itm Irish Tax Monitor

Corporate Tax

Corporate tax recommendations in a number of areas including R&D tax credits, SMEs, entrepreneurs and the green economy feature prominently in the Consultative Committee of Accountancy Bodies – Ireland (CCAB-I) submission. What measures, in your view, could be taken in the Budget to make Ireland's tax regime for corporates more competitive?

Angela Fleming, Partner & Head of Financial Services Tax, BDO: There has been a huge amount of change in corporate tax law in recent years as a result of the incorporation of BEPS and EU ATAD provisions into Irish tax law. In order for Ireland's tax regime to remain competitive is it important that it is not overly complex. There are opportunities throughout tax law to simplify and eliminate provisions which are duplicative in effect.

One such example are the rules regarding deductibility of interest. It was Ireland's position that existing tax law was equally effective as the interest limitation rule ("ILR") in advance of the introduction of same. However, we now have a situation where we have both the pre-existing rules, and the new ILR. It is acknowledged that the ILR legislation is complex and thus required huge resources to incorporate into Irish law, which unfortunately did not allow for a complete review of existing provisions. However, this should remain an agenda item and should be addressed at the earliest opportunity.

Another area which presents an opportunity to both simplify and make Ireland more competitive internationally is the introduction of a territorial tax regime. The Budget 2023 Tax Strategy Group papers note that any move towards a territorial regime, if such a decision is taken, would progress in tandem with the introduction of the GloBE rules, currently planned for Finance Bill 2023. Our existing foreign tax credit regime is extremely complex, and the introduction of a participation exemption and/or branch exemption presents an opportunity to overhaul the existing foreign tax credit regime generally and simplify the rules.

Angela Fleming

BEPS

The Department of Finance's consultation on BEPS Pillar II implementation closed on 22nd July, focusing on the technical incorporation of the rules into Ireland's corporate tax system. In your view what main areas of Ireland's tax code require modification to ensure a smooth implementation of Pillar II requirements?

Angela Fleming, Partner & Head of Financial Services Tax, BDO: The public consultation launched in May is a welcome first step in the implementation of another complex set of new international tax rules into Irish tax law. As with the introduction of any new tax rules, it is vital that sufficient time and resources are allowed to ensure not just a smooth implementation, but also to minimise both unintended consequences and an excessive compliance burden.

The main area in which modifications will be required is with regard to existing reliefs for intellectual property, most notably the R&D tax credit regime. The Pillar II rules provide that Qualified Refundable Tax Credits ("QRTCs") will not be treated as reducing the tax charge, but will instead be treated as income. This means that tax charges gross of any QRTCs will be considered when assessing any liability to the domestic top-up tax charge. As it is currently constructed, the existing R&D tax credit regime would not be considered a QRTC, and therefore should be modified. Similarly, modifications to the Knowledge Development Box should also be made in order for it to remain of value post-implementation of Pillar II.

As noted already, a potential move to a territorial tax regime is currently under consideration. We would recommend that a decision on same is taken at the earliest opportunity. In order for such a move to progress in tandem with the introduction of the Pillar Two rules, the interaction of both would need to be considered as part of the ongoing consultation and analysis.

As matters progress, it is important that there is continued stakeholder engagement by the Department of Finance and Revenue, through further public consultations and/or feedback statements, as appropriate. Simplification of existing tax rules should be sought wherever possible. We should also remain watchful of the implementation of these new rules by other countries so that Ireland can remain competitive as a key FDI location internationally.