth 2017-2019

Expenditure Growth 2017 – 2019 (€ billion) by area **

	Current		Capital		Total	
	2017-2019		***2017-2019***		***2017-2019***	
	€bn	**p.a.**	**€bn**	**p.a.**	**€bn**	**p.a.**
Health	3.1	7.0%	0.3	21.1%	3.4	7.4%
Education	1.5	5.5%	0.3	11.1%	1.7	5.9%
Justice	0.4	6.0%	0.0	2.2%	0.4	5.7%
Housing*	0.6	12.7%	1.2	30.0%	1.7	20.8%
Children and Youth Affairs	0.4	12.0%	0.0	-1.0%	0.4	11.7%
Agriculture	0.3	7.7%	0.1	18.1%	0.4	9.3%
PER	0.2	6.1%	0.0	8.8%	0.2	6.5%
Defence	0.1	2.6%	0.0	10.8%	0.1	3.6%
Foreign Affairs	0.1	4.8%	0.0	28.7%	0.1	5.1%
Transport	0.1	4.9%	0.4	10.5%	0.5	8.5%
Others*	0.2	4.6%	0.3	10.3%	0.5	6.7%
Sub Total	***6.9***	***6.6%***	***2.7***	***16.2%***	***9.6***	***7.9%***
Social Protection*	1.0	1.6%	0.0	-12.8%	1.0	1.6%
Total	**7.9**	**4.8%**	**2.7**	**16.1%**	**10.6**	**5.8%**

** Adjusted to reflect inter-vote transfers and change in Irish Water funding arrangements.*
*** Rounding affects totals.*

Appendix 3: Multiannual Capital Investment Framework to 2022

Capital Envelope	2017	2018	2019	2020	2021	2022	€ million	%
Capital Envelope (€ millions)							2017 - 2022	2017 - 2022
Agriculture, Food & the Marine	219	274	260	274	265	275	1,567	25.6%
Business, Enterprise & Innovation	547	527	577	632	640	715	3,638	30.7%
Children & Youth Affairs	27	26	26	31	32	33	175	22.2%
Communications, Climate Action & Environment	162	192	211	382	517	611	2,075	277.2%
Culture, Heritage & the Gaeltacht	63	54	70	81	80	110	458	74.6%
Defence Group	96	95	138	113	120	125	687	30.2%
Education & Skills	692	741	941	922	1,006	1,100	5,402	59.0%
Employment Affairs & Social Protection	8	8	7	15	16	17	71	112.5%
Finance Group	22	23	28	22	18	19	132	-13.6%
Foreign Affairs & Trade Group	13	12	14	13	13	14	79	7.7%
Health	454	513	689	854	880	880	4,270	93.8%
Housing, Planning & Local Government	792	1,773	2,151	2,240	2,269	2,280	11,505	187.9%
Justice & Equality Group	170	147	162	269	208	216	1,172	27.1%
Public Expenditure & Reform Group	140	190	180	225	223	232	1,190	65.7%
Rural & Community Development	58	95	138	150	152	175	768	201.7%
Transport, Tourism & Sport	1,139	1,324	1,536	1,943	2,613	2,424	10,979	112.8%
Unallocated Reserve	N/A	N/A	N/A	N/A	109	109	218	N/A
Total (a)	**4,602**	**5,994**	**7,128**	**8,166**	**9,161**	**9,335**	**44,386**	**102.8%**
Total as % of GNI* (b)	**2.5%**	**3.0%**	**3.5%**	**3.8%**	**4.0%**	**4.0%**		

(a) 2017 & 2018 are the gross Appropriation Account outturns, 2019 is the gross provisional outturn (excluding capital carryover of over €0.2billion) and 2020 – 2022 are the expenditure allocations. (b) GNI* for 2019 based on Budget 2020 estimate, with 2020 and 2022 based on assuming growth for GNI* in line with the GDP growth in 15 January Fiscal Strategy Update.

DFIN Response Car Parking Levy 27/02/20 [GP]

BRIEFING REQUEST GP 9: Information on workplace parking levy, • How it would operate and • What impact it might have on modal split and emissions.

4. The workplace parking levy is provided for in Part 18B of the Taxes Consolidation Act 1997 which was inserted by the Finance (Number 2) Act 2008. This provides for a levy of €200 per annum which applies where an employer provides car parking facilities for employees. The intention was that the levy would apply in the five urban areas of Cork, Dublin, Galway, Limerick and Waterford.
5. The urban areas and commencement date are to be designated by order of the Minister for Finance but no such areas or date have as yet been designated.
   The levy will apply where an employee has an ongoing entitlement to use a parking space and such space is provided directly or indirectly by his or her employer.
   In general, the levy will apply to private cars. The levy will not apply to disabled drivers or to employees of the emergency services in the context of responding to an emergency situation.
   Occasional permission to park for not more than 10 days in a year is excluded as is occasional use of a space by a retired person.
   Where parking spaces are shared by employees, the levy is reduced to €100 where the ratio of the number of employees to the number of parking spaces is two to one or more. Reductions in the levy are also provided for to take account of job-sharing, maternity leave and certain shift work.
   Employers are required to deduct the levy from employees' net wages or salary and to remit the levy to Revenue at the same time as they remit income tax deducted under the PAYE system.
6. The levy was intended to reduce congestion and encourage switching of transport choices from private commuter cars to public transport and/or cycling. While it is to be expected that increasing the cost of private commuter cars would result in such switching, it is difficult to assess the actual numbers which will switch. A number of other factors will also influence transport choices.
   The 2016 Census shows that 1,152,631 people commuted to work in private cars with an additional 77,335 passengers. Not all these would be in the urban areas to be designated and not all may be in a position to switch to alternative modes of commuter transport.

Department of Finance

27 February 2020

DFIN Responses GP 26/02/20 [GP]

Green Party briefing requests dated 25 February 2020

Referred by John Shaw – D-Taoiseach by emails of 25 February 2020

Composite list

1. A briefing on the restrictions on public spending and investment caused by the EU fiscal rules.
2. Would replacing local property tax with a site value tax help to increase the supply of housing? (Referred by D/Taoiseach to D/HPLG for Housing Supply element)
3. Would reducing development levies help to increase housing supply? (Referred by D/Taoiseach to D/HPLG for Housing Supply element)
4. What is the argument for appealing the EU's Apple ruling?
5. Is it possible to introduce an 80% cap on profits offset by capital allowances for intangible assets that were onshored between 2015 and 2018 by multinationals?
6. Is there a case for investing the projected €4bn transfer from NAMA in public housing?
7. Is it possible to divert the construction industry's capacity from commercial to residential building and retrofit by increasing stamp duty on commercial construction? How much would this policy affect economic growth and future tax receipts?
8. What tax reforms would increase the share of the government's budget that is controlled at local authority level in the most efficient way

REQUEST FOR BRIEFING

GP 1. A briefing on the restrictions on public spending and investment caused by the EU fiscal rules

The main elements of the EU fiscal rules as set out in the Stability and Growth Pact (SGP) are:

• a binding 3 per cent of GDP threshold for the headline deficit;

• a 60 per cent debt-to-GDP threshold (and 1/20th correction rule);

• a balanced budget after adjusting for the cycle (the structural balance)

• the expenditure benchmark.

Ireland has been a key advocate of the SGP and has been fully supportive of reforms (through the adoption of the Six-pack and Two-pack legislative packages and the Fiscal Compact). Ireland is subject to the Preventative arm of the SGP and has been compliant with the rules in recent years.

The rules do impose high level constraints on the level of public indebtedness (60% of GDP) and the annual budget balance (3% of GDP). Within the latter, the expenditure benchmark sets an upper limit for expenditure growth based on Ireland's underlying growth potential. Put simply, government expenditure increases should not be in excess of the medium-term growth rate of the economy.

However, Member States retain full discretion in terms of the mix between spending and taxation, as spending outside of the limits imposed by the expenditure rule can be offset by discretionary revenue measures and/or expenditure adjustments elsewhere.

In terms of investment, it is also important to recognise that the rules include provisions to promote public investment – the expenditure rule "smooths" investment spending.

Currently, the European Commission is reviewing the fiscal rules and will be seeking views from all stakeholders. There is wide acknowledgement that the rules are overly complex which inhibits their transparency. The rules rely do rely on unobservable variables (such as the output gap), which of course feeds directly through into the structural balance.

The difficulty is that, adding more flexibility to the rules inevitably adds to their complexity.

At present, there appears to be an investment gap across Europe with the level of public investment below pre-crisis levels. In Ireland, however, it is important to recognise that there has been a marked pick-up in capital spending from €3.4 billion in 2013 to €7.4 billion in 2019. This was facilitated within the scope of the fiscal rules

Department of Finance

25 February 2020

REQUEST FOR BRIEFING

GP 2: Would replacing local property tax with a site value tax help to increase the supply of housing?

(This has also been referred to the Department of Housing, Planning and Local Government for response in relation to the Housing Supply Impact.)

A site or land tax (SVT) is a tax on the unimproved value of land excluding any capital improvements such as buildings or other additions or modifications. Arguments for SVT include that they increase the cost of hoarding land and thereby offer an incentive to put land to its most valuable use, and that this in turn fosters the development of denser towns and cities.

The Local Property Tax (LPT) yields around €480 million per year (based on 2018 yield) which is just 0.79% of total tax yield. The average LPT liability is around €240 per annum. If a SVT was to result in a similar yield and levels of liabilities it is doubtful whether an individual taxpayer's liability to SVT would provide a sufficient incentive to encourage them to intensify the usage of their land and bring about the benefit of SVT mentioned.

The 2012 report of the Inter-departmental Group on the Design of a Local Property Tax (the "Thornhill Group") comprehensively examined the basis of assessment for LPT, including both the taxable value of the property option and an SVT. The report favoured the use of market value of residential properties as the basis of assessment and this recommendation was accepted by the Government.

The Thornhill Group concluded that the arguments for SVT were outweighed by the likely difficulties in ensuring acceptance by taxpayers, i.e., arriving at values that were evidence based, understandable and acceptable to the public in addition to complexities and uncertainties in the valuation effort necessary to put an SVT in place. The Group considered that under a market value approach applied to housing, the market value of a residential property would be related to the characteristics of the building itself, the site on which it was located and the characteristics and amenities of the neighbourhood. There would be a relationship between the market value of a house and benefits to the owners in terms of enjoyment of the amenity value of the properties.

Department of Finance
26 February 2020

REQUEST FOR BRIEFING

GP 3. Would reducing development levies help to increase housing supply?

(This has also been referred to the Department of Housing, Planning and Local Government for response in relation to the Housing Supply Impact.)

The written reply to PQ 53421/19 by Minister for HPLG Murphy on 17 December 2019 included the following information:

> “Income from development contributions must be ring-fenced to pay for public infrastructure and facilities. Appendix 5 of the amalgamated Annual Financial Statements (AFS) of local authorities show a total income of €237.4m for Development Contributions for the financial year ending 31/12/2018, which is the most recent year for which audited figures are available.
>
> The Government introduced a special two-year time-limited residential development contribution rebate scheme in 2015 in respect of the functional areas of the four Dublin local authorities and the metropolitan area of Cork only. Rebate was paid in respect of 875 new homes under the scheme at a cost of €7.322m.
>
> The full cost of applying a national waiver on residential development contribution levies is not available from local authorities AFS as the figures do not differentiate between levies collected from residential and non-residential development.”

The Department of Finance notes the following
Local authorities form part of general government. Any reduction in local authorities’ income from development levies would need to be replaced by alternative funding from another source - either though additional taxes or charges or diversion of expenditure from another source - in order to avoid a deterioration in the general government balance.

Department of Finance
26 February 2020

REQUEST FOR BRIEFING
GP 4. What is the argument for appealing the EU's Apple ruling?

1. On 30 August 2016, the European Commission, following a formal investigation, decided that Ireland had granted illegal state aid to two Apple companies – ASI and AOE and ordered recovery of the alleged aid. In September 2016, the Government decided to appeal the decision to the General Court of the European Union (GCEU) seeking its annulment. The appeal to the GCEU was carried out to:
    a. defend the integrity of our tax system;
    b. provide tax certainty to business; and
    c. challenge the encroachment of EU state aid rules into the sovereign Member State competence of taxation
2. Based on legal advice it is not possible to go into the detail of the legal arguments in the case. A summary of these legal arguments were published in 2016 on the Department of Finance's website https://www.gov.ie/en/press-release/1ea8e2-ireland-publishes-legal-arguments-in-apple-state-aid-case/
3. Apple initiated its own proceedings and the GCEU joined these with the State proceedings for the oral hearing. Following a written procedure involving all parties, the oral hearing took place in September 2019. We await the judgement of the GCEU the timing of which is a matter for the Court. The GCEU judgement will be detailed and in general will uphold or annul the Commission decision.
4. An overview of Ireland's position at the oral hearing was published on the Department of Finance's website in September 2019. https://www.gov.ie/en/news/23687a-overview-of-irelands-position-at-the-oral-hearing-at-the-general-cou/
5. Any of the three parties have the option to appeal the GCEU judgement to the Court of Justice of the European Union (CJEU). This will depend on the judgement of the GCEU. Should there be an appeal only state aid legal arguments can be made before the CJEU. Any such arguments are likely to be based on previous legal arguments or on points of law raised by the judgement.
6. Recovery of the alleged State aid of €14.3bn from Apple finished in September 2018. The sums were placed in an Escrow Fund. A legal agreement underpins the operation of the Fund (to protect the interests of all parties to the agreement). The proceeds of the Fund can only be released when there has been a final determination in the European Courts over the validity of the Commission's Decision. There is provision in the Commission decision (and in the legal agreement underpinning the Fund) for payment from the Fund where the company was required to pay taxation in another jurisdiction in respect of the profits for the period covered by the decision. A payment was made in 2019 to the company under these provisions.

Department of Finance
25 February 2020

REQUEST FOR BRIEFING

GP 5: Is it possible to introduce an 80% cap on profits offset by capital allowances for intangible assets that were onshored between 2015 and 2018 by multinationals?

1. Potential Yield

It should first be noted that the cap does not change the overall quantum of allowances available over an asset's lifespan. It operates only to change the timing of the relief available by putting a cap on the amount of income that can be sheltered in any one accounting period. Any excess allowances are carried forward for use in subsequent accounting periods. The cap was re-introduced in 2017 not to raise additional revenue, but rather to effect a smoothing of corporate tax receipts over time.

2. Assets on-shored 2015-2017

Section 291A of the TCA 1997 provides relief in the form of capital allowances on the capital expenditure incurred by companies on the provision of intangible assets for the purposes of a trade. The allowances can be used only against trading income generated by those assets. The scheme applies to intangible assets, both acquired and internally developed, which are recognised as such under generally accepted accounting standards and which are listed as a "specified intangible asset" in section 291A.

Prior to Finance Act 2014, there was a cap in place which provided an 80% limit on the quantum of relevant income against which capital allowances for intangible assets, and any related interest expense, may be deducted in a tax year. In Finance Act 2014, the cap of 80% was increased to 100%, effective for accounting periods commencing on or after 1 January 2015. The 80% cap was re-introduced in Finance Bill 2017, for all expenditure incurred from 11 October 2017.

For the purposes of certainty, changes to tax law are generally made on a prospective basis such that they apply only from the date on which they have legal effect. It would therefore be open to affected taxpayers to take a legal challenge to an application of the cap to assets acquired/onshored prior to the re-introduction of the cap in 2017.

3. Basis for hypothetical yield calculation

Based on intangible assets claims on tax returns for 2017 and earlier years, it is tentatively estimated there could be a short-term temporary cashflow gain in the region of €722m. This is arrived at by taking the figure for all capital allowances on intangible assets claimed in 2015 (€28.9bn), assuming that 20% of that amount would have been restricted (€5.77bn), resulting in additional corporation tax at 12.5% of €722m. As noted above, this restriction is a timing measure only – allowances restricted through the operation of the cap in one year carry forward for use in future years.

It is also important to stress that this is a hypothetical figure based on the assumptions set out above. The figure of €28.9bn is the total amount of capital allowances for intangible assets that were claimed as available in 2015. That does not necessarily mean that the allowances were actually used to offset relevant income in that year (which is assumed in the calculation). Where, due to insufficiency of relevant

income in the year of claim, the capital allowances are not fully utilised, the unused allowances may be carried forward and used against relevant income in a subsequent period.

Furthermore, the calculation also assumes that the cap would have been relevant to all claimants, i.e. that the income generated by qualifying assets is less than 125% of the available allowances in the year. Where the income generated is greater than 125% of the available allowances, a restriction of relief for capital allowances to 80% of qualifying income would still allow full relief for the available allowances, therefore the claimant would not be affected by a cap.

Also, as information is not currently available in respect of the timeline of capital allowance claims, some of the capital allowances may have already expired, which would reduce this potential cashflow gain. Finally, it should be noted that the calculation does not take into account any potential behavioural changes that might result from a change to the relief.

Department of Finance
25 February 2020

REQUEST FOR BRIEFING
GP 6. Is there a case for investing the projected €4bn transfer from NAMA in public housing?

NAMA currently estimates that it will return a surplus in the region of €4bn to the Exchequer by the time it completes its work.

It is envisaged that the return of this surplus will commence later this year following repayment of NAMA's remaining subordinated debt and private investors. It is currently estimated that NAMA will return €2 billion to the Exchequer in June 2020 with a further transfer of €1.2 billion in cash to the Exchequer in 2021 and a further €500 million in 2022. This timeline is contingent on NAMA's projected surplus of €4 billion remaining unchanged and prevailing market conditions that may determine the timing and disposal proceeds of residual assets.

These estimates take into account the retention of NAMA's social housing vehicle, NARPS, in State ownership. NARPS has a value of €300 million and will be retained following a direction by the Minister in 2019.

Any NAMA surplus paid, while benefiting the Exchequer, will not be recognised as general government revenue as it would be considered a financial transaction in line with Eurostat rules. Therefore any additional expenditure on foot of these receipts would worsen both the headline balance and the structural balance. However, such repayment will reduce the Exchequer Borrowing Requirement, decreasing the rate at which debt is incurred by the state. This is taken into account in the projections for public debt published by the Department of Finance.

Department of Finance
26 February 2020

REQUEST FOR BRIEFING

GP 7. Is it possible to divert the construction industry's capacity from commercial to residential building and retrofit by increasing stamp duty on commercial construction? How much would this policy affect economic growth and future tax receipts?"

Table 1 – Stamp Duty receipts from property transactions 2011 to date

Property:	2011	2012*	2013	2014	2015	2016	2017	2018*	2019	2020 (Jan)
	(€m)	(€m)	(€m)	(€m)	(€m)	(€m)	(€m)	(€m)	(€m)	(€m)
Residential	44.48	56.95	65.52	101.77	123.5	132.22	167.57	171.54	179.36	14.42
Non-Residential	90.06	48.51	86.85	173.29	177.64	256.66	213.27	488.21	537.50	54.23
Total	134.54	105.46	152.37	275.06	301.09	388.88	380.84	659.75	716.86	68.65

Recent property related stamp duty rate changes

Budget 2012 decreased the rate of stamp duty on non-residential property from up to 6% to 2% with effect from 6 December 2011. This accounts for a large part of the fall in the non-residential stamp duty receipts between 2011 and 2012.

The non-residential rate increased from 2% to 6% in Budget 2018 with affect from 11 October 2017 and again in Budget 2020 from 6% to 7.5% with effect from 9 October 2019. The principal aim of the non-residential stamp duty increase in Budget 2018 was to help address potential overheating in the commercial element of the construction sector and to encourage a greater focus on increased home building. However, the commercial property market in Ireland remained strong, and €716.86m was collected by Revenue in property related stamp duty in the year 2019 of which just over €537m came from the non-residential side.

Residential Land and the Stamp Duty Refund Scheme

The stamp duty refund scheme provides for a refund of a portion of the stamp duty paid on non-residential land, where that land is subsequently developed for housing. It is designed to incentivise residential development, and is subject to criteria which include a requirement for the efficient use of the land concerned in that a specified proportion of the site must be developed for housing, and that a commencement notice must be submitted by the developers to the local authority within 30 months of the acquisition of the land, and the housing so commenced must be completed within two years.

Land acquired for residential development is treated as non-residential land for stamp duty purposes. However, Finance Act 2017 provides for a stamp duty refund of the difference between 6% and 2% in respect of land acquired for the development of residential property. This provision was amended in Finance Act 2019 to take account of the new rate of 7½% to ensure the effective rate of 2% continues to apply where the conditions of the scheme are satisfied.

Diversion of capacity and potential impact on economic growth

The CSO publishes data on building and construction activity as part of the National Accounts. The latest published information relates to Q3 2019. In the first three quarters of 2019 construction activity increased by 3.2 per cent over the previous year. Residential construction activity increased by 18 per cent while the category of "other building & construction" which includes, but is not limited to commercial activity, increased by 3.3 per cent in the same period.

Table 2 shows substantial growth in the volume of residential output and also in its share of construction output in recent years. Notwithstanding the substantial increase in dwellings output, "other" building and construction represents the largest category of construction output.

Table 2 – Components of total construction investment

	Avg. Annual Growth 2014-18 (%)	2019 Q1-Q3 (y-o-y %)	Share of total output (%)		
			2014	2018	2019 Q1- Q3
Dwellings	31	18	8	18	21
Improvements	9.5	-14.5	17	15	13
Other B&C	8.6	3.3	74	67	66
Total		3.2	100	100	100

Given the limited information available, it may take some time to accurately determine if recent changes to the rate of commercial stamp duty diverted activity from the commercial to residential sector. An appropriate mix of all forms of construction activity, including residential and commercial, is important to support economic growth.

Potential Impacts

Based on the Revenue Ready Reckoner each 0.5% increase in non-residential property stamp duty is estimated to yield €44m per annum but this does not take account of any behavioural effects.
Stamp duty is a transactional tax, and activity in the sector can be lumpy and difficult to predict. As a transactional revenue source there are inherent risks should there be a deterioration in the performance of the sector. Stamp duty on non-residential property applies more broadly than just commercial property. Therefore, changes in the rate of stamp duty on non-residential property may also have an impact on property transfers in agriculture, small business, sports and the voluntary sector as well as an impact on the value of private sector pensions. The certainty and stability of the tax regime is important in maintaining the attractiveness of Irish property to international investors of scale, and further changes to the regime could undermine this.

Department of Finance
26 February 2020

REQUEST FOR BRIEFING

GP 8: What tax reforms would increase the share of the government's budget that is controlled at local authority level in the most efficient way?

1. The 2019 Inter-Departmental Review of the Local Property Tax (LPT) recommended that the equalisation contribution from local authorities, equivalent to 20% of their LPT yield, be discontinued and that all local authorities retain 100% of the LPT that is collected in their own local authority area. The Group considered that this would help to strengthen transparency and accountability but may result in an additional cost to the Exchequer.

2. While the rate of the LPT is currently set centrally at 0.18% on properties valued up to €1 million, the LPT legislation provides local authorities with some flexibility to vary this rate up or down to a maximum of 15%. If a local authority decides to reduce the local LPT rate, the authority forgoes the equivalent amount of the reduced LPT yield from its LPT allocation. If an authority decides to increase the LPT rate locally, it receives the full amount of the increased LPT yield collected. The 2019 LPT Review Group recommended that the adjustment factor be amended to permit upward only adjustments to a maximum of 15%.

   Consideration might be given to increasing the degree of flexibility beyond 15%. However, if scope to reduce the rate was to be retained increasing the discretionary percentage adjustment would obviously run the risk of reducing LPT yield.

Department of Finance
26 February 2020

DFIN Update Note on Apple Case 26/02/20 [SF]

REQUEST FOR BRIEFING

1. Brief update on the Apple case

7. On 30 August 2016, the European Commission, following a formal investigation, decided that Ireland had granted illegal state aid to two Apple companies – ASI and AOE and ordered recovery of the alleged aid. In September 2016, the Government decided to appeal the decision to the General Court of the European Union (GCEU) seeking its annulment. The appeal to the GCEU was carried out to:
   a. defend the integrity of our tax system;
   b. provide tax certainty to business; and
   c. challenge the encroachment of EU state aid rules into the sovereign Member State competence of taxation
8. Based on legal advice it is not possible to go into the detail of the legal arguments in the case. A summary of these legal arguments were published in 2016 on the Department of Finance's website https://www.gov.ie/en/press-release/1ea8e2-ireland-publishes-legal-arguments-in-apple-state-aid-case/

9. Apple initiated its own proceedings and the GCEU joined these with the State proceedings for the oral hearing. Following a written procedure involving all parties, the oral hearing took place in September 2019. We await the judgement of the GCEU the timing of which is a matter for the Court. The GCEU judgement will be detailed and in general will uphold or annul the Commission decision.

10. An overview of Ireland's position at the oral hearing was published on the Department of Finance's website in September 2019. https://www.gov.ie/en/news/23687a-overview-of-irelands-position-at-the-oral-hearing-at-the-general-cou/

11. Any of the three parties have the option to appeal the GCEU judgement to the Court of Justice of the European Union (CJEU). This will depend on the judgement of the GCEU. Should there be an appeal only state aid legal arguments can be made before the CJEU. Any such arguments are likely to be based on previous legal arguments or on points of law raised by the judgement.

12. Recovery of the alleged State aid of €14.3bn from Apple finished in September 2018. The sums were placed in an Escrow Fund. A legal agreement underpins the operation of the Fund (to protect the interests of all parties to the agreement). The proceeds of the Fund can only be released when there has been a final determination in the European Courts over the validity of the Commission's Decision. There is provision in the Commission decision (and in the legal agreement underpinning the Fund) for payment from the Fund where the company was required to pay taxation in another jurisdiction in respect of the profits for the period covered by the decision. A payment was made in 2019 to the company under these provisions.

Department of Finance

25 February 2020

Carbon Tax Increase Response 24/02/20 [SF]

PROGRAMME FOR GOVERNMENT REQUEST

3. What is the cost of not proceeding with the carbon tax increase scheduled for May 1st in the year 2020 and in each of the subsequent 5 years?

4. What is the mechanism or mechanisms required to halt the increase?

5. And please outline the steps involved.

7. The full year yield from increasing the carbon tax by €6, from €20 to €26, was estimated in Budget 2020 as €130 million.

   The increase was to be introduced on two different dates as follows:

   - The increase in the carbon tax was applied to auto fuels (auto diesel and petrol) only from budget night, and
   - Is to be applied to all other fuels (kerosene, natural gas, marked gas oil, coal, peat, other fuels) from 1 May 2020.

The non-implementation of the 1 May increase would cost €40m in 2020 and €57 million in each of the subsequent years.

No assumptions are made about the application of or trajectory for any further increases in carbon tax after 2021.

8. In terms of the mechanism for stopping the increase, primary legislation would be required to annul the provision in the Finance Act.

9. As regards the steps involved, this would require the passage of the legislation through the Oireachtas and signature by the President in the usual manner.

Department of Finance

24 February 2020