Grant Thornton
An instinct for growth™

Tax

Review of Irish Corporate Tax Code

An Independent Review (Review) of the Irish Corporate Tax Code was carried out by Mr Seamus Coffey and published by the Irish government on 12 September 2017, with the recommendations in the Review due to be considered by the government. There are some significant proposals included in the Review, particularly in respect of transfer pricing, although a consultation phase is expected prior to implementation of any changes.

The report is lengthy and covers a lot of ground, including a history of Ireland's tax regime. Among the key highlights/recommendations are:

Corporate tax rate

A further endorsement of our 12.5% corporate tax rate and the certainty that this rate brings. While a feature of many recent reports, in our view it is critical that this message is delivered consistently.

Tax transparency

The Review recommends that Ireland should continue its drive towards tax transparency through appropriate exchanges of information with other jurisdictions. It is worth noting that Ireland's tax regime has already been fully endorsed by the OCED in this regard.

EU tax avoidance directive

The Review includes a recommendation that Ireland carefully considers the mandatory EU Anti-Tax Avoidance Directive (ATAD) and what changes could be made to Ireland's tax regime in tandem with the implementation of this Directive. Fundamental changes to the Irish corporate tax code are discussed, including a move to a territorial system, whereby for example dividends from foreign subsidiaries would be tax free, as opposed to the current requirement to consider whether there are sufficient foreign tax credits to eliminate a further Irish tax charge.

By way of background, ATAD will also require Ireland to bring in new interest imitation rules by 2024 and Controlled Foreign Company (CFC) rules by 2019. The CFC rules broadly seek to apply Irish tax to low taxed foreign subsidiaries with little substance.

The Review outlines other requirements for Ireland under ATAD, including the need to amend our existing exit tax rules by 2020. While not new, it is worth noting that any changes to our exit tax rules would require careful consideration by Irish companies that have valuable assets on their balance sheet, including Intellectual Property (IP).

Transfer pricing

The Review recommends that the updated OECD 2017 Transfer Pricing Guidelines are implemented into Irish law by 2020. However, importantly Mr Coffey also recommends that a consultation phase takes place before any legislative changes are made.

The new OECD transfer pricing guidelines, if implemented into Irish law, would represent a fundamental change for many companies operating in Ireland, with a heavy emphasis on, for example, where important Research and Development (R&D) functions take place in the allocation of profits.
The Review recognises the potential difficulties that the new rules could pose, hence the consultation phase is welcome.

Interestingly, the Review raises the possibility of transfer pricing being extended to Irish SMEs, which was not expected. This would represent a significant additional compliance burden for many companies.

A further change considered in the Review is the extension of transfer pricing to non-trading transactions, for example interest free loans provided intra-group. Again, any proposed changes here will form part of the expected consultation phase.

Intangible assets

Prior to 2014, there was a cap of 80% on the amount of intangible asset allowances that could be set against related intangible asset income. The Review recommends the reinstatement of this cap.

It is not clear whether any change to the amount of intangible allowances available would be grandfathered for companies that have already migrated intangible assets to Ireland or whether it will be confined to future transfers to Ireland.

It is possible that the reinstatement of the 80% cap will be one of the measures in the Review to be included in Budget 2018, to be announced next month.

In our view, the reinstatement of a cap would need to be carefully messaged to ensure companies have certainty in respect of the future direction of Ireland's intangible asset regime. Increasingly, movements of intangible assets form part of a move in functions/jobs to a country, so that any Irish tax changes resulting in a reversal of the recent shift in intangible assets here could have a negative impact on Irish employment, as well as Ireland's attractiveness for FDI internationally.

Corporation tax receipts

The Review concludes that the significant increase in corporation tax receipts seen in 2015 will be sustained in the medium term to 2020. This is consistent with Grant Thornton's view of the trajectory of corporation tax receipts, with Ireland in a strong position to benefit economically from global tax changes, much of which could see both valuable IP and related jobs move to Ireland.

Contact

If you have any further questions on the Review please contact a member of our tax team.

Peter Vale
Partner, Tax
T +353 (0)1 680 5952
E peter.vale@ie.gt.com

Offices in Dublin, Belfast, Cork, Galway, Kildare, Limerick and Longford.

Grant Thornton
An instinct for growth™

© 2017 Grant Thornton Ireland. All rights reserved.

'Grant Thornton' refers to the brand under which the Grant Thornton member firms provide assurance, tax and advisory services to their clients and/or refers to one or more member firms, as the context requires. Grant Thornton International Ltd (GTIL) and the member firms are not a worldwide partnership. GTIL and each member firm is a separate legal entity. Services are delivered by the member firms. GTIL does not provide services to clients. GTIL and its member firms are not agents of, and do not obligate, one another and are not liable for one another's acts or omissions. This publication has been prepared only as a guide. No responsibility can be accepted by us for loss occasioned to any person acting or refraining from acting as a result of any material in this publication.