

Investing in Ireland

A dynamic, knowledge-based economy

Guide to key tax incentives and regulations – 2011



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Foreword

Ireland represents a strategic European base due to our pro-business, low corporate tax environment and skilled workforce. As a result of these and other factors, almost 1,000 multinational companies have chosen Ireland as their investment platform.

Ireland's low rate of corporation tax, i.e. **12.5%**, holding company regime, research and development tax credit and intellectual property relief makes it a very popular choice for inward investment. Its limited transfer pricing and lack of Controlled Foreign Corporation (CFC) rules also enhances its benefits of a holding company and trading location. Companies involved in a wide range of activities in Ireland view it as a uniquely attractive location in which to do business.

Ireland remains committed to its tax rate of **12.5%** applicable to Irish trading profits. Our right to maintain this rate, notwithstanding the requirement to introduce painful measures elsewhere, has been accepted by various senior figures in Europe. In our view, this certainty is a critical development and will help secure our future as a leading destination for FDI (foreign direct investment) in Europe.

Based on data published by Eurostat, Ireland was the second-largest net recipient of foreign direct investment (FDI) from outside the EU last year, having netted €21 billion from non-EU investors in 2010. According to the 2010 KOF Globalisation Index, Ireland is ranked as the second most economically globalised country in the world while Grant Thornton

places Ireland first out of 36 developed economies for access to skilled labour¹.

Grant Thornton has prepared this guide to set out the tax advantages of Ireland as an investment platform and a jurisdiction which promotes FDI.

This guide has been prepared for the assistance of those interested in doing business in Ireland and includes legislation in force at **31 July 2011**. It does not cover the subject exhaustively but is intended to answer some of the important, broad questions that may arise. When specific problems occur in practice, it will often be necessary to refer to the laws and regulations of Ireland and to obtain appropriate tax, accounting and legal advice.



Peter Vale
Partner, Tax

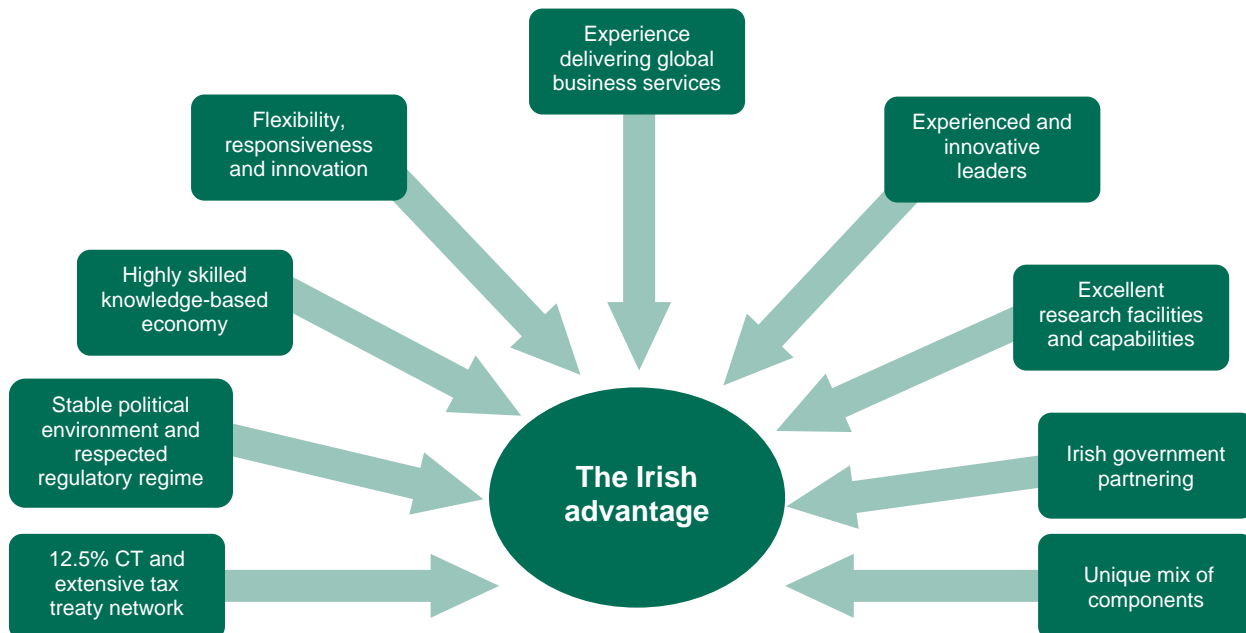
¹ Source: IDA – www.idaireland.com

Why invest in Ireland?

Ireland has an attractive tax, regulatory and legal regime, which when combined with its open business environment culminates in Ireland being regarded as a world class location for international business. In particular, Ireland has a very favourable holding company regime and a number of high profile groups have recently moved their headquarters to Ireland to access the benefits here including WPP, Shire LinkedIn and Facebook.

Ireland provides a very favourable tax environment to encourage business

development and sustain rewarding investment. Tax reliefs form an important part of the total incentive package available to overseas companies establishing a business in Ireland. These reliefs establish Ireland as a favourable location for multinational corporations to base their regional headquarters and holding companies. As Multinational Companies (MNC's) tend to consolidate their financing, regional head office and R&D activities in one location, Ireland is well-equipped to cater for all these requirements.



Source: IDA –

Tax advantages of Ireland

Ireland is considered a favoured onshore location for MNC's establishing regional, or even global headquarters, to manage their Intellectual Property (IP) functions and shareholdings associated with their international businesses.

Irish headquarters and holding companies

Incentives for the establishment of multinational organisations in Ireland include:

- low corporate tax rate of **12.5%** for active businesses;
- attractive tax efficient holding company regime;
- attractive Research and Development (R&D) credit;
- capital allowances for expenditure on intangible assets;
- low (if any) tax on certain foreign dividends and flexible onshore pooling of foreign tax credits;
- EU approved stable tax regime with access to extensive treaty network and EU directives;
- credit for tax on foreign branch profits;
- Capital Gains Tax (CGT) exemption on share disposal;
- generous domestic law withholding tax exemptions;
- preferential tax regimes in place for regulated collective investment funds and securitisation vehicles;
- intellectual property, stamp duty exemption; and
- no thin capitalisation or CFC rules and limited transfer pricing rules.

These provisions, combined with Ireland's low corporation tax rate on trading activities place Ireland in a very competitive position for

attracting international companies to establish their global or European headquarters. These features are discussed in the various sections below in greater detail.

Tax benefits in Ireland

Recent years have seen the introduction of significant enhancements to the Irish holding company regime, the outcome of which is that Ireland can now offer a tax package that compares very well with other potential holding company regimes. This package comprises:

- a tax exemption on capital gains from the disposals of qualifying shareholdings;
- a pooling and carry forward of excess foreign tax credits;
- the abolition of capital duty on equity investments;
- double taxation relief for foreign branch profits; and
- an effective tax exemption on qualifying foreign dividends with the tax rate reduced from 25% to **12.5%** and the deductibility of tax credits for foreign tax paid.

In another positive development, the G20 Summit in 2009 affirmed Ireland's standing in terms of the transparency of its tax system, with the Organisation for Economic Co-operation and Development (OECD) publicly backing the current Irish tax regime. This is a very welcome development highlighting the stability of the Irish tax system, which should give comfort to those looking to invest in Ireland. Furthermore, the Irish Department of Finance has recently affirmed that the corporation tax rate will remain at **12.5%** and reiterated that the **12.5%** corporation rate is a cornerstone of the Irish industrial policy.

Taxation of companies

Liability to tax

A company that is tax resident in Ireland is liable to Irish corporation tax on its total profits wherever arising. Companies not tax resident in Ireland are only liable to corporation tax on profits generated by an Irish branch or agency.

A company is tax resident in Ireland if it is an Irish incorporated company or if it is managed and controlled in Ireland (there are certain exceptions to the rule on Irish incorporated companies).

Tax rates

The standard rate of corporation tax in Ireland is **12.5%** on trading income. A rate of 25% applies to non-trading income and certain trades. The lower rate represents one of the lowest “onshore” statutory corporate tax rates in the world. The Irish government is committed to retaining this rate and the Minister for Finance stated in the 2010 Budget speech:

*“Our corporate tax rate of 12.5% has become an international brand, known the world over. It is a powerful expression of our pro-enterprise ethos and continues to attract new business and new jobs to this country. In a time of great uncertainty for international business, it is important that we send out a clear message. The 12.5% corporation tax rate will not change. It is here to stay.”*²

Ireland’s **12.5%** tax rate along, with a number of other incentives and tax reliefs, results in Ireland being regarded as an extremely attractive location in which to do business. Ireland remains committed to the tax rate.

Effectively, in order for a company to avail of the **12.5%** tax rate, it must be both trading and tax resident in Ireland. The statutory definition of a trade for Irish tax purposes is vague – a trade “includes every trade, manufacture, adventure or concern in the nature of a trade”. Thus, the question of whether a trade exists should be reviewed in light of the Six Badges of Trade (as drawn up by the UK Royal Commission on the Taxation of Profits and Income), along with case law.

Broadly, the higher the level of activity and number of transactions, the more support there is to assert that a trade exists.

The Irish Revenue has also indicated that the following factors would be important when considering whether or not a trade exists:

- commercial rationale;
- real value added in Ireland; and
- level of employees in Ireland.

If requested, Revenue will issue advance rulings as to whether proposed operations will constitute a trade for Irish tax purposes. It is critical that this is requested in advance of any activity commencing.

It is important that a company is also regarded as Irish tax resident. A non-Irish tax resident company may be subject to taxation in another jurisdiction at higher rates than prevailing in Ireland. While the question of whether or not a company is tax resident solely in Ireland can be complex, there are a couple of key points to note. Firstly, the location of all board meetings of the company should be Ireland. Key strategic decisions should be made at these meetings.

² Source: www.transcripts.ie

Secondly, although not as critical, a majority of the directors should be Irish tax resident.

To conclude, Irish tax resident trading companies may avail of the **12.5%** tax rate in respect of trading profits. Broadly, the level of substance in Ireland will determine whether the company is trading. In this regard, the presence of employees actively engaged in the business of the company will be a key determinant of trading status.

Start-up companies

New or start-up companies, which were incorporated on or after 14 October 2008 and which commence trading in 2009, 2010 or 2011, are exempt from corporation tax if they meet certain conditions. This relief applies for three years from the commencement of the trade.

Relief does not apply to companies which carry on land dealing, petroleum and mineral activities nor closely held service companies. Relief is restricted to new trades and it does not apply if the trade was previously carried on by another person in the State or an associated person.

The relief has recently been extended to companies beginning to trade in 2011 and where the relief is claimed from 2011 onwards, it is restricted based on the level of employer's PRSI paid. In a move aimed at encouraging employment, the relief will be linked to employer's PRSI, subject to a maximum of €5,000 per employee and an overall limit of €40,000. The relief will be the lower of the qualifying employer's PRSI or the reduction in the corporation tax liability otherwise applicable.

Corporation tax liability for the period	Availability of relief
Less than €40,000	Fully exempt
€40,000 - €60,000	Marginal relief
More than €60,000	No relief

Holding company regime

Ireland has a very favourable holding company regime and a number of high profile groups have recently moved their headquarters to Ireland to access the benefits here. The following features underpin the appeal of locating a holding company in Ireland from a tax perspective and many of the features are explained further in later sections.

Participation exemption

There is an exemption from capital gains tax on the disposal of shares by a company resident in Ireland where a number of conditions are met. The shares being disposed of must be in a company which is resident in an EU or treaty country. There is further detail on this within the section “CGT on Share Disposals”.

Foreign dividends

There is an effective exemption from Irish tax for foreign dividends. Qualifying dividends are taxable at the **12.5%** tax rate and a flexible foreign tax credit system permits deduction in respect of taxes paid on foreign profits and other foreign withholding taxes. Other non-qualifying dividends may be taxable at 25% with the credit system also applying to such dividends.

There is also a system of onshore pooling of tax credits to deal with situations where foreign tax on some dividends exceeds the Irish tax payable while on other dividends the foreign tax is below the Irish tax liability. The pooling provisions allow excess credits to be offset against Irish tax on the other foreign dividends received. Unused credits may also be carried forward indefinitely for future use.

Foreign branches

Double tax relief is available for tax suffered by foreign branches and the pooling provisions referred to above apply for unused foreign tax credits relating to foreign branches.

International Property (IP) relief

Under Ireland’s IP regime, amortisation of specified intangible assets is tax deductible in line with the accounting treatment.

Alternatively, an election can be made to spread the expenditure over a 15 year period in the form of an allowance. By availing of this scheme, the effective tax rate can be reduced to 2.5%. Holding IP in Ireland can complement an Irish holding company structure.

Withholding taxes

There are exemptions available in respect of withholding tax on interest payments made to EU or treaty countries. Also, patent royalty payments to EU or treaty countries should be exempt from withholding tax subject to satisfying certain conditions.

Access to treaties and EU directives

Ireland has an extensive treaty network and 55 double tax treaties are currently in effect. These agreements allow the elimination or mitigation of double taxation.

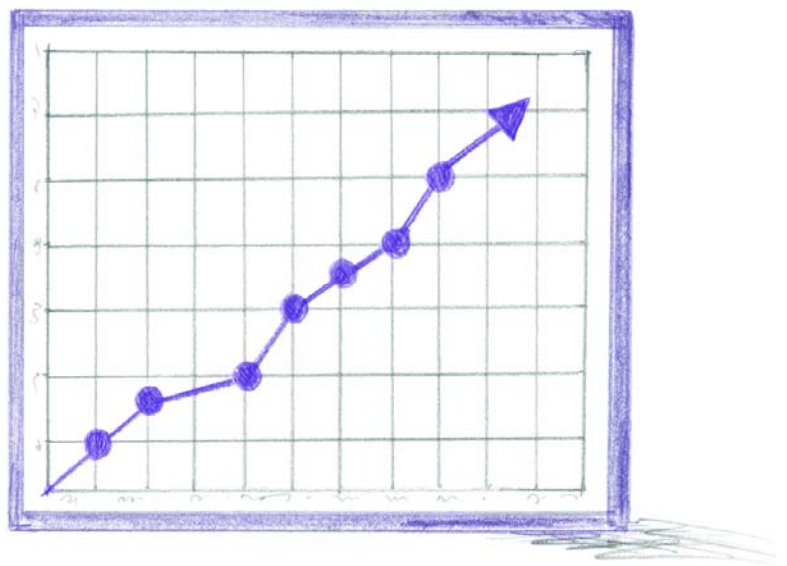
Where a double tax agreement does not exist with a particular jurisdiction, unilateral provisions within domestic Irish tax legislation may result in credit relief against Irish tax for any foreign taxes paid. In addition, Irish legislation may provide for an outright exemption from Irish withholding taxes on payments to treaty residents.

Furthermore, Irish companies may access the EU directives, which can be beneficial from a tax perspective.

Controlled Foreign Companies (CFC)/thin capitalisation

Ireland does not have CFC or thin capitalisation rules and funding costs may be tax deductible.

In recent years, Ireland has emerged as a favoured onshore jurisdiction for multinational companies establishing regional or global headquarters. Ireland represents an attractive location in which holding companies may be established by virtue of its competitive tax regime.



Research and development (R&D) tax credit

The R&D tax credit is a very significant tax break given that it represents a potential 25% refund of costs incurred regardless of whether any corporation tax has been paid.

Combined with the standard corporate tax deduction for R&D expenditure (valued at 12.5%), companies incurring qualifying R&D can claim a tax benefit of €37.50 for every €100 expenditure. The purpose of the R&D tax credit is to encourage both foreign and indigenous companies to undertake new or additional R&D activity in Ireland.

However, in our experience, while many companies are carrying out qualifying R&D work, only a small minority are actively claiming the credit. The main reason for companies not claiming the credit is the persisting misconception that it relates solely to the laboratory work of “men in white coats”.

In reality, nothing could be further from the truth. Most companies across all sectors are involved in some form of innovation or process improvement. In many cases, the related costs will qualify for the R&D tax credit.

Recent changes have made the tax credit even more attractive. In particular, for accounting periods beginning on or after 1 January 2009, the tax credit can not only be offset against the corporate tax liability but can also be claimed as a direct cash refund from Revenue over a three year period, regardless of the corporate tax position. The only restriction is that the R&D credit refund cannot exceed the PAYE/PRSI liability of the company to Revenue in the current year (or the corporation tax liabilities for the last 10 years). This will rarely cause a

reduction in the credit available and any excess can be carried forward to future periods regardless.

The R&D credit is available in respect of expenditure such as salaries, consumables used in the R&D process and plant and machinery used wholly or partly for R&D purposes. The credit is also available in respect of buildings used wholly or partly for R&D purposes, subject to certain conditions.

The range of activities to which the R&D credit can apply is extremely wide. Improvements to plant performance, production output and existing processes are examples of activities carried out by many companies, which can qualify for the R&D tax credit.

The R&D credit claim must be filed within 12 months of the company’s year end, thus there is an incentive to consider whether any immediate action is required.

Expenditure on scientific research and development

Incremental R&D expenditure over that incurred in a fixed base year (2003) will qualify for a 25% tax credit. This credit will be in addition to any existing deductions or capital allowances for R&D expenditure. It should be noted that the R&D activities must be carried out in the European economic area.

Accounting for R&D

Consideration should be given to the accounting treatment and the arguments for accounting for the R&D tax credit “above the line” or as part of the corporate tax charge.

Intellectual property regime

A new scheme has been introduced, with effect from 7 May 2009, to provide relief for expenditure by companies on “specified intangible assets”. The new provisions are clearly a further attempt to increase Ireland’s attractiveness as a knowledge-based economy. Coupled with the improved R&D regime, there is now a suite of tax reliefs that can enable groups to drive their effective tax rate below the headline 12.5% rate.

To claim the tax relief, companies must actively “trade” with their newly acquired intangible assets, thereby ensuring that there is an active involvement with the assets and, presumably, a resultant increase in learning/knowledge.

What type of intangible assets are covered?

The definition of specified intangible assets is quite broad, and includes patents, patent rights, design rights, trade marks, brand names, licences, copyright, computer software, know-how and goodwill associated with the foregoing. In the case of know-how and computer software, the existing reliefs for these asset classes can continue to be claimed for a limited period by way of a separate election.

What is the relief?

The allowances available for tax purposes will generally follow the standard accounting treatment applicable to the amortisation of intangible assets; however an election can be made to spread the expenditure over a 15 year period (7% in years 1 to 14 and 2% in year 15).

No balancing allowance/charge event will occur once the intangible assets are sold 10 years after acquisition, provided that the intangibles are not acquired by a connected company itself entitled

to a deduction for the intangibles under this section.

Is there a cap on the allowances available?

There is a restriction on the amount of allowances available, together with a restriction on interest incurred to acquire the intangibles used in the trade. The aggregate of the allowances and any related interest incurred on acquisition of the intangibles cannot exceed 80% of the trading income from the “intangibles” trade (which is treated as a separate trade). The objective here is to ensure that the acquisition of the intangibles results in a net increase in the taxable income of the company, as opposed to merely reducing taxable profits.

Where either allowances or interest is restricted, the excess can be carried forward and treated as incurred in the following period, with any excess in that period carried forward to the next period and so on for each succeeding accounting periods.

Can the intangibles be acquired from an existing group company?

Expenditure on specified intangible assets acquired from a group company will qualify for the new allowances. It is worth noting that intangible assets acquired from another Irish group company will only qualify for the new allowances if the companies jointly elect to disapply the capital gains tax group relief provisions, thereby triggering a potential CGT event for the transferor. However, if there are losses available in the group, it could be possible to mitigate the CGT exposure.

Anti-avoidance

The section provides that the acquisition of the intangible assets must be for an arm's length amount and must be done for bona fide commercial reasons. The acquisition of the intangibles must not have the avoidance of tax as its main purpose, or one of its main purposes.

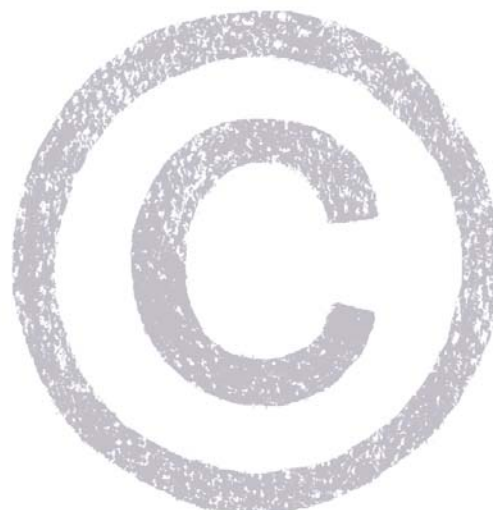
Restriction on interest for investing companies

There is a new restriction introduced in respect of interest incurred on borrowings used by a company to invest (by way of loan or equity) in another company, which itself uses the funds to acquire specified intangible assets. The restriction is calculated by reference to the interest that would have been allowed if the company acquiring the intangible assets had itself taken out the loan.

Some observations on the new rules

Given the existing 12.5% corporate tax rate, the new rules offer potential to drive the effective tax rate down to 2.5% (assuming maximum deduction for allowances and funding costs).

Where it fulfills commercial objectives, both companies and individuals holding specified intangible assets should consider the merits of transferring the intangible assets to an appropriate trading company in order to access the benefits of the new regime. Given the tax losses that have arisen in recent times, there may be little or no tax cost associated with such a transfer, while there will be ongoing tax deductions in the transferee company.



Capital Gains Tax exemption on share disposals

Capital Gains Tax is payable at 25% on chargeable gains made by individuals, trusts and unincorporated bodies. Capital gains made by companies are chargeable to Corporation Tax with the exception of the disposal of development land, which is subject to Capital Gains Tax.

Capital gains are determined by the difference between the proceeds of disposal and the original cost of the asset. A disposal takes place whenever the beneficial ownership of an asset transfers. Assets include all forms of property, whether in the State or not.

There is an exemption from tax on capital gains arising to Irish-based holding companies on disposals of shareholdings in EU/double tax treaty resident (DTA) companies. The exemption will apply where the following conditions are satisfied:

- the parent company must hold a minimum of 5% of the subsidiary's ordinary share capital for a period of over 12 months over the preceding 24 months;
- the investee company must be resident in an EU state (including Ireland) or treaty country; and
- at the time of disposal, the investee must exist wholly or mainly for the purposes of carrying on a trade (or the group and investee taken together must satisfy trading the test).



Foreign dividends

Taxation of foreign dividends in Ireland
Foreign dividends received from a trading company, resident in an EU member state or a country with which Ireland has a tax treaty, are taxed in an Irish corporate at **12.5%** provided the dividend has been received out of trading profits. There should also be a credit available for foreign tax paid on the dividend. The **12.5%** rate extends to foreign dividends paid from non-treaty countries where the company is owned directly or indirectly by a publicly quoted company.

Where foreign dividends are sourced from non-trading profits or are from a company not resident in an EU member state or tax treaty country, such dividends are generally taxed at 25%.

Where part of a dividend is paid from non-trading profits with the balance being paid from trading profits, the non-trading balance will generally be taxed at 25%. However, there is a de minimus rule such that where over 75% of the dividend is paid from trading profits, the entire dividend may be taxed at **12.5%**.

Double taxation relief

Ireland operates a system whereby credit relief is available in respect of foreign tax paid on underlying profits out of which dividends are paid. Broadly, if foreign profits are taxable at a higher rate of tax than the Irish tax rate applicable to the foreign dividends, no further Irish tax should arise upon receipt of the foreign dividends in Ireland.

Tax credit pooling

Onshore pooling allows withholding taxes and underlying taxes to be pooled together and they may then be offset against any Irish tax arising

on foreign dividends. However, excess tax on foreign dividends taxable at **12.5%** may not be offset against foreign dividends taxable at 25%. The excess tax credits may be carried forward indefinitely against Irish tax arising on future foreign dividends.

EU Parent Subsidiary Directive

The 2003 EU Parent-Subsidiary Directive deals with parent companies with subsidiaries in other EU member states. Effectively, it seeks to eliminate withholding tax and reduce double taxation of the profits out of which the dividends arose. The Directive applies to parent companies and their 5% subsidiaries.

Where dividends are paid from a subsidiary to a qualifying parent company, the following reliefs should apply:

- no withholding tax is to be deducted from the distributions by the subsidiary's country of residence;
- no withholding tax is to be deducted by the parent company's country of residence; and
- the parent company's country of residence is to exempt the parent company from corporation tax or allow credit for the underlying corporation tax or foreign tax suffered by the subsidiary. The credit method is used in Ireland.

Withholding taxes

Dividend withholding tax

A withholding tax of 20% applies to dividends and other profit distributions made by an Irish resident company. However, there are extensive exemptions available to include dividend payments to:

- Irish resident companies;
- companies resident in an EU or tax treaty country;
- pension funds; and
- individuals resident in an EU or tax treaty country.

There is a self-assessment basis for dividend payments to corporates and this has alleviated administrative obligations.

The EU Parent Subsidiary Directive may also eliminate dividend withholding tax obligations.

Royalties

Withholding tax at 20% may apply to patent royalty payments but where the recipient is resident in an EU or treaty country, such withholding taxes may be eliminated.

Interest

A 20% withholding tax may apply to interest payments made on loans and advances capable of lasting 12 months or more. However, if such interest is paid in the course of a trade or business to a company resident in the EU or a treaty country, no withholding tax should apply. In this case, certain disclosures may be required.

To summarise, there are a number of domestic exemptions, treaty provisions and provisions of the EU Directives which provide for an exemption from withholding taxes in Ireland.



Foreign branch profits

The 2007 Finance Act introduced unilateral credit relief for foreign tax paid by a company that has a branch or agency in a country with which Ireland does not have a tax treaty. This allows such a company to reduce its Irish corporation tax liability by the foreign tax suffered on the profits of the branch or agency.

The Act also introduced pooling in the case of foreign branch profits. Where the foreign tax on branch profits in one country exceeds the Irish tax on those profits, the credit is limited to the Irish tax on those profits and no credit can be given for the balance of the foreign tax. However, pooling allows such surplus foreign tax to be credited against tax on branch profits in other countries in the year concerned.

Also, as a result of Finance Act 2010, any foreign tax not credited in the period in which it is paid can be carried forward for credit in subsequent periods.

Other foreign income

Foreign taxes borne by an Irish resident company (or EU branch), whether imposed directly or by way of withholding, may be available for credit relief in Ireland. The calculation of the credit depends on the nature of the income item but, in all cases, the credit is limited to the Irish tax referable to the particular item of income.



VAT

Value Added Tax (VAT) operates in Ireland in a similar manner to the other members of the European Union. From a VAT compliance perspective, the system in operation in Ireland is viewed as efficient and relatively straightforward when compared with those in operation in other European countries. All Irish returns are filed electronically through Revenue's on-line system (ROS).

Cash-flow incentives exist for companies with significant exports, which allow the companies to acquire most goods and services without paying VAT to their suppliers.

Ireland also operates an extensive VAT grouping system, which can be very useful where a company has a number of entities which make supplies to each other (for example, group charges or management fees). VAT groups generally allow charges to be made between the various members of the VAT group without an obligation for VAT to arise.

This can be very important where holding companies are involved or where Special Purpose Vehicles (SPVs) exist which contain Intellectual Property (IP) or other intangible assets which are used by the group.

From a financial services perspective, many funds and similar investment vehicles are domiciled in Ireland. Ireland provides for exemption from VAT for a wide variety of management services received by such entities. This is very important as most of these entities would not be in a position to recover any VAT paid to a supplier and this would therefore represent a cost to the entity. There is also a VAT-friendly regime in Ireland in respect of aircraft leasing companies. There are a significant number of such companies located in Ireland.

Transfer pricing

What has been introduced?

Broadly, the Finance Act 2010 introduced a new transfer pricing regime, which provides for arm's length pricing to apply to intra-group domestic and international trading transactions. The Organisation for Economic Co-operation and Development (OECD) principles are to be followed in this respect.

When is it effective?

The commencement date is for accounting periods beginning on or after 1 January 2011, although the regime will not apply to transactions where the terms were agreed before 1 July 2010.

What transactions will be affected?

Inter-company trading transactions such as the provision of management services, intra-group transfers of trading stock, certain intellectual property licensing and treasury and finance operations such as cash pooling performed centrally for a group will all be affected by the transfer pricing rules. Conversely, non-trading transactions will not be impacted.

Are there any exemptions?

There is an exemption for small and medium enterprises. To fall within the exemption the enterprise (including group companies) must have less than 250 employees and either group turnover of less than €50 million or assets of the group must be less than €43 million worldwide.

What if profits are understated?

If profits are understated, there will be an adjustment made to substitute the arm's length consideration for the actual consideration. The standard interest and penalties regime is likely to apply to any such adjustments.

There are provisions for counterparty adjustments to allow a reduction in taxable profits to the affected counterparty. However, this may not always provide for a zero sum tax impact, as the transaction may be treated differently in the books of the counterparty.

Documentation

Under the legislation, companies are obliged to retain such records as may reasonably be required to demonstrate that the income has been computed at arm's length. The documentation must be prepared on a "timely basis". No definition of timely basis is provided.

Documentation may already be in place where the counterparty jurisdiction is obliged to retain records supporting arm's length pricing under their relevant domestic legislation. In such cases, the requirement for additional Irish documentation should be limited.

We would recommend that affected companies carry out a review of their existing and anticipated transactions in order to ascertain the likely future requirement to prepare arm's length documentation.

Summary

The new transfer pricing provisions have received a broad welcome and bring Ireland into line with the majority of other OECD countries. In practical terms they should not have a significant impact as the vast majority of affected Irish companies are already in compliance with arm's length pricing. Nonetheless, we recommend that companies within the scope of the legislation carry out an internal review of their existing transactions to establish the requirement for transfer pricing documentation going forward.

Irish tax treaty network

Tax treaties reduce taxes of one treaty country for residents of the other treaty country in order to reduce double taxation on the same income.

The Irish tax treaty network continues to be expanded and updated. The treaties are generally based on the OECD Model Treaty. See Appendix 1 for a listing of the jurisdictions with which Ireland has a double tax treaty.

Where relief under a treaty is less favourable than unilateral relief or in cases where there is no treaty in place, unilateral relief may be available. In particular, this may apply to dividends and interest.

New treaties with Georgia, Turkey, Macedonia, Moldova, Vietnam and Singapore, and a protocol to the existing treaty with South Africa, have been agreed.

A new agreement with Hong Kong signed on 22 June 2010 came into force on 10 February 2011 and will be effective from 1 January 2012.

Legal procedures to bring the new agreement with Bosnia and Herzegovina signed on 3 November 2009 into force were completed by Ireland in April 2010. Legal procedures to bring the new agreements with Albania signed 16 October 2009, Kuwait signed 23 November 2010, Montenegro signed 7 October 2010, Morocco signed on 22 June 2010 and the United Arab Emirates signed 1 July 2010 into force were completed by Ireland in February 2011.

Negotiations for new agreements with Armenia, Panama, Saudi Arabia, Thailand and a protocol to the existing agreement with Germany was

signed on 25 May 2010, it came into force on 3 June 2011 and is effective from 1 January 2011.

Where a double taxation agreement does not exist, there are provisions within the Irish Taxes Acts which allow unilateral credit relief against Irish tax for tax paid in the other country in respect of certain types of income (e.g. dividends and interest). There is also legislation implementing the EC "Parent-Subsidiaries Directive" (90/435/EEC) (TCA 1997 section 831), the "EU Mergers Directive" (90/434/EEC) (TCA 1997 sections 630-638) and the EU Arbitration Convention (European Communities Mutual Assistance in the Field of Direct Taxation Regulations 1978) (S.I. 334 of 1978).



Grant aid assistance

Government incentives

Ireland offers an extremely cost competitive business environment with operating costs among the lowest in Europe. An important part of the incentive package offered is the availability of generous grants towards initial start-up costs. A variety of grants are available which can be specifically tailored to meet the needs of each company. These cash grants may be non-repayable and are administered by Enterprise Ireland, the Industrial Development Agency (IDA) or by Shannon Development.

Each proposed investment project is assessed by the IDA Ireland against a number of criteria. Grant levels are determined by negotiation and grant payments are structured in a way that best suits the financing requirements of the company. The European Union (EU), as part of its social and regional development policy, contributes towards the funding of industrial development.

Capital grants

Cash grants towards the cost of fixed assets are available to companies to help to defray the cost of setting up an operation. Fixed assets eligible for assistance include site purchase and development, buildings and new plant and equipment. Where a factory building is rented, a grant towards the reduction of the annual rental payments may be available instead.

Employment grants

Employment grants are specifically geared towards companies which create employment but do not need to invest heavily in fixed assets. Certain qualifying grants are non-taxable and are geared to low employment areas. An amount will be approved for each job.

One-half of the agreed amount per job will be paid on certification that the job has been created and the balance one year later, provided the job still exists.

Training grants

Grants are available towards the cost of training workers and management for new industries. The costs that are covered include trainees' wages and travel and subsistence expenses, either in Ireland or abroad. The cost of bringing training personnel to Ireland may also be recovered. The grants also extend to the engagement of instructors, technical advisors or consultants to train or to assist in the training of persons for supervisory or management positions.

Training grants are based on specific training programmes agreed between each investing company, IDA Ireland and FÁS (the Irish Training Authority).

R&D grants

Cash grants are provided to assist overseas companies to engage in industrial research and development that will result in increased competitiveness and growth.



Product and process development

Grants are available for research into new and improved products and processes. The costs eligible for grant-aid include expenditure on the provision of sites, premises and plant and equipment to set up facilities including wages and salaries, materials, services and consultancy fees.

Feasibility studies

Companies based in Ireland investigating the feasibility of new products or markets may apply for a feasibility grant. The work can include assessing markets, technical work and raw material sourcing. Eligible expenditure includes salaries, travel costs, expenses and consultancy.

Technology acquisition

Grants are provided towards the cost of acquiring new technology which will assist companies in their production operations.

Equity

In some situations, the IDA Ireland will take an equity stake in companies in the form of ordinary or preference shares.

Appendix 1 – Irish tax treaties

Source country tax rates in Irish tax treaties for dividend, interest and royalty payments ³

Country	Year	Dividends (%)	Interest (%)	Royalties (%)
Albania	Signed 16/10/2009 – not yet in effect	5/10	0/7	7
Australia	1984	15	10	10
Austria	1964	10	0	0/10
Bahrain	2009	0	0	0
Belarus	2009	5/10	0/5	5
Belgium	1973	15	15	0
Bosnia Herzegovina	Signed 03/11/2009 – not yet in effect	0	0	0
Bulgaria	2002	5/10	0/5	10
Canada	2006	5/15	0/10	0/10
Chile	2009	5/15	5/15	5/10
China	2001	5/10	0/10	6/10
Croatia	2004	5/10	0	10
Cyprus	1952	0	0	0/5
Czech Rep.	1997	5/15	0	10
Denmark	1994	0/15	0	0
Estonia	1999	5/15	0/10	5/10
Finland	1990	0/15	0	0
France	1966	10/15	0	0
Georgia	2011	0/5/10	0	0
Germany	1959	15	0	0
Greece	2005	5/15	5	5
Hong Kong	2012	0	10	3
Hungary	1997	5/15	0	0
Iceland	2005	5/15	0	0/10
India	2002	10	0/10	10
Israel	1996	10	5/10	10
Italy	1967	15	10	0

³ Source – Irish Revenue Commissioners – www.revenue.ie

Source country tax rates in Irish tax treaties for dividend, interest and royalty payments ⁴

Country	Year	Dividends (%)	Interest (%)	Royalties (%)
Japan	1974	10/15	10	10
Korea Rep.	1992	10/15	0	0
Kuwait	Signed 23/11/2010 – not yet in effect	0	0	5
Latvia	1999	5/15	0/10	5/10
Lithuania	1999	5/15	0/10	5/10
Luxembourg	1968	5/15	0	0
Macedonia	2010	0/5/10	0	0
Malaysia	2000	10	0/10	8
Malta	2010	5/15	0	5
Mexico	1999	5/10	0/5/10	10
Moldova	2011	5/10	0/5	5
Montenegro	Signed 07/10/2010 – not yet in effect	0/5/10	0/10	5/10
Morocco	Signed 22/06/2010 – not yet in effect	6/10	0/10	10
Netherlands	1965	0/15	0	0
New Zealand	1989	15	10	10
Norway	2002	0/5/15	0	0
Pakistan	1968	10/no limit	no limit	0
Poland	1996	0/15	0/10	10
Portugal	1995	15	0/15	10
Romania	2001	3	0/3	0/3
Russia	1996	10	0	0
Serbia	2011	5/10	0/10	5/10
Singapore	2011	0	0/5	5
Slovak Rep	2000	0/10	0	0/10
Slovenia	2003	5/15	0/5	5
South Africa	1998	0	0	0
Spain	1995	0/15	0	5/8/10
Sweden	1988	5/15	0	0
Switzerland	1965	10/15	0	0
Turkey	2011	5/10/15	10/15	10
UK	1976	5/15	0	0
United Arab Emirates	Signed 01/07/2010 – not yet in effect	0	0	0
United States	1998	5/15	0	0
Vietnam	2009	5/10	0/10	5/10/15
Zambia	1967	0	0	0

⁴ Source – Irish Revenue Commissioners – www.revenue.ie

Appendix 2 – Sample of companies located in Ireland

Companies involved in a wide range of activities in sectors as diverse as engineering, information communications technologies, pharmaceutical and research and development view Ireland as a uniquely attractive location in which to do business. These companies include:

ICT	R&D	Pharmaceutical/Medical	Group Treasury/ Cash Pooling
Analog Devices Apple Computer Ltd. Dell Google Hewlett Packard Microsoft Yahoo Intel Ireland Ltd Facebook LinkedIn	Dow Corning Xilinx IBM Intel CRH	Abbott Ireland Merck Pharmaceutical Johnson and Johnson Tyco Healthcare Schering Plough Boston Scientific Medtronic Ireland Smith and Nephew Shire Alkermes plc	IBM Ireland Bristol Myers Squibb Proctor and Gamble Newell Rubbermaid Pitney Bowes Lucent
Engineering	Captive Insurance	Financial Services	Shared Service Centres
Allied Signal Pratt and Whitney Altair Engineering	Coca Cola Hertz	Citibank Europe Paypal JP Morgan Citico Fund Services Ltd PNC Global Investment Servicing Ltd ABN AMRO KPMG PWC Bank of America	Citibank Dell Xerox Yahoo EMC Ireland

About Grant Thornton

Grant Thornton in Ireland

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Jargon buster

- **CFC - Controlled Foreign Companies** – A corporate entity that is registered and conducts business in a different jurisdiction or country than the residency of the controlling owners.
- **FDI - Foreign Direct Investment** – An investment abroad whereby the company being invested in is controlled by the foreign corporation. There is usually a lasting interest by the direct investor in the direct investment entity, which is resident in an economy other than that of the investor.
- **IP- Intellectual Property** – broad categorical description for the set of intangibles owned and legally protected by a company from outside use or implementation without consent. Intellectual property can consist of patents, trade secrets, brands, copyrights and trademarks, or simply ideas.
- **MNC's - Multinational Companies** – Corporations that have facilities and other assets in at least one country other than their home country. Such companies have offices and/or factories in different countries and usually have a centralised head office where they co-ordinate global management.
- **CGT - Capital Gains Tax** – A tax chargeable on gains arising on the disposal of assets. Most forms of property to include an interest in property (e.g. a lease) is an asset for CGT purposes
- **DTA - Double Tax Agreement** – An arrangement between two jurisdictions that mitigates the problem of double taxation, which can occur when tax laws consider an individual or company to be a resident of more than one jurisdiction.
- **OECD - Organisation for Economic Co-operation and Development** – An organisation designed to promote policies that will improve the economic and social well-being of people around the world. The OECD provides a forum in which governments can work together to share experiences and seek solutions to common problems.
- **IDA - Industrial Development Agency** - Ireland's inward investment promotion agency, which is responsible for the attraction and development of foreign investment in Ireland.
- **R&D - Research and Development** – an innovation or process improvement. It requires a systematic, investigative or experimental approach to be taken in a field of science or technology.
- **PRSI - Pay Related Social Insurance** - A PRSI contribution is a form of social insurance payable by employers in respect of full-time employees and part-time employees and consists of an employer's and, where due, an employee's share of PRSI. It is also payable by full-time employees and part-time employees themselves (as there is both employer's PRSI and employees' PRSI).
- **PAYE - Pay As You Earn** - It is an Irish payroll tax and this system of tax deduction applies to all income from offices or employments (including directorships and occupational pensions).
- **EU - European Union** - A group of European countries that participates in the world economy as one economic unit and operates under one official currency, the Euro. The EU's goal is to create a barrier-free trade zone and to enhance economic wealth by creating more efficiency within its marketplace.
- **FAS - Irish National Training and Employment Authority** - Irish employment authority, which promotes job opportunities and training courses for school leavers, post graduates and professionals.

Other Grant Thornton publications



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Tax facts

Stamp duty						
Aggregate Consideration	Residential	Non-residential Property				
First €1,000,000	1%	€0 – €10,000				0%
Excess over €1,000,000	2%	€10,001 – €20,000				1%
		€20,001 – €30,000				2%
		€30,001 – €40,000				3%
		€40,001 – €70,000				4%
		€70,001 – €80,000				5%
		Over €80,000				6%
Capital Gains Tax						
Flat Rate						25%
Exemption Limits per Individual						First €1,270
Retirement Relief Exemption Limit						€750,000
Capital Gains Tax (CGT) payment dates are as follows:						
Chargeable gains made on or before 30 November 2011						15-Dec-11
Chargeable gains made in December 2011						31-Jan-12
Corporation tax						
Trading	*Other	Residential land profits				
Income	Income	and other capital gains				
12.50%	25%	25%				
* Additional surcharge of 20% in certain cases.						
Dividend withholding tax						
A withholding at the standard income tax rate should be deducted from dividends paid by an Irish tax resident company, subject to certain exemptions.						
Capital allowances						
Wear and Tear Capital Allowances						
Plant & Machinery	Motor Vehicles		Industrial Buildings			
12.5% per annum	12.5% per annum		4% per annum			
Maximum allowable capital cost for new and second hand private vehicles is €24,000.						
The capital allowances are linked to the CO2 emission level of the vehicles.						
Value Added Tax						
Rates	21%	13.50%	9%	5.20%	4.80%	0%
Registration Limits	€75,000 (Goods)	€37,500 (Services)				
Intra Community Acquisitions	€41,000 (Goods)	Services – zero				
Distance Selling into Ireland	€35,000					
Limit for cash receipts basis	€1,000,000					
The 4.8% VAT rate for supply of livestock still applies even though the 'flat-rate' farmer addition is 5.2%.						

Our contacts



Frank Walsh
Partner, Tax
T +353 (0)1 6805 607
M + 353 (0)87 258 6965
E frank.walsh@ie.gt.com



Bernard Doherty
Partner, Tax
T +353 (0)1 6805 611
M +353 (0)86 856 8453
E bernard.doherty@ie.gt.com



Leslie Barrett
Partner, Tax
T +353 (0)61 312 744
M +353 (0)87 987 1085
E leslie.barrett@ie.gt.com



Peter Vale
Partner, Tax
T +353 (0)1 6805 952
M +353 (0)86 855 5232
E peter.vale@ie.gt.com



Sasha Kerins
Director – Kildare
T +353 (0)45 44 88 52
M +353 (0)86 803 9474
E sasha.kerins@ie.gt.com



Sarah Meredith
Manager, Tax
T +353 (0)1 6805 784
E sarah.meredith@ie.gt.com



Jim Kelly
Director, Tax
T +353 (0)1 6805 780
M + 353 (0)86 820 9406
E jim.kelly@ie.gt.com



Eamonn Murphy
Director, Tax
T +353 (0)61 312 744
M +353 (0) 86 839 2353
E eamonn.murphy@ie.gt.com



Finbarr O'Connell
Director, Tax
T +353 (0)1 6805 771
M +353 (0)87 263 6611
E finbarr.oconnell@ie.gt.com



Liam Kenny
Director – Galway
T +353 (0)91 533 924
M +353 (0)86 170 6021
E liam.kenny@ie.gt.com



David Keary
Director, Tax
T +353 (0)1 6805 767
M +353 (0)87 6493151
E david.keary@ie.gt.com



Mark Doyle
Director, Tax
T +353 (0)1 6805 659
M +353 (0)87 292 8769
E mark.doyle@ie.gt.com

24-26 City Quay
Dublin 2
T + 353 (0)1 6805 805
F + 353 (0)1 6805 806

Mill House
Henry Street
Limerick
T +353 (0)61 312 744
F +353 (0)61 317 691

Suites 3 and 4
Courtyard House
Newbridge
Co. Kildare
T +353 (0)45 449 322
F +353 (0)45 449 324

Mayoralty House
Flood Street
Galway
T +353 (0)91 533 924
F +353 (0)91 562 943

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