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# International Tax Developments

11 May 2017

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# Introduction

- Trump / US tax reform
- EU initiatives
- BEPS



# US tax and impact on FDI

- reduce the federal rate from 35% to 15%
- change the US tax system from a worldwide to a territorial system
- one-time tax on all profits held offshore by US companies and their subsidiaries
- eliminate tax breaks for special interests
- no reference to border adjustment tax



# US tax and impact on FDI

Worldwide system	Territorial system
Foreign sub of US corporate based in country X	Foreign sub of US corporate based in country X
\$100 income earned in X	\$100 income earned in X
\$20 tax paid in X	\$20 tax paid in X
\$80 is transferred to US Corp	\$80 is transferred to US Corp
US corporate taxes based on income of \$100	No further tax due
Additional US tax of \$15 after double tax relief	
<b>\$65 remaining after taxes</b>	<b>\$80 remaining after taxes</b>



# US tax and impact on FDI

- rate differential – factor in State taxes
- no incremental cost to invest in Ireland
- positive for Irish companies with US operations
- Ireland's strong competitive position
- higher US growth from lower personal taxes?



# US tax and impact on FDI

- US Ireland tax treaty amendments
- very restrictive tests, unsuitable for small, open economies
- tight LOB clause
- already been dealt with through BEPS?



# EU changes – Anti-Tax avoidance directive

- aimed at implementing BEPS into EU law
- discussions and approval within 6 months
- Minister Noonan – 2 masters and 2 sets of rules



# EU changes – Anti-Tax avoidance directive

1. CFC rules – 2019 effective date
2. interest limitation rule - €3m exclusion, 2024
3. hybrid mismatch rules – 2019
4. exit tax – changes to exclusions? 2020
5. general anti-avoidance rule





# EU changes – Anti-Tax avoidance directive

- CFC rules – entity being taxed at less than 50% of headline tax rate
- impact on low tax financing vehicles
- preferable to distribute and avail of AFTC?
- increased compliance



# EU changes – Anti-Tax avoidance directive

- interest – maximum 30% EBITDA
- grandfathering of loans pre 17 June 2016
- exemption where interest < €3m



# EU changes – Anti-Tax avoidance directive II

- expansion of anti-abuse rules around hybrid mismatches
- PE mismatches
- dual resident mismatches



# BEPS

- country by country reporting
- periods commencing on or after 1 January 2016
- group turnover > €750m
- notifications / reports



# EU – dispute resolution

- October 2016 – proposal to improve the double tax dispute resolution framework in single market
- applies to cross-border tax disputes on corporate tax
- MAP cases – seek resolution in 2 years
- Otherwise arbitration via “Advisory Commission”



# Final points to note

- automatic exchange of rulings / APAs under EU Framework – in force from January 2017
- importance of transfer pricing
- the power of tax data
- disputes and notification / keeping periods open for DTR claims





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# What's coming next?

11 May 2017

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# Agenda

- Ireland
- EU
- UK
- US
- globally
- conclusions





# Ireland

- review of corporate tax code (June 17)
- filing of CbCR reports (Dec 17)
- Apple case?
- general trends



# EU

- exchange of rulings / APAs (Sep 17)
- new Dispute Resolution Framework (Jan 18)
- ATAD provisions (from Jan 19)
- CCCTB?



# UK

- impact of Brexit
- NI rate
- UK CT rate movement?
- tax strategy publication
- future direction of UK tax policy



# US

- Trump proposals
  - lower tax rate
  - one-off repatriation tax
  - no border adjustment tax
- impact on Ireland?



# Globally

- BEPS implementation and review (2020)
- filing of CbCR report
- signing of MLI (June 17)
- general trends



# Conclusions

- in the middle of period of much change
- much more to come
- how fundamental remains unclear
- potentially considerably more complex and costly
- can expect more disputes





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# Revenue audit & other Developments

11 May 2017

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# Introduction

Exchange of information

- data analytics

Revenue audit and other interventions

- updated code of practice

Co-operative compliance framework

- relaunch 2017

Other Revenue matters







# Automatic exchange of information/tax data

## DOMESTIC

3<sup>rd</sup> party returns

iXBRL

Government payments (DSP etc)

PRTB

Merchant acquirers

RSS1

LPT/HRI scheme



# Automatic exchange of information/tax data

## DOMESTIC

Bilateral arrangements

Dept Agriculture

Local Authorities (NPPR, casual trader records)

Commission for taxi regulation



# How Revenue collect, receive and use data

**2002**

EU SAVINGS  
DIRECTIVE ADOPTED

**2005**

REVENUE COMMENCED  
EXCHANGE OF INFORMATION  
WITH OTHER EU MEMBER  
STATES

**2012**

INTERGOVERNMENTAL AGREEMENT  
WITH THE US TO IMPLEMENT  
THE FOREIGN ACCOUNT TAX COMPLIANCE  
ACT

**2014**

AGREEMENT TO ALLOW FOR THE  
EXCHANGE OF INFORMATION UNDER THE  
“COMMON REPORTING STANDARD”

**2016**

IRELAND COMMITTED TO SENDING  
INFORMATION UNDER THE EU DIRECTIVE  
ON ADMINISTRATIVE CO-OPERATION



# Automatic exchange of information/tax data

## INTERNATIONAL

- CRS
- DAC
- FATCA
- C by CR
- DTAs



# Automatic exchange of information/tax data

## What does it mean?

- Revenue and data analytics – predictive modelling
- Feeds into REAP
- Informs selection of cases for audits and other interventions
- Huge volume
- More interaction with Revenue...



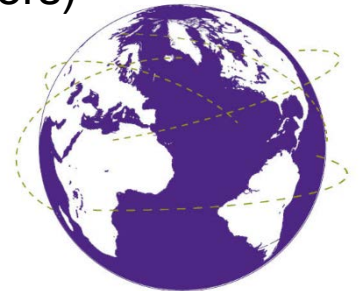
# Code of practice for Revenue audit & other compliance interventions

## Revised November 2015

- “full co-operation”
- new Chapter 8 : Tax Avoidance
- RCT & penalties

## Revised February 2017

- period to prepare a QD
- disclosures not regarded as a QD (offshore matters)
- other minor changes



# Revenue audits

- Latest techniques – eAudit
  - Revenue meeting with software suppliers
- REAP –
  - latest run 900,000 cases
  - some new rules, some deleted
  - CRS data expected to feed in shortly
- R&D claims – importance of project records





# Co-operative compliance framework 2017

I don't care to belong to any club that will have me as a member.

Groucho Marx



# Co-operative compliance framework 2017

- originally launched 2005
- survey of international practice 2016
- survey of LCD customers and agents
- re-launched Jan 2017
- letters issued Jan/Feb 2017



# Co-operative compliance framework 2017

## Criteria for applicants

- tax returns and liabilities up to date
- no settlement in last 3 years with penalty over 15% – materiality test 1% overall tax paid by Group that year
- settlements: confirm new controls in place
- no customs issues in Group
- tax control framework (may be requested)



# Co-operative compliance framework 2017

- entry by way of application and acceptance
- no legislative or contractual commitment
- consistency of application across LCD
- audits rare (T/P will be the exception)
- “Streamlined” VAT and CT refund system
- annual review meeting with Revenue
- effectiveness will be measured against number and nature of self reviews



# Co-operative compliance framework 2017

- if you are not in...
- no dedicated case manager
- “normal” Revenue customer service standards apply (1890 phone; generic email etc)
- normal audit and intervention programme applies
- however.....you can come in at any time



# Summary of other current issues

- Revenue clearances and opinions – maximum life 5 years – deadline 30 June
- recent set-up of 7 second tier districts
  - Some sector specific (motor trade ESE ; top 9 legal & professional firms and construction 2<sup>nd</sup> tier in Dublin)

